



City of Bloomington Common Council

Legislative Packet

Containing legislation and materials related to:

Wednesday, 11 January 2023

Organizational Meeting at 6:30pm



CITY OF BLOOMINGTON COMMON COUNCIL

AGENDA AND NOTICE:
ORGANIZATIONAL MEETING
WEDNESDAY | 6:30 PM
11 JANUARY 2023

*Council Chambers (#115), Showers Building, 401 N. Morton Street
The meeting may also be accessed at the following link:*

<https://bloomington.zoom.us/j/86583313060?pwd=Ryt1ZTVocVhidUpTdnJOVzNwVW5QZz09>

- I. **ROLL CALL**
- II. **AGENDA SUMMATION**
- III. **APPROVAL OF MINUTES:** *None*
- IV. **REPORTS** *(A maximum of twenty minutes is set aside for each part of this section.)*
 - A. Councilmembers
 - B. The Mayor and City Offices
 - i. Report from Housing and Neighborhood Development Director John Zody re: Public Input on use of HOME/ARPA Funding
 - C. Council Committees
 - D. Public *
- V. **ELECTION OF OFFICERS**
(Once the Council elects its officers, the newly-elected President will assign Councilmembers their seats at the dais.)
- VI. **ASSIGNMENTS TO COUNCIL COMMITTEES**
(If prepared to do so, the President may, at this time, announce assignments of Councilmembers to Council committees.)
- VII. **APPOINTMENTS TO BOARDS AND COMMISSIONS**
(The Council may take this opportunity to appoint Councilmembers to serve on various boards and commissions. If any nominations are ready, the Council may also consider the appointment of members of the public to serve on boards and commissions, as well.)

(over)

*Members of the public may speak on matters of community concern not listed on the agenda at one of the two public comment 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.

To request an accommodation or for inquiries about accessibility, please call (812) 349-3409 or e-mail council@bloomington.in.gov.

Posted: January 06, 2023

VIII. LEGISLATION FOR SECOND READINGS AND RESOLUTIONS

- A. Resolution 22-20 – A Resolution Responding to Monroe County Board of Commissioners Ordinance 2022-46**

<i>Committee Recommendation:</i>	<i>None</i>
<i>Council Action (12/14/22):</i>	<i>Passed: 8-1-0</i>
<i>Mayoral Veto (12/23/22)</i>	
<i>Council Action Subsequent to Mayoral Veto (1/11/23):</i>	<i>Pending</i>

IX. ADDITIONAL PUBLIC COMMENT *

(A maximum of twenty-five minutes is set aside for this section.)

X. COUNCIL SCHEDULE

XI. ADJOURNMENT

*Members of the public may speak on matters of community concern not listed on the agenda at one of the two public comment 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.

To request an accommodation or for inquiries about accessibility, please call (812) 349-3409 or e-mail council@bloomington.in.gov.



MEMO FROM COUNCIL OFFICE ON:

Organizational Meeting – January 11, 2023

ORGANIZATIONAL MEETING

Election of Officers and Assignment of Seating

State statute ([IC 36-4-6-8](#)) and local code ([BMC 2.04.010](#)) require the Council to meet in January in order to elect a President, Vice-President, and Parliamentarian for the New Year. The election of officers typically unfolds with a motion by a Councilmember to nominate a slate of candidates for the three positions. Unless there are further nominations, the Council then votes on the slate as a whole. If there are other nominations for an office, then a vote on the nominations for that office should proceed separately. The motion requires a majority vote to be adopted.

Once the officers are elected, the new officers and other Councilmembers typically rearrange their seating. Please note that the President has the duty of assigning seats, but that any two Councilmembers may change seats by joining in a written memorandum and submitting it to the President ([BMC 2.04.110](#)).

Council Committee Assignments

The Council President is also given the duty of assigning Councilmembers to committees, observing the preferences of the Councilmembers as closely as possible when doing so ([BMC 2.04.210](#)). If the President is ready, those assignments may also be announced this evening. However, if additional time is needed for Councilmembers to communicate their preferences to the President, these assignments could also be announced at a later date.

Appointments to Boards, Commissions, and Other Organizations

Appointments – Council

The Council may vote on the appointment of Councilmembers to serve on various boards, commissions, or organizations. This may also be done by nomination of a slate of candidates or individually. Such motions require a simple majority to be adopted.

Appointments – Citizens

Please note that the Council may also use this occasion to make citizen appointments to boards or commissions if any are ready to be made.

Group Photo

Typically, a group photo is taken at the first meeting of the year so that an updated photo can be added to the Council webpage. Please let the Clerk/Council Offices know whether you will not be able to attend in person and stay after for a photo of the Council for the webpage.

ORGANIZATION DAY WORKSHEET FOR 2023 - JANUARY 11, 2023

ELECTION OF OFFICERS (action by motions of Council)

	2022	2023
President	Sandberg	
Vice President	Sgambelluri	
Parliamentarian	Rollo	

APPOINTMENTS TO BOARDS AND COMMISSIONS (action by motions of Council)

(All appointments of Councilmembers are for voting members except where noted.)

Citizens Advisory Committee - Community Development Block Grants (CDBG)

(1-year term that begins on March 1st)

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— **Social Services**

Sandberg

— **Physical Improvements**

Rosenbarger

Downtown Bloomington, Inc Board

(1-year term; ex-officio)

>>>>

Sgambelluri

Economic Development Commission (City)

(Nomination by Council; 4 year term; removal limited by state code [IC 36-7-12; BMC 2.30.010]; current appointment ends in Jan. 2026.)

>>>>

Flaherty

Economic Development Commission (County)

(Nomination by Council; 4-year term; removal limited by state code [IC 36-7-12]; current appointment ends in Jan. 2023.)

>>>>

Smith

Parking Commission

(1-year term [BMC 2.12.110])

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Volan

Food and Beverage Tax Advisory Commission (County)

(1-year term [IC 6-9-41-16])

>>>>

Rollo

Public Safety Local Income Tax Committee (County Local Income Tax Council)

(1-year term | 4 council members, assuming the MC LIT Council members meet in the same manner as in 2022.)

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Piedmont-Smith

Sims

Sgambelluri

Sandberg

Plan Commission

(Term of Council appointee is co-extensive with member's term of office on Council, unless the Council appoints another to serve as its representative [IC 36-7-4-217].)

>>>>

Smith

APPOINTMENTS TO BOARDS AND COMMISSIONS (action by motions of Council)

(All appointments of Councilmembers are for voting members except where noted.)

		2022	2023
Solid Waste Management District >>>> <i>(Term of Council appointee is co-extensive with member's term of office on Council, but serves at the pleasure of the Council [IC 13- 21-3-8].)</i>		Piedmont-Smith	
Board of the Urban Enterprise Association >>>> <i>(4-year term; current appointment ends in Jan 2025; can only be removed for "just cause" [IC 5-28-15-13].)</i>		Rosenbarger	
Environmental Resources Advisory Council >>>> <i>(2-year, non-voting, ex-officio term; current appointment ends in Jan 2023.)</i>		Rollo	
Utilities Service Board >>>> <i>(No designated term length, serves at the pleasure of the Council; ex-officio, non-voting [BMC 2.24.030].)</i>		Sims	
Bloomington Economic Development Corp. >>>>		Sgambelluri	
Bloomington Commission on Sustainability >>>> <i>(2-year term; current appointment ends in Jan 2023; "may be removed for cause" [BMC 2.08.020].)</i>		Flaherty	
Metropolitan Planning Organization >>>>		Volan	

Assignment to Standing Committees & Appointment of Chairs - 2023 Actions by President

Note: This table represents Council Standing Committees as they presently exist. Should the Council act to create or abolish any standing committees, thereby affecting the list of committees below, the President shall adjust the assignments to affected committees accordingly

	2022	2023
Climate Action & Resilience Committee	C Flaherty	
	Piedmont-Smith	
	Rollo	
	Smith	
Jack Hopkins Social Services Committee	C Sandberg	
	Sims	
	Sgambelluri	
	Smith	
	<i>Fraley</i>	
	<i>Mayer</i>	
	<i>McCalister</i>	
	<i>- Citizen Members for Funding Process</i>	
Sidewalk Committee	C Smith	
	Rollo	
	Rosenbarger	
	Volan	
Interview Committee A	Smith	
	Sims	
	Rosenbarger	

Interview Committee B

Flaherty	
Sgambelluri	
Volan	

Interview Committee C

Piedmont-Smith	
Rollo	
Sandberg	

2023 BOARDS AND COMMISSIONS

INTERVIEW COMMITTEE – ASSIGNMENT GRID

Committee	A	B	C
Boards and Commissions			
Animal Control	x		
Bloomington Community Arts Commission			x
Bicycle & Pedestrian Commission		x	
Bloomington Digital Underground		x	
Board of Zoning Appeals	x		
Commission on Aging	x		
Commission on Hispanic and Latino Affairs			x
Commission on the Status of Black Males	x		
Commission on the Status of Women		x	
Commission on Sustainability			x
Commission on the Status of Children and Youth			x
Community Advisory on Public Safety (CAPS)		x	
Economic Development Commission	COUNCIL		
Environmental Commission		x	
Historic Preservation Commission			x
Housing Quality Appeals Board	x		
Housing Trust Fund Board			x
Human Rights Commission	x		
MLK Commission		x	
Parking Commission			x
Public Transportation Corporation	x		
Redevelopment Commission			x
Traffic Commission		x	
Telecommunications Council		x	
Tree Commission			x
Urban Enterprise Association	x		
Utilities Service Board		x	

Council Member Seating 2018 – 2023

(Assigned by President)

Seating For the Year 2018

Ruff	Sturbaum	Chopra	Piedmont-Smith	Granger	Volan	Sandberg	Sims	Rollo
			Vice President	President	Parliamentarian			

Seating For the Year 2019

Ruff	Chopra	Piedmont-Smith	Granger	Rollo	Volan	Sims	Sturbaum	Sandberg
			Vice President	President	Parliamentarian			

Seating For the Year 2020

Rollo	Sgambelluri	Rosenbarger	Sims	Volan	Piedmont-Smith	Flaherty	Smith	Sandberg
			Vice	President	Parliamentarian			

Seating for the Year 2021

Rollo	Volan	Rosenbarger	Sgambelluri	Sims	Flaherty	Piedmont-Smith	Smith	Sandberg
			Vice President	President	Parliamentarian			

Seating For the Year 2022

Smith	Volan	Sims	Sgambelluri	Sandberg	Rollo	Flaherty	Rosenbarger	Piedmont-Smith
			Vice President	President	Parliamentarian			

Seating for the Year 2023

			Vice President	President	Parliamentarian			

NOTE: Members shall occupy the seats assigned them by the presiding officer, but any two or more members may exchange seats by joining in a written memorandum to that effect. (BMC 2.04.110)



**MEMO FROM COUNCIL OFFICE ON:
(Updated January 6, 2023)**

**Resolution 22-20 – A Resolution Responding to
Monroe County Board of Commissioners Ordinance 2022-46**

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.

Relevant Materials

- Resolution 22-20 [as amended and adopted by Council on December 14, 2022]
- [new material] Veto Message from Mayor John Hamilton re: Resolution 22-20
- [Indiana Code 36-10-8](#) – Capital Improvement Boards in Certain Counties
- County Commissioners Ordinance 2022-46
- County Council Resolution 2022-30
- City Administration Memorandum dated November 23, 2022
- City Administration Memorandum dated October 28, 2022

Update after Mayoral Veto

This item was considered and adopted as amended by the Common Council at a December 14, 2022 Special Session by a vote of Ayes: 8, Nays: 1, Abstentions: 0. The resolution was presented to the Mayor for signature by the Clerk’s Office on December 15, 2022. On December 23, 2022, the Mayor returned Resolution 22-20 unsigned along with a statement of reasons for his veto (included herein). Indiana Code [36-4-6-16](#) and [BMC 2.04.350](#) govern the actions the Council should take if it wishes to pass the resolution over the Mayor’s veto.

These provisions require the Council to pass the resolution by a 2/3’s majority vote at its first Regular or Special Session following the Mayor’s normal 10-day period for signing legislation if it intends for the resolution to go into effect. Neither a motion to amend nor a motion to postpone would be in order. Failure to attain a 2/3’s majority on a Motion to Adopt the resolution would result in the resolution being defeated by veto.

The procedure for considering the resolution should follow the usual course. With introduction, the Clerk typically reads the legislation by title and synopsis only. If it wishes, the Council may also ask the Clerk to read the Veto Statement and then the Council should entertain a Motion to Adopt Resolution 22-20 over the Mayor’s veto. The phrasing of the motion is not critical, but the passage by a 2/3’s majority is. Any further presentation, questions and answers, public comment, and return of the matter to the Council need be handled no different than any other item of legislation. A vote, if successful, will need to be certified by the President and attested by the City Clerk.



Summary

This resolution would express the Common Council’s support for the use of a Capital Improvement Board (CIB) to further a Monroe County Convention Center (“Convention Center”) expansion project.

In 2017, through [Resolution 17-38](#), the Council supported the passage of a county-wide food and beverage tax to fund expansion of the Convention Center. Shortly thereafter, the Monroe County Council adopted an ordinance imposing such a tax, which has been collected since that time. The tax is authorized by state law ([Indiana Code 6-9-41](#)) and may be used only to finance, refinance, construct, operate, or maintain a convention center, a conference center, or related tourism or economic development projects.

In the years since, both city and county officials have met at various times to advance the Convention Center expansion project. Most recently, the County Commissioners took the step of creating a CIB to manage and direct the affairs of the Convention Center and its expansion. The creation and operation of a CIB is detailed in state law under [IC 36-10-8](#), a statute included in this packet. The statute addresses board membership and appointments, meetings, powers, budgets and bonding, and joint and cooperative planning, among other items. The County Council has recently expressed support for the creation of a CIB as well.

The city administration has issued memoranda and documents expressing its view that a 501(c)(3) organization would be a better entity to manage and oversee the expansion project. The reasons for this view are detailed in the included memos from the administration.

Ordinance 2022-46 was adopted by the County Commissioners on November 9, 2022 and states that it “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 [the] Ordinance. ... If the terms in this section are not met by January 1, 2023, this Ordinance is void.”

Council President Sandberg has requested that a resolution be prepared for the Common Council’s consideration to give the Council an opportunity to express its position on the matter before the end of 2022. As written, [Resolution 22-20](#) expresses the Council’s support for the creation of a CIB and calls on the city administration to continue work with county officials to advance the Convention Center project through the use of a CIB. The resolution acknowledges that there may be matters of CIB operations unresolved by County Commissioners Ordinance 2022-46 and requests that the City and County continue to work together, through creation of an interlocal agreement, if needed, to advance the Convention Center project through use of a CIB.

Contact

Council President Sandberg, sandbers@bloomington.in.gov, (812) 349-3409

Common Council Office, council@bloomington.in.gov, (812) 349-3409

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 _____ day of _____, 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 _____ day of _____, 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.

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.

To: Bloomington Common Council Members
Cc: Nicole Bolden, City Clerk
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

IC 36-10-8 Chapter 8. Capital Improvement Boards in Certain Counties

- 36-10-8-1 Application of chapter
- 36-10-8-2 Definitions
- 36-10-8-3 Continuation; creation; authority to finance capital improvements
- 36-10-8-4 Membership; terms; vacancies; removal; oath; reimbursement of expenses
- 36-10-8-5 Organizational meeting; officers; bylaws; quorum; approval of actions
- 36-10-8-6 Name; powers
- 36-10-8-7 Additional powers
- 36-10-8-8 Budget; preparation; review
- 36-10-8-9 Deposit of net income from operation of capital improvements
- 36-10-8-10 Payment of certain operational expenses from capital improvement fund
- 36-10-8-11 Handling and expenditure of funds; treasurer; controller; reports; audits
- 36-10-8-12 Capital improvement fund; deposit of tax revenues; expenditures
- 36-10-8-13 Capital improvement bond fund; amount of revenue to be deposited; excess revenues; use of funds
- 36-10-8-14 Revenue bonds; authority to issue; procedure
- 36-10-8-15 Bonds; covenant with purchasers; continuation of statute
- 36-10-8-16 General obligation bonds; authority to issue; procedure
- 36-10-8-17 Bonds; application of proceeds to construction cost; deposit in reserve subaccount
- 36-10-8-18 Tax exemption
- 36-10-8-19 Joint and cooperative planning, financing, construction, operation, and maintenance agreements
- 36-10-8-20 Dissolution of boards created under [IC 18-7-18](#); escheat of funds
- 36-10-8-21 Capital improvement board of managers operations; annual report

IC 36-10-8-1 Application of chapter

Sec. 1. This chapter applies to all counties not having a consolidated city.

As added by Acts 1982, P.L.218, SEC.3. Amended by P.L.16-1983, SEC.22.

IC 36-10-8-2 Definitions

Sec. 2. As used in this chapter:

"Board" refers to a capital improvement board of managers subject to or created under this chapter.

"Net income" means the gross income after deducting:

- (1) the necessary operational expenses of the board in performing its duties (the expenses not to exceed the amount budgeted or approved); and
- (2) any reserve provided for in the budget.

As added by Acts 1982, P.L.218, SEC.3.

IC 36-10-8-3 Continuation; creation; authority to finance capital improvements

Sec. 3. (a) If a county had in existence on January 1, 1982, a capital improvement board of managers that was created under [IC 18-7-18](#) (before its repeal on February 24, 1982), that board continues to exist and is subject to this chapter. In any other county to which this chapter applies, a capital improvement board of managers may be created by ordinance of the county legislative body.

(b) A county to which this chapter applies may finance, construct, equip, operate, and maintain a capital improvement under this chapter.

As added by Acts 1982, P.L.218, SEC.3. Amended by P.L.213-1986, SEC.11; P.L.163-1987, SEC.8; P.L.3-1990, SEC.143.

IC 36-10-8-4 Membership; terms; vacancies; removal; oath; reimbursement of expenses

Sec. 4. (a) The board is composed of seven (7) members.

(b) The county executive shall determine in the creating ordinance which units within the county shall make appointments to the board. In addition, the creating ordinance must provide that no more than four (4) of the members be affiliated with the same political party. The creating ordinance must also provide staggered terms for the appointments.

(c) Notwithstanding subsection (b), if a board was created under [IC 18-7-18](#) (before its repeal on February 24, 1982), three (3) members shall be appointed by the executive of the second class city and three (3) members shall be appointed by the executive of the county. Those members shall select the seventh member, who serves as president. One (1) of the members appointed by the city executive must be engaged in the hospitality industry in the city. No more than two (2) of the members appointed by the city executive may be affiliated with the same political party and no more than two (2) of the members appointed by the county executive may be affiliated with the same political party. In addition, each member must have been a resident of the county for at least one (1) year immediately preceding the member's appointment. Initial terms of the members are as follows:

- (1) One (1) of the members appointed by each appointing authority for a term ending January 15 of the year following the appointment.
- (2) Two (2) of the members appointed by each appointing authority for a term ending January 15 of the second year following the appointment.
- (3) The seventh member serves for a term ending January 15 of the second year following the appointment.

(d) Subsequent terms of members are for two (2) years. All terms begin on January 15. A member serves until a successor is appointed and qualified. A member may be reappointed after the member's term has expired.

(e) If a vacancy occurs on the board, the appointing authority shall appoint a new member. That member serves for the remainder of the vacated term.

(f) A board member may be removed for cause by the appointing authority who appointed the member.

(g) Each member, before entering upon the member's duties, shall take and subscribe an oath of office in the usual form. The oath shall be endorsed upon the member's certificate of appointment. The certificate shall be promptly filed with the records of the board. However, if the board was created under [IC 18-7-18](#) (before its repeal on February 24, 1982), the certificate shall be filed with the clerk of the circuit court of the county in which the board is created.

(h) A member may not receive a salary, but is entitled to reimbursement for any expenses necessarily incurred in the performance of the member's duties.

As added by Acts 1982, P.L.218, SEC.3. Amended by P.L.163-1987, SEC.9; P.L.3-1990, SEC.144; P.L.176-2009, SEC.27; P.L.229-2011, SEC.267.

IC 36-10-8-5 Organizational meeting; officers; bylaws; quorum; approval of actions

Sec. 5. (a) Immediately after January 15 each year, the board shall hold an organizational meeting. They shall elect one (1) of the members vice president, another secretary, and another treasurer to perform the duties of those offices. The officers serve from the date of their election until their successors are elected and qualified.

(b) The members may adopt the bylaws and rules that they consider necessary for the proper conduct of their duties and the safeguarding of the funds and property entrusted to their care. A majority of the members constitutes a quorum, and the concurrence of a majority of the board is necessary to authorize any action.

As added by Acts 1982, P.L.218, SEC.3.

IC 36-10-8-6 Name; powers

Sec. 6. The board may, acting under the name "(name of county) county capital improvement board of managers", or, if the board was created under [IC 18-7-18](#) (before its repeal on February 24, 1982), "(name of the county) and (name of the city) capital improvement board of managers", do the following:

- (1) Acquire by grant, purchase, gift, devise, lease, or otherwise, and hold, use, sell, lease, or dispose of, real and personal property and any rights and interests in it necessary or convenient for the exercise of its powers under this chapter.
- (2) Construct, reconstruct, repair, remodel, enlarge, extend, or add to any capital improvement under this chapter and condemn, appropriate, lease, rent, purchase, and hold any real property, rights-of-way, materials, or personal property needed for the purposes of this chapter, even if it is already held for a governmental or public use.
- (3) Control and operate a capital improvement, and receive and collect money due to the operation or otherwise relating to the capital improvement, including employing an executive manager and other agents and employees that are necessary for the acquisition, construction, and proper operation of the improvements and fixing the compensation of all employees with a contract of employment or other arrangement terminable at the will of the board. However, a contract may be entered into with an executive manager and associate manager for a period not longer than four (4) years at one (1) time and may be extended from time to time for the same or shorter periods.
- (4) Let concessions for the operation of restaurants, cafeterias, public telephones, news and cigar stands, vending machines, caterers, and all other services considered necessary or desirable for the operation of a capital improvement.
- (5) Lease a capital improvement or a part of it to any association, corporation, or individual, with or without the right to sublet.
- (6) Fix charges and establish rules and regulations governing the use of a capital improvement.
- (7) Accept gifts or contributions from individuals, corporations, limited liability companies, partnerships, associations, trusts, or foundations and funds, loans, or advances on the terms that the board considers necessary or desirable from the United States, the state, or a political subdivision or department of either, including entering into and carrying out contracts and agreements in connection with this subdivision.
- (8) Acquire the site for a capital improvement, or a part of a site by conveyance from the redevelopment commission of a city within the county in which the board is created or from any other source, on the terms that may be agreed upon.
- (9) If the board was created under [IC 18-7-18](#) (before its repeal on February 24, 1982), exercise within and in the name of the county the power of eminent domain under general statutes governing the exercise of the power for a public purpose.
- (10) Receive and collect all money due for the use or leasing of a capital improvement and from concessions and other contracts, and expend the money for proper purposes, but any employees or members of the board authorized to receive, collect, and expend money must be covered by a fidelity bond, the amount of which shall be fixed by the board. Funds may not be disbursed by an employee or member of the board without prior specific approval by the board.
- (11) Provide coverage for its employees under [IC 22-3](#) and [IC 22-4](#).
- (12) Purchase public liability and other insurance considered desirable.
- (13) Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, including the enforcement of them.
- (14) Maintain and repair a capital improvement and all equipment and facilities that are a part of it, including the employment of a building superintendent and other employees that are necessary to maintain the capital improvement.
- (15) Sue and be sued in its own name, service of process being had upon the president or vice president of the board or by leaving a copy at the board's office.
- (16) Prepare and publish descriptive material and literature relating to the facilities and advantages of a capital improvement and do all other acts that the board considers necessary to promote and

publicize the capital improvement and serve the commercial, industrial, and cultural interests of Indiana and its citizens by the use of the capital improvement. It may assist and cooperate with public, governmental, and private agencies and groups for these purposes.

(17) Promote the development and growth of the convention and visitor industry in the county.

(18) Transfer money from the capital improvement fund established by this chapter to any Indiana not-for-profit corporation for the promotion and encouragement of conventions, trade shows, visitors, and special events in the county.

As added by Acts 1982, P.L.218, SEC.3. Amended by P.L.3-1990, SEC.145; P.L.8-1993, SEC.519; P.L.176-2009, SEC.28.

IC 36-10-8-7 Additional powers

Sec. 7. The board may hire architects, engineers, accountants, attorneys, and consultants in connection with the preparation of plans and specifications for a capital improvement and its financing, paying for it as provided under section 12 of this chapter. The acquisition of a site for a capital improvement, the adoption of plans and specifications, the advertising for bids, and the awarding of contracts for the erection or equipping of the capital improvement shall be done by the board under statutes governing these activities by cities or counties. Title to or interest in any property acquired shall be held in the board's name, and the board has complete and exclusive authority to sell, lease, or dispose of it and to execute all conveyances, leases, contracts, and other instruments in connection with it.

As added by Acts 1982, P.L.218, SEC.3.

IC 36-10-8-8 Budget; preparation; review

Sec. 8. The board shall prepare a budget for each calendar year covering the projected operating expenses, estimated income, and reasonable reserves. It shall submit the budget for review, approval, or rejection to the fiscal body of the county and, if the board was created under [IC 18-7-18](#) (before its repeal on February 24, 1982), also the fiscal body of the second class city. The board may make expenditures only as provided in the budget as approved, unless additional expenditures are approved by the respective fiscal bodies.

As added by Acts 1982, P.L.218, SEC.3. Amended by P.L.3-1990, SEC.146.

IC 36-10-8-9 Deposit of net income from operation of capital improvements

Sec. 9. The net income received by the board from the operation of capital improvements under this chapter shall be deposited semiannually on June 1 and December 1 in the capital improvement fund provided in section 12 of this chapter. However, if there are bonds outstanding, the net income from the convention center shall be deposited in the capital improvement bond fund provided in section 13 of this chapter.

As added by Acts 1982, P.L.218, SEC.3.

IC 36-10-8-10 Payment of certain operational expenses from capital improvement fund

Sec. 10. All operational expenses actually incurred by the board within the approved budget necessary to be paid before the receipt of income by the board from the leasing or use of a capital improvement, and any expenses that cannot be paid from that income because of an excess of expenses over income, shall be met and paid by funds in the capital improvement fund.

As added by Acts 1982, P.L.218, SEC.3.

IC 36-10-8-11 Handling and expenditure of funds; treasurer; controller; reports; audits

Sec. 11. (a) The treasurer of the board is the official custodian of all funds and assets of the board and is responsible for their safeguarding and accounting. The treasurer shall give bond for the faithful performance and discharge of all duties required of the treasurer by law in the amount and with surety and other conditions that may be prescribed and approved by the board. All funds and assets in the capital improvement fund and the capital improvement bond fund created by this chapter and all other funds, assets, and tax revenues held, collected, or received by the county treasurer for the use of the board shall be promptly remitted and paid over by the county treasurer to the treasurer of the board, who shall issue receipts for them.

(b) The treasurer of the board shall deposit all money coming into the treasurer of the board's hands as required by this chapter and [IC 6-7-1-30.1](#), and in accordance with general statutes relating to the deposit of public funds. Money so deposited may be invested and reinvested by the treasurer in accordance with [IC 5-13](#) and in securities that the board specifically directs. All interest and other income earned on investments becomes a part of the particular fund from which the money was invested. All funds invested and fully safeguarded and secured as provided in [IC 5-13-9](#) are exempt from assessments under [IC 5-13-12](#).

(c) The board shall appoint a controller to act as the auditor and assistant treasurer of the board. The controller shall serve as the official custodian of all books of account and other financial records of the board and has the same powers and duties as the treasurer of the board or the lesser powers and duties that the board prescribes. The controller, and any other employee or member of the board authorized to receive, collect, or expend money, shall give bond for the faithful performance and discharge of all duties required of the controller, employee, or member in the amount and with surety and other conditions that may be prescribed and approved by the board. The controller shall keep an accurate account of all money due the board and of all money received, invested, and disbursed in accordance with generally recognized governmental accounting principles and procedure. All accounting forms and records shall be prescribed or approved by the state board of accounts.

(d) The controller shall issue all warrants for the payment of money from the funds of the board in accordance with procedures prescribed by the board, but a warrant may not be issued for the payment of a claim until an itemized and verified statement of the claim has been filed with the controller, who may require evidence that all amounts claimed are justly due. All warrants shall be countersigned by the treasurer of the board or by the executive manager. Payroll and similar warrants may be executed with facsimile signatures.

(e) If there are bonds outstanding issued under this chapter, the controller shall deposit with the paying agent or officer within a reasonable period before the date that any principal or interest becomes due sufficient money for the payment of the principal and interest on the due dates.

(f) At least annually the controller shall submit to the board a report of the controller's accounts exhibiting the revenues, receipts, and disbursements and the sources from which the revenues and receipts were derived and the purpose and manner in which they were disbursed. The board may require that the report be prepared by an independent certified public accountant designated by the board. The handling and expenditure of funds is subject to audit and supervision by the state board of accounts.

As added by Acts 1982, P.L.218, SEC.3. Amended by P.L.19-1987, SEC.56; P.L.127-2017, SEC.388.

IC 36-10-8-12 Capital improvement fund; deposit of tax revenues; expenditures

Sec. 12. Unless there are bonds outstanding under this chapter, any tax revenues received by the board from the treasurer of the state as provided by law shall be deposited in a separate and distinct fund called the "capital improvement fund". Any money in the fund may be expended by the board without the necessity of an appropriation to pay:

- (1) operating expenses and maintain reasonable reserves;
- (2) for services of architects, engineers, accountants, attorneys, and consultants;
- (3) for all or part of the cost of a capital improvement;
- (4) the principal on, or interest of, any bonds issued under this chapter that cannot be paid from money in the capital improvement bond fund; or
- (5) for any other purpose that has been budgeted and approved under section 8 of this chapter.

As added by Acts 1982, P.L.218, SEC.3.

IC 36-10-8-13 Capital improvement bond fund; amount of revenue to be deposited; excess revenues; use of funds

Sec. 13. (a) If there are bonds outstanding issued under section 14 of this chapter, the treasurer of the board shall deposit in a separate and distinct fund called the "capital improvement bond fund" all tax revenues received as provided by law until there are sufficient funds from those tax revenues, the proceeds of the bonds, or both of these sources, in the capital improvement bond fund to provide the amount required by the resolution or resolutions or trust agreement or agreements pursuant to which the bonds are issued. The treasurer of the board shall then deposit sufficient tax revenues in the fund to maintain such amounts in the fund as are required by the resolution or resolutions or trust agreement or agreements. The various accounts within the capital improvement bond fund shall be held by the treasurer of the board or by an escrow agent, depository, or trustee as may be provided in the resolution or resolutions or trust agreement or agreements pursuant to which the bonds are issued.

(b) Any excess tax revenues not required by this section to be deposited in the capital improvement bond fund shall be deposited in the capital improvement fund, or, in the discretion of the board, in any special fund that may be established by the board for the payment of principal and interest on any bonds outstanding issued under this chapter. Amounts in the capital improvement bond fund shall be applied to the payment of principal of the bonds and the interest on them and to no other purpose.

As added by Acts 1982, P.L.218, SEC.3.

IC 36-10-8-14 Revenue bonds; authority to issue; procedure

Sec. 14. (a) A capital improvement may be financed in whole or in part by the issuance of revenue bonds payable solely out of the net income received from the operation of a capital improvement and from the tax revenues provided by law that are required by this chapter to be deposited in the capital improvement bond fund.

(b) If the board desires to finance a capital improvement in whole or in part as provided in this section, it shall adopt a resolution authorizing the issuance of revenue bonds. The resolution must state the date or dates on which the principal of the bonds will mature (not exceeding forty (40) years from the date of issuance), the maximum interest rate to be paid, and the other terms upon which the bonds will be issued.

(c) The board shall submit the resolution to the county executive, or, if the board was created under [IC 18-7-18](#) (before its repeal on February 24, 1982), to the executive of the second class city, who shall review it. If the executive approves the resolution, then the board shall take all actions necessary to issue bonds in accordance with the resolution. The board may enter into a trust agreement with a trust company as trustee for the bondholders. An action to contest the validity of bonds to be issued under this section may not be brought after the fifteenth day following the receipt of bids for the bonds.

(d) The bonds shall be sold at public sale in accordance with [IC 5-1-11](#). All bonds and interest are exempt from taxation in Indiana to the extent provided in [IC 6-8-5](#).

(e) When issuing revenue bonds, the board may covenant with the purchasers of the bonds that any funds in the capital improvement fund may be used to pay the principal on, or interest of, the bonds that cannot be paid from money in the capital improvement bond fund.

(f) The revenue bonds may be made redeemable before maturity at the price or prices and under the terms that are determined by the board in the authorizing resolution. The board shall determine the form of bonds, including any interest coupons to be attached, and shall fix the denomination or denominations of the bonds and the place or places of payment of the principal and interest, which may be at any bank or trust company within or outside Indiana. All bonds must have all the qualities and incidents of negotiable instruments under statute. Provision may be made for the registration of any of the bonds as to principal alone or to both principal and interest.

(g) The revenue bonds shall be issued in the board's name and must recite on the face that the principal of and interest on the bonds is payable solely from the net income received from the operation of the capital improvement or from the net income and other funds made available for this purpose. The bonds shall be executed by the manual or facsimile signature of the president of the board, and the seal of the county shall be affixed to them. The seal shall be attested by the manual or facsimile signature of the county auditor. Any coupons attached must bear the facsimile signature of the president of the board.

(h) This chapter constitutes full and complete authority for the issuance of revenue bonds. No law, procedure, proceedings, publications, notices, consents, approvals, orders, acts, or things by the board or any other officer, department, agency, or instrumentality of the state, the county, or any municipality is required to issue any revenue bonds except as may be prescribed in this chapter.

(i) Revenue bonds issued under this section are legal investments for private trust funds and the funds of banks, trust companies, insurance companies, building and loan associations, credit unions, banks of discount and deposit, savings banks, loan and trust and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, industrial loan and investment companies, and other financial institutions organized under statute.

As added by Acts 1982, P.L.218, SEC.3. Amended by P.L.3-1990, SEC.147; P.L.42-1993, SEC.99.

IC 36-10-8-15 Bonds; covenant with purchasers; continuation of statute

Sec. 15. The Indiana general assembly covenants with the purchasers of any bonds issued under this chapter that the statute authorizing the levy of a specific tax within the county the proceeds of which are required by this chapter to be deposited in a specific fund created under this chapter will not be repealed, amended, or altered in any manner that would reduce or adversely affect the levy and collection of the tax levied, or reduce the rates or amounts of the tax, as long as the principal of, or interest on, any bonds is unpaid. The board, on behalf of the county, is authorized to make a similar pledge or covenant in any agreement with the purchasers of any bonds issued under this chapter or in any resolution or trust agreement pursuant to which the bonds are issued.

As added by Acts 1982, P.L.218, SEC.3.

IC 36-10-8-16 General obligation bonds; authority to issue; procedure

Sec. 16. (a) A capital improvement may be financed in whole or in part by the issuance of general obligation bonds of the county or, if the board was created under [IC 18-7-18](#) (before its repeal on February 24, 1982), also of the city, if the board determines that the estimated annual net income of the capital improvement, plus the estimated annual tax revenues to be derived from any tax revenues made available for this purpose, will not be sufficient to satisfy and pay the principal of and interest on all bonds issued under this chapter, including the bonds then proposed to be issued.

(b) If the board desires to finance a capital improvement in whole or in part as provided in this section, it shall have prepared a resolution to be adopted by the county executive authorizing the issuance of general obligation bonds, or, if the board was created under [IC 18-7-18](#) (before its repeal on February 24, 1982), by the fiscal body of the city authorizing the issuance of general obligation bonds. The resolution must set forth an itemization of the funds and assets received by the board, together with the board's

valuation and certification of the cost. The resolution must state the date or dates on which the principal of the bonds is payable, the maximum interest rate to be paid, and the other terms upon which the bonds shall be issued. The board shall submit the proposed resolution to the proper officers, together with a certificate to the effect that the issuance of bonds in accordance with the resolution will be in compliance with this section. The certificate must also state the estimated annual net income of the capital improvement to be financed by the bonds, the estimated annual tax revenues, and the maximum amount payable in any year as principal and interest on the bonds issued under this chapter, including the bonds proposed to be issued, at the maximum interest rate set forth in the resolution. The bonds issued may mature over a period not exceeding forty (40) years from the date of issue.

(c) Upon receipt of the resolution and certificate, the proper officers may adopt them and take all action necessary to issue the bonds in accordance with the resolution. An action to contest the validity of bonds issued under this section and sold at a public sale may not be brought after the fifteenth day following the receipt of bids for the bonds.

(d) The provisions of all general statutes relating to:

(1) the filing of a petition requesting the issuance of bonds and giving notice;

(2) the right of:

(A) taxpayers and voters to remonstrate against the issuance of bonds in the case of a proposed bond issue described by [IC 6-1.1-20-3.1\(a\)](#); or

(B) voters to vote on the issuance of bonds in the case of a proposed bond issue described by [IC 6-1.1-20-3.5\(a\)](#);

(3) the giving of notice of the determination to issue bonds;

(4) the giving of notice of a hearing on the appropriation of the proceeds of bonds;

(5) the right of taxpayers to appear and be heard on the proposed appropriation;

(6) the approval of the appropriation by the department of local government finance; and

(7) the sale of bonds at a public sale or at a negotiated sale after June 30, 2018, and before July 1, 2023;

apply to the issuance of bonds under this section.

As added by Acts 1982, P.L.218, SEC.3. Amended by P.L.3-1990, SEC.148; P.L.90-2002, SEC.520; P.L.219-2007, SEC.146; P.L.146-2008, SEC.796; P.L.176-2009, SEC.29; P.L.125-2018, SEC.10; P.L.38-2021, SEC.105.

IC 36-10-8-17 Bonds; application of proceeds to construction cost; deposit in reserve subaccount

Sec. 17. (a) All money received from any bonds issued under this chapter shall be applied solely to the payment of the construction cost of the capital improvement for which the bonds are issued. The cost may include:

(1) planning and development of the capital improvement and all buildings, facilities, structures, and improvements related to it;

(2) acquisition of a site and clearing and preparing the site for construction;

(3) equipment, facilities, structures, and improvements that the board considers necessary or desirable to make the capital improvement suitable for use and operation;

(4) architectural, engineering, consultant, and attorney fees;

(5) incidental expenses in connection with the issuance and sale of bonds; and

(6) interest during construction.

(b) To the extent authorized and directed in any resolution of the board or in any trust agreement providing for the issuance of bonds under section 14 of this chapter, proceeds of these bonds may be deposited in the reserve subaccount of the capital improvement bond fund established under section 13 of this chapter. However, the amount deposited, when added to any amount in that subaccount, may not exceed the maximum amount required to be in the subaccount by section 14 of this chapter, taking into consideration the bonds then being issued.

As added by Acts 1982, P.L.218, SEC.3.

IC 36-10-8-18 Tax exemption

Sec. 18. All property owned or used and all income and revenues received by the board are exempt from special assessments and taxation in Indiana for all purposes.

As added by Acts 1982, P.L.218, SEC.3.

IC 36-10-8-19 Joint and cooperative planning, financing, construction, operation, and maintenance agreements

Sec. 19. The board and the state, any department, agency, or commission of the state, or any department, agency, or commission of municipal or county government may enter into agreements, contracts, or leases with each other on the terms that are agreed upon, providing for joint and cooperative planning, financing, construction, operation, or maintenance of a capital improvement or of the buildings, facilities, structures, or improvements that are necessary or desirable in connection with the use and operation of a capital improvement. The buildings, facilities, structures, or improvements may include:

- (1) facilities for the comfort of visitors and other persons using the capital improvement;
- (2) parking lots and garages;
- (3) walks and pedestrian ways;
- (4) landscaping, lighting, and beautification; and
- (5) open spaces, malls, or plazas desirable to produce a unified architectural and artistic setting for the capital improvement.

As added by Acts 1982, P.L.218, SEC.3.

IC 36-10-8-20 Dissolution of boards created under IC 18-7-18; escheat of funds

Sec. 20. (a) This section applies only to a board that was created under [IC 18-7-18](#) (before its repeal on February 24, 1982).

(b) If the board is dissolved voluntarily or involuntarily, any funds in the possession of the board or to the credit of the board in the possession of the state escheat to the general fund of the county.

As added by Acts 1982, P.L.218, SEC.3. Amended by P.L.3-1990, SEC.149.

IC 36-10-8-21 Capital improvement board of managers operations; annual report

Sec. 21. (a) This section applies only to a board that was created under [IC 18-7-18](#) (before its repeal on February 24, 1982).

(b) On or before March 31 each year, the executive manager shall submit to the board an annual report of the operations of the convention and visitor center.

As added by P.L.176-2009, SEC.30.

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

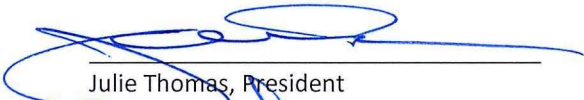
equip and organize a CIB is hereby authorized. If the terms in this section are not met by January 1, 2023, this Ordinance is void.

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

MONROE COUNTY BOARD OF COMMISSIONERS

"AYES"

"NAYS"



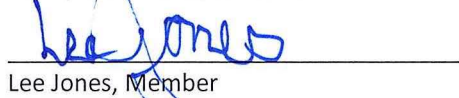
Julie Thomas, President

Julie Thomas, President



Penny Githens, Vice President

Penny Githens, Vice President



Lee Jones, Member

Lee Jones, Member

ATTEST: 

Catherine Smith, Auditor

RESOLUTION 2022-30
A RESOLUTION IN SUPPORT OF CREATING A CAPITAL IMPROVEMENT BOARD AS OUTLINED IN
MONROE COUNTY BOARD OF COMISSIONERS ORDINANCE 2022-46

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 County Council adopted Resolution 77-8 authorizing the Innkeeper’s tax pursuant to authority granted to the Council by the Indiana General Assembly be the enactment of Indiana Code §6-9-4 et seq., and;

WHEREAS, the County Council adopted most recent, Ordinance 2010-37, pledging Innkeeper’s Tax revenues to financially support expenses relating to the Convention Center; and,

WHEREAS, the County Council approved through bonds and appropriations the funding for the Monroe County Board of Commissioners (“Commissioners”) to purchase real property 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, 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 before discussions were delayed by 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, 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, on November 9, 2022, the Commissioners established the framework for the CIB with the passage of Ordinance 2022-46, marked as Exhibit A, referenced and incorporated herein.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL OF MONROE COUNTY, INDIANA, as follows:

1. The County Council supports the efforts taken by the Commissioners by the passage of Ordinance 2022-46 and the formation of the CIB in furtherance of the Convention Center expansion project.

2. The County Council willing accepts its responsibilities as they pertain to the CIB and continued maintenance of the Convention Center and looks forward to working with their County and City colleagues to move forward in the expansion of the Convention Center.

Approved this 29th day of November, 2022, by the Board of Commissioners of Monroe County, Indiana.


Presented to the Monroe County Council and adopted this 29th day of November, 2022.

* * * * *

MONROE COUNTY COUNCIL


“AYES”

“NAYS”



Kate Wiltz, President

Kate Wiltz, President



Trent Deckard, President Pro Tempore

Trent Deckard, President Pro Tempore



Marty Hawk, Member

Marty Hawk, Member



Geoff McKim, Member

Geoff McKim, Member



Cheryl Munson, Member

Cheryl Munson, Member



Peter Iverson, Member

Peter Iverson, Member



Jennifer Crossley, Member

Jennifer Crossley, Member

ATTEST:



Catherine Smith, Monroe County Auditor

Date: 11/30/2022

MEMO

From: Corporation Counsel Beth Cate
City Controller Jeffrey Underwood
Public Engagement Director Mary Catherine Carmichael
To: Mayor John Hamilton
Deputy Mayor Don Griffin
Date: November 23, 2022
Re: Options for Convention Center expansion - CIB or 501c3

BACKGROUND

Recently you received a memo comparing and contrasting the relative benefits of a 501c3 nonprofit organization and a Capital Improvement Board (CIB) to achieve the construction and ongoing management function for a convention center expansion. (See attached memo of 10/28/22.) The goals for a convention center expansion project are to improve the marketability of Bloomington as a convention destination while expanding and diversifying the meeting spaces available to locals.

The 10/28//22 memo recommended a 501c3 for several reasons. Primary among them is a belief that a 501c3 holds the greatest potential for achieving a successful convention center expansion that will be architecturally significant, appropriately sized and fitted, and completed in an efficient and timely manner.

On November 9, 2022, the County Commissioners, apparently in reaction to the City's proposal to use a 501c3 for this purpose, and in a brief public meeting with virtually no notice or public input, adopted an ordinance to establish a CIB and asked the City Council and Administration to endorse that ordinance and approach. The ordinance (attached below), indicates it will automatically expire if those endorsements are not received before January 1, 2023. For reasons outlined below, we believe that ordinance, unless substantially altered, should not be endorsed, and the 501c3 continues to offer the much preferable approach to a successful expansion. However, with appropriate modifications, a CIB could potentially be workable.

CIB OPTION

In 2018-19 City and County officials extensively considered and discussed the state-law-defined CIB option for expansion. While officials did not reach final agreement, in December 2019 discussions among the parties sought to identify potential compromises that would allow more representation for the City in decisions regarding the project. Even if a CIB were created with all the potential compromises outlined at the time, City administration officials continued to believe that a CIB posed challenges to being efficient and effective in achieving excellent results for design, construction, and operation, and those concerns persist. But, the City understood at the time that the County recognized and agreed with the need to share decisional authority regarding a CIB with the City.

The recent county ordinance, however, excludes nearly all of the many avenues for inclusion of the City and therefore does not offer a valid path forward. If a CIB were instead created with the following characteristics and assurances, which reflect issues discussed in 2019 as well as ongoing concerns, it could potentially oversee the expansion project. How effective the CIB would be would depend substantially on the demonstrated commitment of the County and City to provide it with the necessary resources to pursue the project expeditiously, how independently the CIB is permitted to operate, and the composition of its board of directors, among other factors.

We consider the following components to be essential to any prospective CIB. None of these is included in the recent ordinance; some will likely require an interlocal agreement to implement:

1. Equal representation on the Convention and Visitors Commission (CVC):
 - a. The County and City each appoint 2 of the 4 CVC members other than the Memorial Union representative. As with CIB, appointees may not be elected officials or work for the City or County.
 - b. City Administration and City Council will determine who makes the City appointments to the CVC; County Commissioners and Council will determine County appointments
2. Approval by both County & City Fiscal bodies of the annual CIB budget
3. Approval by both County & City Fiscal bodies of CIB-issued bonds
4. Approval by both County & City Fiscal bodies of the annual CVC budget
5. County commitment to continued appropriation of Innkeeper's tax proceeds to the CIB to fund convention center (CC) operations, maintenance, etc.
6. Authorization by both City and County for the CIB to select and contract with an entity/entities to operate/manage the expanded CC
7. Authorization by both City and County for the CIB to decide and oversee the process for selecting any hotelier(s) with which to partner
8. Authorization by both City and County for the CIB to decide location(s) of expanded CC components, including Site Plan for exhibit/meeting space, any hotel(s), garage(s), and connections among components
9. Authorization by both City and County for the CIB to hire/retain incidental staff support as needed
10. Expeditious transfer to the CIB of all City and County property purchased via the Innkeepers or Food & Beverage taxes (i.e. no later than 90 days after establishment of the CIB), or the CIB dissolves.
11. Appointment of the City Controller as the statutory CIB Controller
12. To the extent permitted by law, authorization by both City and County for the CIB to have outside, independent audits in lieu of State Board of Accounts audits
13. Authorization by both City and County for the CIB to control the naming of the new, expanded CC
14. 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

15. 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. If no agreement can be reached, the parties must then establish a 501c3 or alternative governance structure that will maintain the balance.

These components help assure shared oversight and authority for the project and ongoing operations. In addition, reflecting concerns about certain statutory powers and authorities discussed in the 10/28/22 memo, all the parties should affirm publicly and explicitly that they will not use their approval and oversight authorities – including over bonding and annual budgets – to intervene in the basic decisions and activities of the CIB to locate, design, build, and operate the CC and to determine future uses of properties transferred to it for CC-related activities.

While these components help assure extensive process and involvement of relevant public bodies, for that same reason they also threaten extensive bureaucracy and delays, because acquiring multiple approvals may prove extremely cumbersome and unwieldy. A 501c3, in contrast, can avoid these cumbersome structures while assuring balance and full public accountability.

It is our belief that if the 15 proposed components listed above were amended into a CIB agreement, a CIB could potentially be a workable framework to accomplish the project. We understand the County Council plans to meet on November 29 and may consider the CIB approved by the Commissioners at that time. It is our hope that they would not endorse the CIB as approved and that we could continue negotiations and land either on terms of an amended CIB agreement that both county and city officials could support by the end of 2022, or turn to the 501c3 option. We continue to believe that it will be important to be able to demonstrate to the General Assembly that we are making progress delivering on the intended use of the F&B tax dollars.

501c3 OPTION

The 501c3 option we have recommended has elicited some concerns about public accountability and workability, before details were even released. We continue to believe the 501c3 option as outlined in the 10/28/22 memo is more likely to succeed in launching a timely and high-quality expansion. As detailed in that memo, a 501c3 can fully address expressed concerns, incorporating the components of a CIB that assure public transparency and accountability, including open meetings and records, financial audits and accountability, appropriate insurance against loss, and more. Notably, the current convention center has been operated by a 501c6 non profit organization for the past 30 years without issue. We are proposing a c3 instead of a c6, as it is better suited to the design and building phases of convention center expansion, while retaining the ability for robust stakeholder and public input.

A 501c3, besides being flexible – for example avoiding rigid board composition requirements of state law CIBs or imbalanced approval requirements of specific bodies – can assure more efficient oversight from a range of public entities.

For example:

- The CVC need not be adjusted. Its all-county appointments can remain, and have full authority to determine assignments of the Innkeeper's Tax for ongoing operations.
- The County Council retains full authority over the existence of the F&B tax – whether to adjust or terminate it. (An exception in state law is that the tax may not be lowered if it is required to service appropriately approved, existing debt.) In an ideal world, cities could approve their own F&B tax structure, but there doesn't appear to be the political will within the General Assembly to go that route.
- The Food and Beverage Tax Advisory Commission (FABTAC), a body equally representing the county and city bodies, retains full authority to approve or disapprove of all uses of the F&B revenues, consistent with state law. The City Council would have authority over the annual budget of the 501c3 and its bonding, reflecting the fact that virtually all funding for the design and construction of the expansion will come from F&B revenues generated in the city. Any F&B revenue bond would have to be approved by both the City Council and the FABTAC.
- The County Commissioners retain appointment authority for members of the FABTAC and the CVC, and authority to direct the uses of the F&B tax collected outside city limits.

In total, five public agencies would have some form of oversight either direct or through the approval process: county commissioners, county council, city council, FABTAC and the CVC. The city administration's authority exists only in the appointment of the members of the governing body. If the city-owned College Square site is chosen (as recommended in 2019) as the location for the expanded facility, and the city's portion of the F&B tax is dedicated to the project, it would follow that the City would desire a strong interest in assuring success of the project. We believe this extensive shared oversight assures robust and fair public involvement and control, while significantly lessening the risk of duplicative or overly cumbersome processes.

In order to address concerns about accountability that have been expressed:

- The 501c3 board can and should create a specific advisory board for the convention center expansion project – one that is inclusive of all stakeholders, to provide ongoing, regular advice, ideas and feedback.
- The 501c3 board should hold monthly meetings that are open to the public.
- Those monthly meetings should allow time for public comment.
- A website that includes access to financial and other documents should be developed and kept up to date.
- Indiana Open Door Law practices should be implemented.
- Annual independent and public financial audits should be implemented.
- An expanded convention center facility should be marketed with the existing convention center. The two properties should complement each other, not compete.

- The current management structure should be utilized for both facilities, being operated as an integrated whole.

All of these components could and will be incorporated into the founding documents of a 501c3.

Bylaws for 501c3 organizations have enough flexibility to allow the customization we desire. The bylaws shall address the rules under which the organization will operate as a 501c3 organization under all applicable laws, establish duties and limits of governance powers for officers and the board of directors, establish committees, rules for financial operations and reporting, record keeping and insurance and indemnification obligations. As currently conceived, the 501c3 would contain bylaws that would include specific purposes for its operation, including aiding the design and building of an expansion to the public convention center. The 501c3 would be prohibited from distributing or otherwise using net earnings to members, directors, officers, or any other person except to pay reasonable compensation for services and to pay for activities that further its mission. It would also be prohibited from having a substantial part of its activities used for lobbying, political activity in favor of a political campaign or on behalf of any candidate for public office.

The 501c3 would have five (5) members of its board of directors and officers elected from the board. Four (4) of the directors would be appointed by the Mayor and one director would be appointed by the city council. Officers would be determined by the board of directors, including a president, vice president, secretary, treasurer, and any other officer the board determines is necessary. The board would prescribe the authority of the officers to act on its behalf. The books and records of the 501c3 would be made public as though they were subject to the provisions of Indiana's Access to Public Records Act (Ind. Code Chapter 5-14-3). Similarly, any general or special meeting of the 501c3 would follow the provisions of Indiana's Open Door Law (Ind. Code Chapter 5-14-1.5), unless explicitly modified by the organization's bylaws. Pending support from city and county bodies, bylaws reflecting this or a modified version of this structure will be created in short order.

The 501c3 approach also could allow the city, if desired, to coordinate development and operations of other city-owned assets in the downtown area, including potentially the Waldron, the Buskirk-Chumley, The Mill and other Trades District property, and/or Hopewell, the former hospital site if desired at a future date.

An expansion project is estimated to require at least 3 years between a launch of the organization leading the project and opening of the new facility. We are concerned that a CIB approach could take substantially longer than that given the potentially cumbersome, duplicative, and fraught review and oversight process, including the history of the project to date. We believe a 501c3 offers a substantially better path to success, while assuring full public oversight and involvement.

Attachments:

1. "Convention Center Proposed Plan" Memo, published 10/28/22
2. County Commissioners Ordinance 2022-46, passed 11/9/22

MEMO

From: Corporation Counsel Beth Cate
Controller Jeff Underwood
Public Engagement Director Mary Catherine Carmichael

To: Mayor John Hamilton & Deputy Mayor Griffin
Date: October 28, 2022
Re: Convention Center Expansion Project

Convention Center proposed plan

Goals for convention center expansion - The goal for a convention center expansion project is to improve the marketability of Bloomington as a convention destination while expanding and diversifying the meeting spaces available to locals.

Key features of mechanism(s) used to achieve those goals - City of Bloomington prefers the flexibility of a 501c3 for several reasons; primary among them is a belief that a 501c3 holds the greatest potential for building a successful convention center expansion that will be architecturally significant, appropriately sized and fitted, and completed in a timely manner.

Staff have investigated and evaluated options to achieve an appropriate governing body for an expanded convention center project to be built on City of Bloomington owned land. Two models were considered: a Capital Improvement Board (CIB) as established in state law, and a charitable nonprofit organization (501c3) as defined under state and federal law, and any related interlocal or other agreements.

Several key points guide this analysis:

- A CIB or 501c3, would have various authorities depending on the statutory and any interlocal contract specifics.
- An additional entity, the Convention and Visitors Commission (CVC), directs annual operating funds provided to supplement operational needs of the convention center. These funds, derived from the local innkeepers tax, are decided by the CVC whose 5 members are, pursuant to state law, appointed exclusively by the county (3 by council, 2 by commissioners, with quite specific requirements for 4 of the 5 members). The CVC's budget is annually reviewed and controlled by the county council.
- The County Council voted to establish a Food and Beverage Tax in Monroe County. The city's portion of those funds have (largely) been collecting since its inception. This vote took political courage, and that body should be commended for its forward thinking and action. A Food and Beverage Advisory Committee exists to determine the appropriateness of F&B tax expenditures. Written approval from a majority of members is required for expenditures.

- The ongoing F&B tax is not a given. The County Council or the Indiana General Assembly could vote to discontinue the tax should they see fit.
- By state statute, a CIB is created by action of the county commissioners. Appointment powers to name the members of the CIB may be delegated by the commissioners (for example, designating that some of the CIB members be appointed by other governmental bodies). Certain statutorily-prescribed powers, however, may not be delegated and result in specific authorities:
 - The County Commissioners must approve any bond issue by the CIB
 - The County Council must approve the CIB's annual budgets
- A 501c3 entity may be established with a wide range of possible board and oversight structures, operational procedures, and fully equal authority with a CIB.

The administration has made clear that any such organization would need to be fully collaborative with appropriate county entities and share involvement, including the creation of at least one advisory body. Staff recommends the advisory body's membership include representatives from the city council, county commissioners, county council, tourism and hospitality industries, the arts communities, Indiana University, and not-for-profit organizations.

Based on these points, certain conclusions follow.

A CIB is essentially a county body, with specific powers inextricably assigned to the county, including approval of any bond sales and the annual CIB budgets. Regardless of how CIB members are appointed, control of a CIB remains with county – not city or shared – government in these important ways.

By contrast, a 501c3 can be designed more flexibly and can embrace diverse voices and representation to assure effective and representative management over the affairs of the entity. In particular, the 501c3 can be established with autonomy over its own operating budget and its own authority to issue bonds through one or the other governmental entities, or the neutral Indiana Finance Authority. In any of these circumstances, direct public oversight from at least four bodies is assured:

1. The County Council which controls the F&B tax
2. The CVC, which controls necessary operating funding
3. The FABTAC, which controls expenditures of the F&B funding, and
4. The City Council, which must establish authority for and bonding of the 501c3

In terms of coordinating and accelerating downtown development and prosperity, a 501c3 with its more flexible governance structure also could potentially accept additional city properties at some point in the future. Possible examples include the Buskirk Chumley Theater, the Waldron Arts Center, the Mill and Trades District, and perhaps the Hopewell development. As such, a 501c3 structure centered with the City of Bloomington offers significant potential.

Some factors that differ between a CIB and 501c3 have been offered as recommending a CIB. We won't attempt to respond in detail to all these factors, but offer some basics:

- A CIB has statutory tort claim liability protection and a 501c3 would not, but information from individuals consulted in the insurance industry suggests that the relevant insurance coverages required for the two options do not differ substantially in cost, especially where the entity operations are properly structured.
- Annual audited fiscal review and public reporting and meeting requirements are easily incorporated into a 501c3's permanently binding governing documents.
- Board makeup and size can be more flexibly defined in a 501c3.

Note that even if a 501c3 builds and owns an expansion of the convention center, the management and daily operations can be fully integrated with the current center. Indeed, that approach seems advisable and efficient. Thus while different ownership would allow timely and efficient construction of new facilities, the operations can be unified.

The city has remained steadfast in committing its portion of the Food and Beverage tax to expand the convention center. Over the last six years the possibility of partnering with Monroe County government in creating a CIB was explored, and while some progress was made, ultimately the City and County were unable to reach agreement on the best path forward. If the City of Bloomington is to have the ability to move forward with an expanded convention center project in a timely fashion, it will need decision making ability to achieve success and efficiency. With time pressure coming from a General Assembly ready to remove the F&B tax option from those communities who have collected but not employed those funds, there is no time to continue unfruitful debate.

The path of a traditional CIB would require that the City – which will dedicate tens of millions of dollars and coordinate multiple very significant and complex downtown redevelopments – depend upon the frequent approvals of a county body that has demonstrated very different approaches, values, and vision for the convention center project. After six years of unsuccessful negotiations, this path is untenable.

A 501c3 offers advantages in flexibility and real balance among various parties. It may also offer a more successful long-term structure for a vibrant and entrepreneurial center – both in its design and construction, and in its coordination with so much happening in the downtown. We urge further discussion with relevant parties to explore this option.