



City of Bloomington Common Council

Legislative Packet

Regular Session

02 December 2009

Office of the Common Council
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Bloomington, Indiana 47402

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Packet Related Material

Memo

Agenda

Calendar

Notices and Agendas:

- **Council Sidewalk Committee** Meeting on December 1, 2009 at 4:00 p.m. in the McCloskey Room
- **Staff/Council Internal Work Session** on Friday, December 4, 2009 in the Hooker Room

Annual Schedule

- **Schedule**
 - Memo to Council

Legislation for Final Action:

- **App Ord 09-11** To Specially Appropriate from the General Fund, Parks General Fund, Risk Management Fund, Fire Pension Fund, and Sanitation Fund Expenditures Not Otherwise Appropriated (Appropriating Various Transfers of Funds within the General Fund and Motor Vehicle & Highway Fund for Police, City Clerk, Public Works, Animal Care & Control, Engineering, Street, and Traffic; Appropriating Funds from the General Fund, Parks General Fund, Wireless Fund, Sanitation Fund, Fire Pension Fund, and Rainy Day Fund for Payroll Needs in All City Departments)
Contact: Mike Trexler at 349-3412 or trexlerm@bloomington.in.gov

- **Res 09-18** – **Approving the Peak Oil Task Force Report as an Advisory Document**

Contact: Dave Rollo at 339-7916 or rollod@bloomington.in.gov

Please see the [November 18th Council Legislative Packet](#) for the legislation, background materials and summaries regarding [App Ord 09-11](#) and [Res 09-18](#).

- **Res 09-21** Recognizing the Twenty-Fifth Anniversary of the Bhopal Disaster and Calling for a Report on Extremely Hazardous Substances Previously Released into the Local Environment

- Memo to Council from Councilmember Volan, District 6 (Please note that Councilmember Rollo is a co-sponsor of this resolution.)

Contact: Steve Volan at 349-3409 or volans@bloomington.in.gov

- **Ord 09-06 (Amended by Substitution)** To Amend Title 15 of the Bloomington Municipal Code Entitled “Vehicles and Traffic” (Containing Most of the Provisions Proposed in [Ordinance 09-06](#) When Tabled on April 15th and Which Affect One-Way Alleys, Various Parking Regulations, Crosswalks, and Penalties

- See the [Council Legislative Packet for April 1st](#) for the Ordinance, Memo and Maps regarding [Ord 09-06](#) as presented last Spring and the summary in this packet for [Ord 09-06 \(Amended by Substitution\)](#)

- *Contact: Dan Sherman at 349-3562 or shermand@bloomington.in.gov*

Justin Wykoff at 349-3417 or wykoffj@bloomington.in.gov

Jacquelyn Moore at 349-3426 or mooreja@bloomington.in.gov

Ordinances and Background Material for First Reading and a Resolution Related to One of those Ordinances:

- **Ord 09-23** To Amend Title 4 of the Bloomington Municipal Code Entitled “Business Licenses and Regulations” (Adopting Chapter 4.26 entitled, “Velocabs”)

- Memo from Councilmember Mike Satterfield, District 3

Contact: Councilmember Mike Satterfield at 333-0898 or

satterfm@bloomington.in.gov

- **Ord 09-24** To Amend Title 2 of the Bloomington Municipal Code Entitled “Administration and Personnel” - Re: Adding BMC 2.23.090 Establishing the Bloomington Commission on Aging
 - Memo to Council from Pete Giordano, Director of Community and Family Resources
 - Contact: Pete Giordano at 349-3430 or giordanp@bloomington.in.gov*

- **Res 09-20** To Approve and Authorize the Execution of a Collective Bargaining Agreement between the City of Bloomington and the Bloomington Metropolitan Fire Fighters, Local 586
 - Memo from Kevin Robling, Corporation Counsel; Fiscal Impact Statement from Mike Trexler, Controller; Collective Bargaining Agreement
 - Contact: Kevin Robling at 349-3426 or roblingk@bloomington.in.gov*

- **Ord 09-25** To Amend Ordinance 09-13 Which Fixed the Salaries of Officers of the Police and Fire Departments for the City of Bloomington, Indiana, for the Year 2010 - Re: Reflecting Collective Bargaining Agreement Affecting Positions in the Fire Department
 - Memo from Daniel Grundmann, Director of Employee Services
 - Contact: Daniel Grundmann at 349-3404 or grundmad@bloomington.in.gov*

Minutes from Regular Session:

- January 21, 2009
- March 25, 2009
- September 16, 2009

Memo

Annual Schedule and Four Pieces of Legislation Ready for Final Action and Three Ordinances Ready for Introduction at the Regular Session on December 2nd

There is an Annual Schedule and four pieces of legislation ready for final action and three items ready for introduction at the Regular Session next Wednesday. The Annual Schedule and two of the four items ready for final action next week are included in this packet, while the other two items can be found online as indicated in the foregoing index. The three items ready for introduction next week are included in this packet along with a resolution related to one of them.

Annual Schedule

This packet contains the proposed Council Schedule for 2010 and a memo explaining it. Please review the material and offer your comments and be ready to vote on it on December 2nd.

Here are some of the meetings or deadlines that do not follow the usual first-four-Wednesdays-a-month schedule:

- **January** – proposes Organizational and Committee of the Whole on Wednesday, January 6th (rather than the first Monday of the month (January 4th);
- **March** – proposes skipping of a meeting on the third Wednesday because of Spring Break and the shifting of the last two meetings of the month from the third and fourth to the fourth and fifth Wednesdays at month.
- **Budget Meetings (May, July, and September)** This schedule proposes holding the:
 - Budget Advance on Wednesday, May 12th;
 - Departmental Budget Hearings on the fourth week of July (July 19th – 22nd), and
 - Budget hearings on the first and third Wednesdays in September (*Rosh Hashanah falls on the second Wednesday in a five-Wednesday month - allowing the Council skip one week and still hold the usual four meetings*).
 - *Please note that these dates have been approved by the Office of the Mayor.*
- **Other Meetings in July** – In order to avoid doubling-up meetings in this busy month, this schedule proposes holding a:
 - Regular Session on the June 30th (*fifth Wednesday of June*);
 - Committee of the Whole on July 7th (*first Wednesday*);
 - Regular Session on July 14th (*second Wednesday*); and
 - Committee of the Whole on July 28th (*fourth Wednesday*).

- **September** – In order to avoid meeting on Rosh Hashanah (the Jewish New Year) which falls on the second Wednesday and by taking advantage of a five-Wednesday month, the schedule proposes holding a:
 - Regular Session and Committee of the Whole (for Budget Legislation) on September 1st;
 - Special Session and Committee of the Whole on September 15th (*third Wednesday*);
 - Regular Session (*fourth Wednesday*); and
 - Committee of the Whole (*fifth Wednesday*).
- **November** – proposed doubling up of Regular Session and Committee of the Whole on November 17th, because the Council will not meet on the Wednesday before Thanksgiving (November 25th.)
- **Fifth Wednesdays** - note that there are four Wednesdays in March, June, September, and December (*which affect deadlines for filing legislation and provide opportunities to shift your meetings.*)

New or Previously Tabled Items for Final Action on December 2nd

Items One and Two – *can be found online as indicated in the index at the beginning of this memo*

Item three – Res 09-21 – Acknowledging the 25th Anniversary of the Bhopal Disaster and Calling for a Report on Extremely Hazardous Substances Previously Released into the Local Environment

Res 09-21 is co-sponsored by Councilmembers Volan and Rollo. It recognizes the 25th anniversary of the Bhopal disaster by declaring December 3rd as Bhopal Day and also calls for a report to be compiled by the Environmental Commission on extremely hazardous substances previously released into the local environment.

As the memo from Councilmember Volan indicates, the resolution was inspired by some students from India who approached these council members about recognizing the anniversary of this disaster. As some of you may recall, on December 3, 1984, the most lethal industrial accident in history occurred at the Union Carbide pesticide factory in Bhopal, India. Sometime the evening before, a large quantity of water reacted with 42 tons of methyl isocyanate (MIC) in tank 610 at the plant. The resultant emergency venting of MIC gas exposed over 500,000 people to the gas and

led to 3,787 confirmed deaths (with other estimates placing the immediate and long-term deaths at between 8,000 and 25,000 people).¹ Councilmember Volan has arranged for Saurabh Ajmera, a representative from the Association for India's Development and International Committee, to come and speak briefly about the disaster.

The U.S. Emergency Planning and Community Right-to-Know Act of 1986 was passed as a direct response to the Bhopal disaster. As noted in the whereas clauses, EPCRA requires local governments to prepare and annually review chemical emergency response plans in coordination with the State and requires facilities to:

- immediately notify State and local governments in the event of accidental releases of Extremely Hazardous Substances (EHS) over certain thresholds set forth in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA);
- make Material Safety Data Sheets (MSDS), which describe the properties and health effects of these chemicals, available to state and local officials along with information about where they are located; and
- complete and submit a Toxic Chemical Release Inventory Form annually for any of more than 600 Toxic Release Inventory (TRI) chemicals manufactured or used above certain threshold quantities.

Councilmember Volan has asked Chief Faron Livingston of the Bloomington Township Fire Department to speak about EPCRA and “how our community would deal with toxic releases in a catastrophic event like a tornado or earthquake.”

In the spirit of bringing this tragedy home and tying it to industrial releases that have happened here, the resolution also calls for the Environmental Commission, by the next anniversary of the Bhopal disaster, to “compile and present an inventory of those places where extremely hazardous substances have been released into and remain in the local environment as determined by federal, State, or local agencies and describe what risk they pose to human life and health as well as options for, and the state of, their remediation.” Councilmember Volan has spoken with members of the Commission, understands that they are willing to take on this charge, and expects that a representative will be at the meeting to comment on the resolution.

¹ For more on the disaster please see: http://en.wikipedia.org/wiki/Bhopal_disaster

**Item Four - Ord 09-06 (Amended by Substitution) –
Amending Title 15 of the BMC Entitled Vehicles and Traffic – Previously
Tabled on April 15th and Offered Next Week in an Amended Form**

Ord 09-06 proposed amendments to various provisions of Title 15 of the Bloomington Municipal Code (Vehicles and Traffic). It was introduced on April 1, 2009 and tabled on April 15th. This ordinance amends Ord 09-06 by substituting a new ordinance that makes all the changes proposed in that ordinance except those not ready for final action.

In order to bring this substituted ordinance to floor, the Council should vote to take Ord 09-06 from the table and then vote to amend it by substitution.

As noted above, the substituted Ord 09-06 brings forward all the provisions of the initial ordinance except a few that, for various reasons, are not ready for final action. Those deleted sections include:

- Former Section 2 and 16 – BMC 15.32.180 “Parking within marked spaces” and associated Class D violation – that inserted a rule about parking within marked spaces;
- Former Section 4 and 5 – BMC 15.32.080 “No Parking Zones” and BMC 15.32.090 “Limited Parking Zones” – that eliminated parking on the west side of Walnut between 7th and 8th Street; and
- Former Section 7 – BMC 15.32.090 “Limited Parking Zone” – that reworded the 2-hour parking rule.

Please see the [Council Legislative Packet for April 1st](#) for the Ordinance, Memo, and Maps relating to the original ordinance. Please also note that maps identified in the summary below refer to the ones in that packet.

The provisions that are carried forward from the original ordinance affect one-way alleys, no parking zones, limited parking zones, loading zones, accessible parking for persons with physical disabilities, crosswalks, and violations and penalties and are summarized below:

**ONE-WAY STREETS AND ALLEYS
(CHAPTER 15.12)
ONE WAY ALLEYS (SCHEDULE F)
(Section 1 of the Ordinance)**

LOCATION

Alley between 4th and 5th and
Washington and Lincoln
(Map 1)

ACTION and RATIONALE

This section converts this alley from a two-way to a one-way alley for cars proceeding west. Rationale: The change was requested by an adjacent church and will avoid confusion and congestion that occurs when cars meet on this 12-foot alley.

**NO PARKING ZONES
SCHEDULE M
(Sections 2 and 3 of the Ordinance)**

LOCATION

Hawthorne Drive from University Ave
to Second Street (East Side)
(Map 2)

ACTION and RATIONALE

Parking is currently prohibited on both sides of Hawthorne between University and 2nd Street. The change allows parking on the west side. Rationale: This area is in the Elm Heights Neighborhood Parking Zone (#1) and the change will provide more parking for residents in that block.

15th Street from Forrest to Woodlawn
Avenue (North and South Side)
(Map 9)

This stretch of 15th Street is narrow and one block long. The change prohibits parking on the entire south side of the block and also prohibits parking on north side for the west half of the block. Rationale: It is a narrow street without room for parked cars.

Lincoln Street from 14th to 15th Street
(East Side)
(Map 3)

Parking is currently allowed on both sides of Lincoln between 14th and 15th. The change will prohibit parking on the east side. Rationale: This will allow safe egress from the many drives on that side of the street.

**LIMITED PARKING ZONES
SCHEDULE N
(Sections 4 and 5 of the Ordinance)**

LOCATION

ACTION and RATIONALE

Dunn Street from 3rd to 4th Street
(East Side)
(Map 5)

Two-hour parking is currently allowed on the east side of this block between the hours of 8:00 a.m. to 5:00 p.m. from Monday through Saturday and no parking is allowed on the west side of the street. This change would allow parking all day on Saturday and Sunday. Rationale: This change makes the enforcement period the same as other downtown parking.

Grant Street from 3rd to 4th Street
(West Side)
(Map 5)

Two-hour parking is currently allowed on the west side of this block between the hours of 8:00 a.m. to 5:00 p.m. from Monday through Saturday and no parking is allowed on the east side of the street. This change would allow all-day parking to Saturday and Sunday. Rationale: Same as above.

**LOADING ZONES
SCHEDULE O
and
ACCESSIBLE PARKING FOR PERSONS WITH PHYSICAL DISABILITIES
SCHEDULE S
(Section 6 and 7 of the Ordinance)**

LOCATION

ACTION and RATIONALE

200 Block of West 6th Street
1st Space East of Morton (North Side)
(Map 6)

This change adds a loading zone next to Relish on West 6th Street. Rationale: Relish requested this loading zone given the nature of their business (and received approval from the Traffic Commission).

200 Block of South Grant Street
1st Space South of 4th (West Side)
(Map 5)

This change adds an accessible parking space next to Storm Realty at Grant and 4th. Rationale: Bruce Storm requested this change (and received approval from the Traffic Commission).

CHAPTER 15.40
MUNICIPAL PARKING LOTS, GARAGES AND
ON-STREET METERED PARKING
(Section 8, 9 and 14 of the Ordinance)

ACTION and RATIONALE

These sections convert the following two parking violations from Class H violations (\$50.00 Fine) to Class D violations (Escalating Fine of \$20 if paid in first 7 days/\$40 if paid thereafter):

- BMC 15.40.025 (b) – parking in City parks after hours (11:00 p.m. to 5:00 a.m.);
- BMC 15.40.050 – parking in spaces allotted to visitors of City Hall when not visiting there.

These sections also remove the following permit requirement as a basis for receiving a fine:

- BMC 15.40.030 (e) – being issued a permit when vehicle owner owes the City or one of its agencies money for parking tickets or any other reason.

These sections also remove a redundant provision regarding the cancellation or revocation of permits for permit holders who charge a 3rd party more than they paid for the permit (BMC 15.40.030(h)(1)) or resell or sublet the permit for more than they paid for it (BMC 15.40.030(i)).

CHAPTER 15.60
MISCELLANEOUS TRAFFIC RULES
SECTION 15.60.050 PEDESTRIANS (CROSSWALKS)
(Section 10 of the Ordinance)

LOCATION

ACTION and RATIONALE

1100 Block of East 10th Street
between Walnut Grove and North Fee Lane
and

1300 Block of East 10th Street
between North Fee Lane and
North Jordan Avenue
(Map 7)

1200 Block of East 17th Street
Between North Fee Lane and North Walnut
Grove
(Map 8)

This ordinance adds these three *existing* crosswalks on 10th and 17th Street. Please note that the memo also mentions the review of existing mid-block crosswalks for “additional safety and enhancement opportunities” which should forward by Spring of next year.

CHAPTER 15.64
TRAFFIC VIOLATION SCHEDULE
(Sections 11 through 15 of the Ordinance)

ACTION and RATIONALE

Section 11, 12, and 13 correct the citations for certain Class D traffic violations.

Section 14 reflects changes in Sections 8 and 9 which converted two prohibitions – parking in City Parks after-hours and parking in City Hall visitor spaces without visiting there – from Class H Traffic Violations (\$50.00 fine) to Class D Traffic Violations (escalating \$20/\$40 fines if not paid within 7 days).

Section 15 corrects the citation for one Class H Traffic Violation.

First Readings and a Related Resolution

**Item One – Ord 09-23 – Amending Title 4 of the Bloomington Municipal Code
Entitled “Business Licenses and Regulations” to Regulate Velocabs**

Ord 09-23 is sponsored by Councilmember Satterfield and provides for the licensing and regulation of velocabs (also known as “pedicabs” or “bicycle rickshaws”). Over the last several years, velocabs have become an increasingly-popular mode of clean, collective transportation throughout the U.S. At least one velocab business has started to dot the Bloomington streetscape and more are likely to come on line in the future. At present, the City does not regulate velocabs. However, it is clear that more and more communities are legislating velocab operations in the interest of promoting public safety and convenience.²

Intent

Councilmember Satterfield’s proposal is aimed at protecting public safety while fostering fair and efficient velocab operations. Yet, it also promises a number of additional benefits. As spelled out in the “whereas” clauses of the document, velocabs offer a more environmentally-friendly form of transport, complement the City’s initiative to foster Bloomington as a tourist destination, and open up a whole

² The list of communities providing for the regulation of velocabs is steadily growing. The following is a representative list of communities with velocab ordinances: Nashville, IN; Indianapolis, IN; Asheville, NC; Austin, Texas; Arlington, VA; Scottsdale, AZ; Athens, GA; Sarasota, FL; Sacramento, CA; Santa Barbara, CA; New York, New York; San Diego, CA; Naperville, IL; Oak Park, IL; Joliet, IL; Chicago, IL; Carolina Beach, NC; Minneapolis, MN; Denver, CO; San Francisco, CA; and Grand Rapids, MI

new market for this form of transportation-for-hire. As suggested by the experience of other communities, successful velocab regulation might also help alleviate parking problems and encourage the patronage of local businesses.

Collaboration

As pointed out in his memo to the Council, Councilmember Satterfield has worked with a number of stakeholders to craft this ordinance. He worked with, or solicited feedback from, City staff of the following departments: Public Works, Parks, Police, Mayor's Office, Legal, Controller, and Planning.

He also discussed proposal with City's Bicycle and Pedestrian Safety Commission and the Board of Parks Commissioners. Both were favorable to the proposal.

Specifics

Similar to most other communities who provide for the operation of velocabs, Ord 09-23 outlines a number of licensure, safety, and operational requirements. These requirements are summarized below:

Licensure. The measure requires that a person obtain a velocab license from the City if s/he wishes to operate a velocab on City streets. In order to obtain a license, a person must submit an application to the City Controller. The information requested in the application asks for a number of items of information, including the number of velocabs to be operated, a description of each velocab, names and addresses of each person who will operate the velocabs, rates to be charged, a map of the City indicating streets upon which the person proposes to operate, proof of insurance, etc. In addition, the application also asks for separate signed statements indicating whether the applicant has experienced any conditions that would trigger denial, suspension or revocation. (§4.26.040)

Any person wishing to operate a velocab must hold a valid drivers' license and be at least 18 years old. (§4.26.050)

Insurance. Operators are required to carry a valid insurance policy of commercial general liability or business auto coverage with a velocab endorsement. (§4.26.070)

Denial, Suspension Or Revocation. According to §4.26.090 of the ordinance, a license shall not be approved and may be suspended or revoked if any of a number of conditions are present. Some of the terms derive from the ordinance regulating

Itinerant Merchants (Ordinance 09-05); however, many are specific to the nature of pedicab operations. Grounds for denial, suspension or revocation are as follows:

- An owner or operator is in violation of any City ordinance;
Comment: *This provision is intended to encourage people to reconcile outstanding violations, e.g, \$1K worth of unpaid parking tickets.*
- An operator has been convicted of assault, battery, resisting arrest, any felony involving force and violence, any misdemeanor or felony reckless driving or driving under the influence, or any crime reasonably related to the qualifications, function, or duties of the passenger transport business or the ability of the operator to safely transport passenger, unless five years has elapsed from the date of discharge from a penal institution, or the successful completion of probation for such conviction;
Comment: *Requirement motivated by safety and tracks other velocab ordinances.*
- An applicant or operator has been convicted of a crime that requires registration under the Indiana Penal Code as a sex offender;
Comment: *Requirement motivated by safety and tracks other velocab ordinances.*
- An applicant made a false statement in the application or has submitted an incomplete application or has not fulfilled a promise made with, or in, the application;
Comment: *Tracks Itinerant Merchant Ordinance, Ordinance 09-05.*
- Any requirement of this Chapter is not being, or cannot be, met;
- The velocab or velocab operator was involved in a vehicle accident involving a velocab, where velocab passengers were injured and where the velocab operator was found to be at fault;
Comment: *Requirement motivated by safety and tracks other velocab ordinances.*
- Any person who is to participate in the business or any person who will be responsible for the management or supervision of the applicant's business has, at any time, had a license under this Chapter by the City or any other velocab law revoked any other governmental agency or body. An application shall also be denied if the purpose of the business is otherwise unlawful;
Comment: *Tracks Itinerant Merchant Ordinance, Ordinance 09-05*

- Any person who is to participate in the business or any person who will be responsible for the management or supervision of the applicant's business has, within ten (10) years, violated the provisions of this Chapter; and
Comment: Tracks Itinerant Merchant Ordinance, Ordinance 09-05
- Immediately upon the revocation of a license issued under this Chapter, written notice thereof shall be given by the Controller to the holder of a license by certified mail, return receipt requested, addressed to the applicant's physical address or his/her agent as set forth in the application. Immediately upon the mailing of such notice, the license shall become null and void. Concurrently, City staff shall notify the licensee of the revocation in person or by phone.
Comment: Tracks Itinerant Merchant Ordinance, Ordinance 09-05

License Fee. The ordinance calls for a non-refundable \$30 license fee to cover the cost of administering this new chapter to the Bloomington Municipal Code (§4.26.100).

Safety.

Inspection Required. An applicant for a velocab license must verify that each vehicle to operate under this chapter has undergone an independent safety inspection. Such inspection will be conducted by local bicycle shops. Councilmember Satterfield has consulted with local bike shops on this provision and the shops find this favorable. It is anticipated that bike shops would be required to complete a checklist and to sign the checklist or another inspection document indicating the document passes inspection.

Equipment. The ordinance also outlines a number of equipment requirements:

- lighting requirements;
- reflectors;
- lighted turn signals;
- an operational braking system;
- rearview mirror;
- tires of sufficient tread; and
- seatbelts.

Many of the requirements track those outlined in the Indiana Code. Velocabs cannot operate with lighting in excess of the requirements of the ordinance, cannot operate with an attached sidecar or tow another vehicle, and cannot be wider than 52" at its widest point. (§4.26.150)

Manner of Operation. In addition to the many equipment requirements, the ordinance also enumerates a long list of operational prohibitions. Under this law, velocabs cannot:

- operate on a sidewalk (per Bloomington Municipal Code);
- operate on a sidewalk or multi-use trail designed for use by pedestrians and bicyclists unless the velocab operator yields to slower users and to on-coming users of the facility; (endorsed by Mick Renneisen and Parks Board);
- stand, park or solicit on Parks property unless such activity is approved by the Board of Park Commissioners; (endorsed by Mick Renneisen and Parks Board);
- operate in any traffic lane on any public street other than the lane nearest the curb, except when making turns (drafted in consultation with Susie Johnson);
- load or unload passengers in the roadway unless such is done safely, appropriate to existing roadway conditions, and in a manner that does not impede traffic (drafted in consultation with Susie Johnson);
- load or unload passengers without using flashing hazard lights;
- operate in any manner which impedes or blocks the normal or reasonable movement of pedestrian or vehicular traffic unless such operation is necessary for safe operation or compliance with law;
- operate, or cause to be operated, a velocab while under the influence of alcoholic beverages or controlled substances, including medication prescribed by physician if said medication impairs driving;
- smoke while operating a velocab;
- exceed the occupancy limits of the velocab as outlined in the rated seating capacity of the vehicle;
- permit a passenger to ride on any part of the velocab other than by sitting on the seats designed for such purpose; and
- solicit patronage in a loud tone of voice or in any manner so as to annoy or obstruct the movement of a person, nor shall an operator follow a person for the purpose of soliciting patronage. (§4.26.160)

Routes. Given the nature of the velocab business, the ordinance does not require velocabs to operate on fixed routes. However, the ordinance does require the Chief of Police and/or the Director of Public Works to approve City streets and street segments upon which velocabs can travel.

Hours of Operation. Based on feedback from operators, that much of their business happens in the late night and early morning hours, the ordinance does not delimit hours of operation.

Advertising. The ordinance does not prohibit advertising on velocabs.

Fare Card, Driver Card & Signage. The ordinance calls for a fare card displaying all fares and rates to be prominently affixed to the velocab in such a way as to be visible to all passengers. The ordinance makes it unlawful to charge patrons a rate other than those listed in the card (§4.26.110). Similarly, the ordinance requires that every velocab “shall be equipped with a card showing the name and photograph of the driver operating the velocab. Such card shall be affixed to the velocab in such a way as to be visible to all passengers” (§4.26.120).

Following the requirement outlined in the taxicab chapter of the BMC (§4.24), this ordinance requires that the name of the velocab company be legibly printed on each side of vehicle and readable at 150 feet (§4.26.120).

Other Applicable Laws. A velocab is a “bicycle” as the term is defined by both 15-56 of the Bloomington Municipal Code and 9-21-11 et seq. of the Indiana Code and is subject to the rules of both these provisions.

Penalty. The ordinance provides that anyone who violates the requirements of this ordinance or who makes a false statement on an application shall be fined \$250. The penalty for operating a velocab without first obtaining a license is \$500. Each day a violation continues is a separate violation. Citations may be issued by the Chief of Police or his or her designee. (§4.26.170) This penalty provision mirrors that of the Itinerant Merchant ordinance.

Appeal. The ordinance provides that anyone aggrieved by the action of the Controller in the denial, suspension or revocation of a license shall have the right of appeal to the Board of Public Works. Such appeal must be filed within 10 days of the disputed action. (§4.26.180)

One-Year Review. As the regulation of velocabs is new to the City, Councilmember Satterfield has called for this provision to be revisited in one year.

Item Two – Ord 09-24 – Amending Title 2 of the BMC to Establish the Commission on Aging

Ord 09-24 amends Title 2 of the Bloomington Municipal Code entitled “Administration and Personnel” by adding Section 2.23.090 which establishes the Commission on Aging in the Community and Family Resources Department. According to the memo from Pete Giordano, Director of the Community and Family Resources Department, the proposal for the Commission came from members of the Active Aging Coalition and was honed after discussions with Giordano and Paula McDevitt, Recreation Services Director in the Parks and Recreation Department. In support of the proposal, the memo notes that the natural aging of the “Boomer” generation and the influx of new seniors (to the point where we are becoming a regional retirement destination) will affect “the future development and character of our community” and now require us to “begin to plan effectively to serve their needs.”

Composition of the Commission and the Terms of Its Members

The ordinance sets the membership at nine with five appointed by the Mayor and four appointed by the Council. After an initial period of staggered terms, members shall be appointed to serve for two years with terms ending at the close the relevant calendar year. The members must be residents of Monroe County.³ Preference for appointments will be given to persons “with expertise in, or representing one or more of the following areas: senior issues, health and wellness, recreation, employment, social services, transportation and affordable housing.”

Purpose and Duties

The ordinance enables the Commission to:

- Develop committees to study concerns of seniors;
- Encourage the development of programs benefitting seniors;
- Apply for grants (upon approval by the City) that help provide a coordinated program to benefit seniors;
- Promote public and private remedies for the challenges facing seniors and the resulting effects of those challenges on the entire community;
- Network with like-minded organizations;

³ Please note that Giordano favors this requirement because it avoids the problem of losing a good member simply because of a change in their address and that any concerns about the balance of City residents can be resolved during the appointment process.

- Celebrate contributions to the community made by seniors; and
- Appoint additional volunteers and associates to pursue these purposes.

Procedures

The ordinance empowers the Commission to create rules, regulations and by-laws to conduct its affairs which are consistent with the purpose of this section. Such procedures and amendments to them must be adopted by a majority of the Commission and made available to the public.

Annual Reporting

The ordinance requires the Commission to file one report with the Mayor and Council at the end of each year setting forth their activities, plans, and concerns.

Item Three – Ord 09-25 – Amending the Police and Fire Salary Ordinance for 2010 (Ord 09-13) to Reflect the Terms of the Proposed Agreement And a Related Resolution - Res 09-20 – Approving the Proposed Collective Bargaining Agreement Between the City and Its Firefighters

The following paragraphs briefly explain two companion pieces of legislation coming forward in the last legislative cycle of the year. They are **Res 09-20**, which approves a four-year collective bargaining agreement between the City of Bloomington and its firefighters, and **Ord 09-25**, which amends the Police and Fire salary ordinance for 2010 (Ord 09-13) in order to reflect the terms of that agreement. Please note that although the resolution will not be introduced until the Committee of the Whole on December 9th, it is being included here in order for you to see both pieces of legislation at the same time.

This agreement is the culmination of a five month process that began in June and, after two votes in October, led to the ratification of this agreement on October 15, 2009. Kevin Robling, Corporation Counsel, served as Chief Negotiator for the City and negotiated with a team representing the Bloomington Metropolitan Firefighters, Local 586, led by Jim Parrott (as President of the local bargaining unit).

Kevin Robling has provided a memo regarding both these pieces of legislation, summarizing the terms of the agreement and salary ordinance, noting that “the City and the Firefighters negotiated with mutual cooperation and respect and have

forged a fair and reasonable contract” and “respectfully request(ing) your approval.”

Daniel Grundmann, Director of Employee Services has also provided a memo regarding the Salary Ordinance. In it, he notes that the salaries for all of the non-union, management personnel in the department except for the Chief (i.e. Battalion Chiefs, Fire Prevention Officer and Deputy Chiefs) also increase in order to keep their pay commensurate with their duties and consistent with the pay accorded under the Agreement (or as Grundmann puts it, in order to avoid “wage compression.”) The pay for the Chief is set forth in the salary ordinance as a range and subject to the same merit/market adjustment that applies to the rest of the non-union workforce in the City (which, this year, has been supplanted with a flat 2% increase).

The remainder of this memo highlights the changes between the existing and proposed contract and pays particular attention to the monetary aspects that appear in the amendment to Police and Fire salary ordinance for 2010. Please note that the four year term will avoid having the City negotiate with more than one union in any one year.

Monetary Package

Mike Trexler estimates that the new four-year contract would cost the City an additional \$273,458 in 2010 and additional \$1.146 million over the full four-year term.

Base Pay - Article V A. of Agreement and Section 1 of the Ordinance

The base pay of firefighters will increase 12% over the four-year agreement and have an estimated fiscal impact of \$840,253. The base salaries for Firefighter 1st Class, Sergeant, and Captain over the term of the agreement are as follows:

	2010 (3%)	2011 (3%)	2012 (3%)	2013 (3%)
Firefighter 1 st Class	\$44,605	\$45,943	\$47,321	\$48,740
Sergeant	\$46,366	\$47,757	\$49,190	\$50,541
Captain	\$49,914	\$51,411	\$52,953	\$54,541

Public Employee Retirement Fund (PERF) – Article V F. of the Agreement and Section 1 of the Ordinance

Retired firefighters receive a pension set by the base pay for a firefighter with 20 years of service. Each year, according to statute, the City provides an additional 21% of these employees' pay into the pension fund and the employees provide another 6%. The City, however, may pay some or all of the employees' portion as well. In this contract, the City will increase its contribution from 3% to 4% which will have an estimated fiscal impact of \$226,483.

Longevity and Professional Pay (Certifications, Appointments and Education) – Article VI A. – E. of the Agreement and Section 1 B. of the Ordinance

Longevity. The longevity pay will increase from \$1,500 to \$2,000 for a firefighter with 20 or more years of service. Since the pay at 20 years of service determines the amount of pension received by retired firefighters, this change will also benefit all retired firefighters. The agreement also increases the longevity pay for firefighters with 18 and 19 years of service from \$1,200 to \$1,400 in the last year of the agreement (2013). The total fiscal impact for increases in longevity is estimated at \$126,220.

Professional Pay. Firefighters are eligible to receive additional money for:

- certifications they receive and keep current, which may not exceed \$1,000 except for an EMT certification, which is worth an additional \$500;
- professional and command appointments they hold, which range from \$400 for Headquarters Sergeant to \$1,200 for Rescue Technician; and
- education they have obtained, which includes \$500 for Level 1 (a two-year Associate degree) and \$1,200 for Level 2 (a four-year Bachelor degree).

Note: The Professional and Command appointments are listed in both the contract and the salary ordinance. One new professional and command appointment, Chauffeur⁴, has been added which will have an annual compensation of \$900.

This agreement increases the limit for all the foregoing Professional Pay from \$4,400 to \$4,800, which will have an estimated fiscal impact of \$1,920 over the four year agreement.

⁴ The Chauffeur drives the trucks and mans the pumps.

Other Compensation Remains the Same – Clothing Allotment (Article VII), Holiday Pay (Article VIII), Unscheduled Duty, Holdover, and Mandatory Training Pay (Article XIII), and Acting (Reassignment) Pay (Article XIV) - Ordinance Section 1 B.

Firefighters receive other compensation which will *remain the same* under this agreement. Here are ones that appear in the Salary Ordinance:

- Unscheduled Duty Pay - \$25 per hour (minimum 2 hours – no maximum);
- Holdover Pay - \$12.50 per half hour (minimum of 0.5 hours – no maximum);
- Mandatory Training Pay - \$25 per hour while off duty (minimum 2 hours – maximum 8 hours);
- Holiday Pay - \$100 per tour of duty;
- Clothing Allotment - \$1,600; and
- Reassignment Pay - \$10 per tour-of-duty ⁵.

Vacation/City Days and Bereavement Days Remain Unchanged. While these time-off provisions do not change under the new contract, I thought it would be useful to know them. Firefighters may take five tours-of-duty (equivalent to a 24-hour shift) off as vacation after 12 months of service ⁶ and may also take four “City days” off and may do so in half-day increments. They may also take two “tours of duty” for bereavement leave.

Non-Monetary Aspects of the Agreement

There are very few non-monetary changes to the agreement this time around. One that occurs with almost every agreement increases the revenue figures underpinning the City’s obligation to comply with the terms of the agreement. Those revenue figures relate to money received from the Interdepartmental Agreement with the CBU, ad valorem property taxes, County Option Income Tax (COIT) and rise under this four-year agreement.

Happy Birthday Stacy Jane Rhoads – November 30th

⁵ Firefighters are compensated \$10 if reassigned during a tour-of-duty. This contract provides that the compensation is due only when the reassignment is for greater than 12 hours and results in a change from one station to another.

⁶ Firefighters receive additional vacation time based upon years of service which gradually increases up to a maximum of 12 tours-of-duty after 24 years of service.

VII. LEGISLATION FOR FIRST READING

1. Ordinance 09-23 To Amend Title 4 of the Bloomington Municipal Code Entitled “Business Licenses and Regulations” (Adopting Chapter 4.26 entitled, “Velocabs”)
2. Ordinance 09-24 To Amend Title 2 of the Bloomington Municipal Code Entitled “Administration and Personnel” – Re: Adding BMC 2.23.090 Establishing the Bloomington Commission on Aging
3. Ordinance 09-25 To Amend Ordinance 09-13 Which Fixed the Salaries of Officers of the Police and Fire Departments for the City of Bloomington, Indiana, for the Year 2010 - Re: Reflecting Collective Bargaining Agreement Affecting Positions in the Fire Department

VIII. PRIVILEGE OF THE FLOOR (This section of the agenda will be limited to 25 minutes maximum, with each speaker limited to 5 minutes)

IX. ADJOURNMENT



**City of Bloomington
Office of the Common Council**

To: Council Members
From: Council Office
Re: Calendar for the Week of November 30-December 4, 2009

Monday, November 30, 2009

4:00 pm Council for Community Accessibility, McCloskey

Tuesday, December 1, 2009

4:00 pm Common Council Sidewalk Committee, McCloskey
5:30 pm Neighborhood Improvement Grant Meeting, McCloskey
5:30 pm Black History Steering Committee, Council Chambers
7:30 pm Telecommunications Council, Council Chambers

Wednesday, December 2, 2009

12:00 pm Bloomington Urban Enterprise Association, McCloskey
2:00 pm Hearing Officer, Kelly
4:00 pm Inclusive Recreation Advisory Council, Allison-Jukebox Community Center, 351 S Washington St
5:30 pm Commission on Hispanic and Latino Affairs, McCloskey
7:30 pm Common Council Regular Session, Council Chambers

Thursday, December 3, 2009

10:30 am County Address Coordination, McCloskey
11:30 am Solid Waste Management District, Monroe County Courthouse, Judge Nat U. Hill, III Room
4:00 pm Bloomington Digital Underground Advisory Council, McCloskey
5:00 pm Atrium Exhibit Opening Reception- Art Quilts by Daren Pitts Redman, Atrium
5:30 pm Commission on the Status of Women, McCloskey

Friday, December 4, 2009

11:00 pm Common Council Internal Work Session, Hooker Room



City of Bloomington
Office of the Common Council

MEETING NOTICE

Common Council Sidewalk Committee Meeting

The Common Council Sidewalk Committee will meet at 4:00 pm, Tuesday, December 1, 2009 in the McCloskey Room of City Hall (401 N. Morton Street, Suite 135).

Because a quorum of the Common Council may be present, this meeting may constitute a meeting of the Council as well as of this committee under Indiana Open Door Law. Therefore, this provides notice that this meeting will occur and is open for the public to attend, observe, and record what transpires.

Posted: Wednesday, November 25, 2009



City of Bloomington
Office of the Common Council

NOTICE

STAFF-COMMON COUNCIL INTERNAL WORK SESSION

FRIDAY, 04 DECEMBER 2009

11:00 A.M.

HOOKER ROOM (#245)

CITY HALL

401 N. MORTON STREET

These sessions are a forum for members of the Common Council to discuss anticipated legislative initiatives with City officials and staff. The work sessions may be held with as few as one and as many as nine members of the Council. Therefore, as a majority of the Council may be present, these sessions may constitute a meeting of the Common Council under the Indiana Open Door law. In accordance with the Open Door Law, this notice alerts the public that these meetings will occur and that the public is welcome to attend, observe and record what transpires. Please note that the public will not be given an opportunity to comment during the meeting, but may contact the Council members directly about their concerns or through the Council Office which will relay them to the members of the Council.

Dated and Posted: Wednesday, 25 November 2009

401 N. Morton Street • Bloomington, IN 47404

City Hall

Phone: (812) 349-3409 • Fax: (812) 349-3570

www.bloomington.in.gov/council
council@bloomington.in.gov

**COMMON COUNCIL
MEETING SCHEDULE AND LEGISLATION DEADLINES FOR THE YEAR 2010
(Subject to Revision by Common Council)**

LEGIS CYCLE	DEADLINE FOR ORDINANCES; E-MAILED TO CCL BY NOON	DEADLINE FOR RESOLUTIONS; E-MAILED TO CCL BY NOON	REGULAR SESSION 1st READING FOR ORDS.	COMMITTEE DISCUSSION	REGULAR SESSION FINAL ACTION
1	Mon. Dec. 21 (2009)	Mon. Dec. 21 (2009)	¹ Jan. 6	¹ Jan. 6	Jan. 20
2	Mon. Jan. 11	Fri. Jan. 15	Jan. 20	Jan. 27	Feb. 3
3	Mon. Jan. 25	Mon. Feb. 1	Feb. 3	Feb. 10	Feb. 17
4	Mon. Feb. 8	Mon. Feb. 15	Feb. 17	Feb. 24	Mar. 3
5	Mon. Feb. 22	Mon. Mar. 1	Mar. 3	Mar. 10	² Mar. 24
6	Wed. Mar. 10	Mon. Mar. 22	² Mar. 24	² Mar. 31	Apr. 7
7	Fri. Mar. 26	Mon. Apr. 5	Apr. 7	Apr. 14	Apr. 21
8	Mon. Apr. 12	Mon. Apr. 19	Apr. 21	Apr. 28	May 5
9	Mon. Apr. 26	Mon. May 3	May 5	⁴ May 12	May 19
10	Mon. May 10	Mon. May 17	May 19	May 26	June 2
11	Mon. May 24	Fri. May 28	June 2	June 9	June 16
12	Mon. June 7	Mon. June 14	June 16	June 23	⁵ June 30
13	Mon. June 21	Mon. June 28	⁵ June 30	⁵ July 7	⁵ July 14
14	Wed. June 30	Wed. July 14	⁴ & ⁵ July 14	⁴ & ⁵ July 28	⁶ Aug. 4
AUGUST RECESS					
15	Wed. Aug. 18	Wed. Aug. 18	⁷ Sep. 1	⁷ Sep. 15	⁷ Sep. 22
16	Mon. Sep. 13	Mon. Sep. 20	⁷ Sep. 22	⁷ Sep. 29	Oct. 6
17	Mon. Sep. 27	Mon. Oct. 4	Oct. 6	Oct. 13	Oct. 20
18	Mon. Oct. 11	Mon. Oct. 18	Oct. 20	Oct. 27	Nov. 3
19	Mon. Oct. 25	Fri. Oct. 29	Nov. 3	Nov. 10	⁸ Nov. 17
20	Wed. Nov. 3	Wed. Nov. 3	⁸ Nov. 17	⁸ Nov. 17	Dec. 1
21	Wed. Nov. 17	Mon. Nov. 29	Dec. 1	Dec. 8	⁶ Dec. 15
YEAR END RECESS					
First Legislative Cycle for 2011:					
Mon. Dec. 20 (2010)	Mon. Dec. 20 (2010)	¹ Wed. Jan. 5 (2011)	¹ Wed. Jan. 5 (2011)	Wed. Jan. 19 (2011)	

Deadlines for Legislation: The deadline for submitting legislation and all accompanying materials, including a summary memo, is noon on the date listed. For information on the manner for submitting these materials, please inquire with the Council Office.

Unless otherwise indicated, the Council meets on the first four Wednesdays of the month in the Council Chambers in Room 115 of the Showers Center, 401 North Morton, at 7:30 p.m. The following footnotes list and explain the exceptions to this general rule:

- The Council will hold an annual Organizational Meeting on this date, when it elects officers and gives legislation first reading. The meeting is generally held on the first Monday in January, except when it is a legal holiday, in which case the meeting is held on the first Tuesday. (BMC 2.04.050[c & d]). However, by the adoption of this schedule, the Council has set this meeting for the first Wednesday after the first Monday in January. This meeting will be immediately followed by a Committee of the Whole.
- The Council will not meet during Spring Break and will move its second Regular Session in March to the fourth Wednesday and move the second Committee of the Whole of the month to the fifth Wednesday.
- The Council generally does not meet on the fifth Wednesday of the month and, therefore, there will be two weeks between the Committee of the Whole and the Regular Session in these months.
- The Council will hold a Council Budget Advance in the McCloskey Room of City Hall at 5:30 p.m. on Wednesday, May 12th and Departmental Budget Hearings in the Council Chambers at 6:00 p.m. on Monday, July 19th, Tuesday, July 20th, Wednesday, July 21st, and Thursday, July 22nd, 2010.
- In order to schedule three evenings of meetings for the first legislative cycle in July and hold a week of departmental budget hearings starting on the third Monday of that month, the Council will hold what would ordinarily be the first three meetings in July on the fifth Wednesday in June and the first two Wednesdays in July.
- Since it will take a brief recess after first meeting in August and the second Regular Session in December, the Council will not introduce legislation for first reading at these meetings. (BMC 2.04.060 [e] & [g])
- In order to consider the Budget for 2011 and avoid meeting on Rosh Hashanah (Jewish New Year) and by taking advantage of a fifth Wednesday, the Council will follow a special schedule in September. The Council will hold a Regular Session and Committee of the Whole on the first Wednesday, not meet on the second Wednesday (Rosh Hashanah), hold a Special Session immediately followed by a Committee of the Whole on the third Wednesday, hold a Regular Session on the fourth Wednesday, and then hold a Committee of the Whole on the fifth Wednesday. The Budget for 2011 will be considered at a public hearing on the first Wednesday and be ready for final action at the Special Session on the third Wednesday.
- The Council will not meet on the fourth Wednesday of November because it is the night before the Thanksgiving Holiday (BMC 2.04.050(f)). For that reason, the Council will hold a Regular Session immediately followed by a Committee of the Whole on the third Wednesday of November.



**City of Bloomington
Office of the Common Council**

To: Council Members
From: Council Office
Re: Approving the Annual Schedule for Year 2010 on November 18th
Date: November 25, 2009

Contents

Memo with Highlights of Meeting and Scheduling Issues
Proposed Annual Schedule for 2010

Memo

The Council should set its schedule for next year by *no later than December 2nd* so that the City Calendar can be finished before our Intern, Stephen Lucas, leaves for winter vacation. The Council typically meets on the first four Wednesdays of the month, with Regular Sessions being held on the first and third Wednesday and Committees of the Whole being held on the second and fourth Wednesday.

Explanation of the Schedule Sheet. The Annual Schedule presents these meetings in legislative cycles which appear as 21 rows with 6 columns. The rows indicate the 21 legislative cycles next year. Legislative cycles begin with a Regular Session, are followed by a Committee of the Whole, and end with another Regular Session. The 5 columns indicate:

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>	<u>Column 5</u>	<u>Column 6</u>
Legislative Cycle	Deadline for Filing Ordinances	Deadline for Filing Resolutions	Regular Session <i>When Ordinances are Introduced</i>	Committee of the Whole <i>When Ordinances and Newly Introduced Resolutions are Discussed</i>	Regular Session <i>When Ordinances and Resolutions are Ready for Final Action</i>

Deadlines. The deadline for legislation generally falls 10 days before the meeting at which the legislation is scheduled to be introduced (whether at a Regular Session or a Committee of the Whole) and provides time for staff to review the legislation and prepare the weekly legislative packet for distribution on Friday. The deadline is typically on the Monday of the week before that meeting (or, in other words, the Monday of the week the Council packet for that meeting goes out). However, the deadline is moved back a day when there is a City holiday during that week and is moved back further when there are 5th Wednesdays in the month. This latter change allows staff to take time-off other than during the August Recess. Please note that the Municipal Code requires legislation and background material be filed at least two weeks before the item is to be introduced at the Council.

Explanation of the Footnotes. The footnotes in the Annual Schedule indicate those occasions when the Council does not meet on a Wednesday or does not follow the usual four-Wednesdays-a-month routine.

Religious Holidays. Please note that this calendar avoids meeting on the evening of Rosh Hashanah (Jewish New Year - September 8th), which is the night the Council historically considers the budget for the following year, and shifts all of the meetings on the last three evenings from the second, third and fourth Wednesdays to the third, fourth and fifth Wednesdays of September. Given the significance of the Annual Budget and the importance of scheduling it in advance, the decision to shift the latter three meetings should be made with the Annual Schedule.

There may be other religious holidays you want to observe and for that reason a copy of the IU "Five-Year Religious Holidays Calendar" is available in the Council Office or can be found on the web at http://www.indiana.edu/~vpfaa/rel_hol_cal.shtml#2009

Please review the following highlights and the accompanying schedule and be prepared to vote on the schedule at the November 18th Regular Session.

Proposed Annual Schedule - Highlights and Issues

January

Wednesday, January 6th Organizational Meeting and Committee of the Whole. *Please note that while statute no longer requires the Council to hold an Organizational Meeting on the first Monday of the new year (unless it was a legal holiday, in which case the meeting was to be held on Tuesday), our local code still does. However, under local code you may reschedule that meeting by a majority vote of the Council (e.g. by approving a different date in the Annual Schedule).*
Please note that you could also decide to hold these meetings on the second Wednesday of the month (January 13th).

March

There are five Wednesdays in March this year and Spring Break occurs during the week of March 15th – 21st. This schedule avoids meeting during Spring Break by moving the second Regular Session and Committee of the Whole from the third and fourth Wednesday to the fourth and fifth Wednesday.

Wednesday, March 17th No Regular Session (*Spring Break*)

Wednesday, March 24th Regular Session (*on the fourth Wednesday*).

Wednesday, March 31st Committee of the Whole (*on the fifth Wednesday*).

May

Wednesday, May 12th “Budget Advance” in the McCloskey Room at 5:30 p.m.
Please note that the budget-related meetings have been confirmed with the Office of the Mayor.

June and July

June and July are unusual because June has five Wednesdays and July is when the Council typically holds Departmental Budget Hearings over four evenings during the fourth week of the month (which typically begin on the third Monday of the month). In order to avoid doubling-up meetings on the same evening, this schedule proposes holding a Regular Session on the fifth Wednesday of June and holding the first Committee of the Whole in July on July 7th and the second Regular Session on July 14th (both a week earlier than usual.)

Wednesday, June 30th Regular Session (*shifted from July 7th*)

Wednesday, July 7th Committee of the Whole (*shifted from July 14th*)

Wednesday, July 14th Regular Session (*shifted from July 21st*)

Monday, July 19th Start of Departmental Budget Hearings which will begin at 6:00 p.m.

(*Through*)

Thursday, July 22nd End of Departmental Budget Hearings

Wednesday, July 28th Committee of the Whole

August

Wednesday, August 4th August Recess begins after Regular Session

September

September is unusual because the Council holds extra meetings to take final action on the budget and this year includes a Wednesday which falls on Rosh Hashanah (The Jewish New Year – September 8th) and five Wednesdays. This schedule proposes not meeting on the second Wednesday and shifting the meetings on the second, third and fourth Wednesdays to the third, fourth and fifth Wednesdays.

Wednesday, September 1st August Recess ends with Regular Session immediately followed by Committee of the Whole to discuss the 2011 Budget

Wednesday, September 8th *No meeting (Rosh Hashanah)*

Wednesday, September 15th The two meetings typically held by the Council on the second Wednesday - a Special Session to take action on next year's budget followed by a Committee of the Whole to discuss non-budget related legislation for the first legislative cycle in September – *have been shifted to the third Wednesday.*

Wednesday, September 22nd Regular Session (*shifted from September 15th*)

Wednesday, September 29th Committee of the Whole (*shifted from September 22nd to the fifth Wednesday*)

November

November is unusual in that Thanksgiving falls after the fourth Wednesday of the month when, by local code, the Council does not meet. In order to schedule a discussion of items during the second legislative cycle that month, the Committee of the Whole is held on the third Wednesday after the second Regular Session.

Wednesday, November 17th Regular Session immediately followed by a Committee of the Whole (*in order to provide for a Committee of the Whole which would not otherwise occur because of Thanksgiving*).

Wednesday, November 24th 4th Wednesday – No Meeting - Night Before Thanksgiving

December

Wednesday, December 15th Last meeting of the year

Note that there are five Wednesdays in December, so you will have an extra week off before the first meeting of the new year.

RESOLUTION 09-21

RECOGNIZING THE TWENTY-FIFTH ANNIVERSARY OF THE BHOPAL DISASTER AND CALLING FOR A REPORT ON EXTREMELY HAZARDOUS SUBSTANCES PREVIOUSLY RELEASED INTO THE LOCAL ENVIRONMENT

- WHEREAS, twenty five years ago this week, on December 3, 1984, the most lethal industrial accident in history occurred at the Union Carbide India, Limited pesticide factory in Bhopal, Madhya Pradesh, India; and
- WHEREAS, the accident began when, sometime during the evening of December 2, 1984, the reaction of a large quantity of water with 42 tons of methyl isocyanate (MIC) in Tank 610 of the factory led to an emergency venting of MIC gas; and
- WHEREAS, as a result of this release, over 500,000 people were exposed to the MIC gas and 3,787 people were confirmed to have died, with other estimates placing the immediate and long-term deaths due to the gas at between 8,000 and 25,000 people; and
- WHEREAS, in 1986, in response to this disaster, the U.S. Congress enacted the Emergency Planning and Community Right to Know Act (EPCRA);
- WHEREAS, among other things, EPCRA requires local governments to prepare and annually review chemical emergency response plans in coordination with the State and requires facilities to:
- immediately notify State and local governments in the event of accidental releases of Extremely Hazardous Substances (EHS) over certain thresholds set forth in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA);
 - make Material Safety Data Sheets (MSDS), which describe the properties and health effects of these chemicals, available to state and local officials along with information about where they are located; and
 - complete and submit a Toxic Chemical Release Inventory Form annually for any of more than 600 Toxic Release Inventory (TRI) chemicals manufactured or used above certain threshold quantities; and
- WHEREAS, since Bloomington has a history of release of extremely hazardous substances into the local environment, it would be beneficial for the public and policy-makers to have access to a summary of where they are located, what risks they pose to human life and health, and the state of their remediation; and
- WHEREAS, such a summary should begin with those extremely hazardous substances appearing on the Environmental Protection Agency's "List of Lists – Consolidated List of Chemicals Subject to the Emergency Planning and Community Right-to-Know Act (EPCRA) and Section 112 (r) of the Clear Air Act";

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

SECTION 1. December 3, 2009 shall be declared Bhopal Day.

SECTION 2. The Common Council requests that by the next anniversary of the Bhopal Disaster, the Environmental Commission compile and present an inventory of those places where extremely hazardous substances have been released into and remain in the local environment as determined by federal, State, or local agencies and describe what risk they pose to human life and health as well as options for, and the state of, their remediation.

SECTION 3. If any sections, sentence or provision of this ordinance, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 4. This resolution shall be in full force and effect from and after its passage by the Common Council and approval by the Mayor.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2009

ANDY RUFF, President
Bloomington Common Council

ATTEST:

REGINA MOORE, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2009

REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2009.

MARK KRUZAN, Mayor

SYNOPSIS

This resolution is sponsored by Councilmembers Volan and Rollo, declares December 3, 2009 as Bhopal Day, and calls for the preparation of a report for the benefit of policy-makers and the public on where extremely hazardous substances have been released into the local environment, what risk they pose to human life and health, as well as options for, and the state of, their remediation.



**City of Bloomington
Office of the Common Council**

To: Council Members
From: Councilmember Volan, District 6
Re: Res 09-21 – Declaring Bhopal Day and Calling for a Report
Date: November 24, 2009

The resolution marks the 25th anniversary of the Dec. 3, 1984 tragedy at Bhopal, India, the worst industrial accident ever recorded. I was a college sophomore when it happened, and I never forgot the occasion.

In thinking about the anniversary, it occurred to me that there was a local history of toxic releases into the environment. Though the legacy of PCBs has loomed large over Bloomington for decades, and though I am a city council member here, I didn't feel like I knew more than basic idea that PCBs are bad and we have lots of them in our environment. I didn't know exactly where to go for a thorough synopsis of the history and status of PCBs in our environment.

I thought the anniversary of Bhopal was an appropriate time to take stock of the toxins in our own literal backyard. Resolution 09-21 observes the anniversary of Bhopal, and calls for local action in the spirit of preventing any more such tragedies.

The presentation of the resolution, which I intend to keep to 20 minutes, will be made by myself and two others. Saurabh Ajmera, a representative of the Association for India's Development and the International Committee for Justice in Bhopal, will present on the tragedy itself. I have also invited Chief Faron Livingston of the Bloomington Township FD, the local expert on hazardous materials emergency management, to speak on how our community would deal with toxic releases in a catastrophic event like a tornado or earthquake. (The U.S. Emergency Planning and Community Right-to-Know Act of 1986, or EPCRA, was passed as a direct response to Bhopal. EPCRA is the law that Chief Livingston enforces locally.) I will summarize the background behind the idea for this resolution, and tie it and their two presentations together.

The main action called for by Resolution 09-21 is the development of a report summarizing the state of all toxins (not just PCBs) released into the Bloomington environment, where they might be found, the degree of danger they pose, the remedies for these toxins, and how much remediation has been done to date. This new report is not meant to go digging for new problems, simply to collate those that are already known but whose knowledge is spread among various offices and people.

The Environmental Commission is the logical body to take on this task, having compiled such previous documents as the City of Bloomington Environmental Resource Inventory (COBERI) and the Bloomington Environmental Quality Indicators (BEQI) reports. They have discussed this initiative at their most recent meeting and are looking forward to taking the task on. I leave to them the decisions as to the format the report should take, what it should be called, and whether or not it should be a revision and/or extension of the BEQI. In any case, the resolution calls for their work to be complete by the 26th anniversary of the Bhopal tragedy. (An EC representative will also be present to comment on the resolution.)

CM Rollo has joined me in co-sponsoring this legislation. I hope you will find it worthy of your support as well.

ORDINANCE 09-06 (AMENDED BY SUBSTITUTION)

**TO AMEND TITLE 15 OF THE BLOOMINGTON MUNICIPAL CODE
ENTITLED “VEHICLES AND TRAFFIC”**

**(Containing Most of the Provisions Proposed in Ordinance 09-06 When Tabled on
April 15th and Which Affect One-Way Alleys, Various Parking Regulations,
Crosswalks, and Penalties)**

WHEREAS, the Traffic Commission has recommended certain changes be made in Title 15 of Bloomington Municipal Code entitled “Vehicles and Traffic”; and

WHEREAS, this ordinance was initially introduced on April 1, 2009 and then tabled on April 15, 2009; and

WHEREAS, since that time, the various provisions not ready for final action have been removed, and the remaining provisions are now presented in a substituted ordinance;

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

SECTION 1. Chapter 15.16 entitled “One-Way Streets and Alleys,” Section 020 entitled “One-Way Alleys,” Schedule F shall be amended to add the following:

ONE-WAY ALLEYS

Alley – Between	From	To	Direction of Travel
4 th Street & Kirkwood Avenue	Washington Street	Lincoln Street	West

SECTION 2. Section 15.32.080 Schedule M shall be amended to delete the following:

NO PARKING ZONES

Street	From	To	Side of Street	Time of Restriction
Hawthorne Lane	University Avenue	Second Street	East/West	Any Time

SECTION 3. Section 15.32.080 Schedule M shall be amended to add the following:

NO PARKING ZONES

Street	From	To	Side of Street	Time of Restriction
Fifteenth Street	Woodlawn Avenue	Forrest Avenue	South	Any Time
Fifteenth Street	Forrest Avenue	Alley West of Forrest Avenue	North	Any Time
Hawthorne Drive	University Street	Second Street	East	Any Time
Lincoln Street	Fourteenth Street	Fifteenth Street	East	Any Time

SECTION 4. Section 15.32.090 Schedule N shall be amended to delete the following:

LIMITED PARKING ZONES

Street	From	To	Side of Street	Time of Restriction
Dunn Street	Third Street	Fourth Street	East	2 Hr. (2)
Grant Street	Third Street	Fourth Street	West	2 Hr. (2)

SECTION 5. Section 15.32.090 Schedule N shall be amended to add the following:

LIMITED PARKING ZONES

Street	From	To	Side of Street	Time of Restrict.
Dunn Street	Third Street	Fourth Street	East	2 Hr. (3)
Grant Street	Third Street	Fourth Street	West	2 Hr. (3)

SECTION 6. Section 15.32.100 Schedule O shall be amended to add the following:

LOADING ZONES

200 Block of West Sixth Street, first space east of Morton Street on the north side

SECTION 7. Section 15.32.150 Schedule S shall be amended to add the following:

ACCESSIBLE PARKING FOR PERSONS WITH PHYSICAL DISABILITIES

200 Block of South Grant Street, first space south of Fourth Street on the west side of Grant Street.

SECTION 8. Chapter 15.40 entitled “Municipal Parking Lots, Garages and On-Street Metered Parking, Section 070 entitled “Violation and penalty,” Subsection (b), shall be amended by deleting Section 15.40.025(b), 15.40.030(e) and 15.40.050 so that the provision now reads:

(b) Any violation of Sections 15.40.060(b) or 15.40.060(j) is a Class H traffic violation and subject to the penalty listed in Section 15.64.010(i).

SECTION 9. Chapter 15.40 entitled “Municipal Parking Lots, Garages and On-Street Metered Parking, Section 070 entitled “Violation and penalty,” shall be amended by deleting Subsection (c).

SECTION 10. Chapter 15.60 entitled “Miscellaneous Traffic Rules,” Section 050 entitled “Pedestrians” shall be amended to add the following:

1100 Block of East Tenth Street between North Walnut Grove and North Fee Lane
1300 Block of East Tenth Street between North Fee Lane and North Jordan Avenue
1200 Block of East Seventeenth Street between North Fee Lane and North Walnut Grove

SECTION 11. Chapter 15.64 entitled “Traffic Violation Schedule,” Section 010 entitled “Violations and penalties,” Subsection (d) entitled “Class D Traffic Violations,” shall be amended by replacing 15.40.050(a), (c), (d), (e), (f), (g), (h) with 15.40.060(a), (c), (d), (e), (f), (g), (h)

SECTION 12. Chapter 15.64 entitled “Traffic Violation Schedule,” Section 010 entitled “Violations and penalties,” Subsection (d) entitled “Class D Traffic Violations,” shall be amended by:

- (1) deleting the reference to 15.32.170 (and the accompanying description) from the list of violations; and
- (2) deleting the reference to 15.38.020 (and the accompanying description) from the list of violations and replacing it with the following:

15.38.020 Unauthorized parking in City employee parking lots including during Farmers’ Market

SECTION 13. Chapter 15.64 entitled “Traffic Violation Schedule,” Section 010 entitled “Violations and penalties,” Subsection (d) entitled “Class D Traffic Violations,” shall be amended by replacing 15.32.180 with 15.32.170 in the list of violations so that the line will read as follows:

15.32.170 Parking facing traffic

SECTION 14. Chapter 15.64 entitled “Traffic Violation Schedule,” Section 010_ entitled “Violations and penalties,” Subsections (d) entitled “Class D Traffic Violations” and (i) entitled “Class H Traffic Violations,” shall be amended by moving the following violations from Subsection (i) to subsection (d):

- 15.40.025(b) Overnight parking in city parks and recreation parking lots between eleven p.m. and five a.m.
- 15.40.050 Parking in space designated for city hall visitors when not in city hall or moving between vehicle and city hall

SECTION 15. Chapter_15.64 entitled “Traffic Violation Schedule,” Section 010 entitled “Violations and penalties,” Subsection (i) entitled “Class H Traffic Violations,” shall be amended by replacing reference to Section 15.40.050(b) with Section 15.40.060(b) in the list of violations so that the revised line will read as follows:

15.40.060(b) Parking in leased stall without a permit

SECTION 16. If any section, sentence or provision of this ordinance, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 17. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City of Bloomington, approval of the Mayor and publication according to law.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2009.

ANDY RUFF, President
Bloomington Common Council

ATTEST:

REGINA MOORE, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2009.

REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2009.

MARK KRUZAN, Mayor
City of Bloomington

SYNOPSIS

Ord 09-06 was introduced on April 1, 2009 and then tabled on April 15th. It amended various Title 15 of the Bloomington Municipal Code. This ordinance amends Ord 09-06 by substituting a new ordinance which makes all the changes proposed in that ordinance except those that are not ready for final action. As noted in the previous ordinance, the changes affect one-way alleys, no parking zones, limited parking zones, loading zones, accessible parking for persons with physical disabilities, the section entitled “pedestrians” and violations and penalties.

ORDINANCE 09-23

**TO AMEND TITLE 4 OF THE BLOOMINGTON MUNICIPAL CODE ENTITLED
“BUSINESS LICENSES AND REGULATIONS”
(Adopting Chapter 4.26 entitled, “Velocabs”)**

WHEREAS, the Bloomington Municipal Code does not provide for the regulation of velocabs;
and

WHEREAS, the efficient and effective regulation of velocabs is necessary to promote the
health, welfare and safety of the community; and

WHEREAS, velocabs are becoming an increasingly-popular mode of environmentally-friendly
transportation throughout the country; and

WHEREAS, when someone chooses a velocab over transportation reliant on fossil fuels, that person
reduces the amount of carbon dioxide and other greenhouse gasses emitted into
the atmosphere; and

WHEREAS, provisioning for this mode of clean transportation supports the City of Bloomington’s
commitment to reducing greenhouse gas emissions as indicated by the Mayor’s
signature of *the U.S. Mayors Climate Protection Agreement* and the City Council’s
adoption of *Resolution 06-05: Supporting the Kyoto Protocol and the Reduction of the
Community’s Greenhouse Gas Emissions*; and

WHEREAS, velocabs enhance the community character and support its goal of promoting the City as
a tourist destination; and

WHEREAS, the City wishes to foster local entrepreneurialism, while encouraging innovation and
adaptation to changing transportation needs;

THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BLOOMINGTON
THAT:

SECTION 1. The Bloomington Municipal Code shall be amended by inserting Chapter 4.26 entitled
“Velocabs” shall be inserted in the table of contents for Title 4 and shall read as follows:

Velocabs	
4.26.010	Purpose
4.26.020	Definitions
4.26.030	Velocab License – Required for Operation
4.26.040	Velocab License – Application
4.26.050	Velocab License – Qualifications of Operators
4.26.060	Velocab License – Safety
4.26.070	Velocab License – Insurance Requirements
4.26.080	Velocab License – Issuance
4.26.090	Velocab License – Denial, Suspension and Revocation
4.26.100	Velocab License – Fee & Term
4.26.110	Velocabs – Fare Card
4.26.120	Velocabs – Driver Card
4.26.130	Velocabs – Signs
4.26.140	Other Laws Applicable to Velocabs
4.26.150	Equipment Regulations
4.26.160	Prohibition on the Manner of Operaration
4.26.170	Penalty
4.26.180	Appeal
4.26.190	One-Year Review
4.26.200	No Effect on Taxicab Regulations

4.26.010 Purpose

The purpose of this Chapter is to provide for the safe, fair, and efficient operation of velocabs on City of Bloomington streets. Because transportation so fundamentally affects the City's well being and that of its citizens, some regulation is necessary to insure that the public safety is protected, the public need provided, and the public convenience promoted.

4.26.020 Definitions

"Darkness" means any time from one-half hour after sunset until one-half hour before sunrise and any other time when, due to insufficient light or unfavorable atmospheric conditions, vehicles are not clearly discernible at a distance of five hundred (500) feet to the front and rear.

"Operator" means the individual who is in actual physical control of the velocab whether as the owner, an employee of the owner or as an independent contractor.

"Owner" means any person who possesses the velocab with good legal title, or possesses a velocab under a lease, reserve title contract, conditional sales agreement, or vendor's agreement or similar agreement.

"Velocab" means any single-unit device upon which any person may ride, propelled exclusively by human power through a belt, chain or gears, having two or more wheels and designed and constructed in such a manner as to engage in the business of carrying passengers for hire. Velocabs are commonly known as "pedicabs." This term only applies to devices which are commercially manufactured. It does not include homemade devices.

"Person" means any corporation, association, syndicate, joint stock company, partnership, or individual.

4.26.030 Velocab License – Required for Operation

It shall be unlawful for any person to operate a velocab within the City of Bloomington without having a valid velocab license issued by the City pursuant to this Chapter.

4.26.040 Velocab License – Application

Any person who wishes to obtain a license under this Chapter must first complete an application prescribed by the City Controller.

- (a) An application for a velocab license shall include the following information:
 - (1) applicant's full name and current physical address;
 - (2) name, current physical address, and telephone number of the person, firm, limited liability company, corporation or organization by which the applicant is employed;
 - (3) applicant's date of birth;
 - (4) applicant's Indiana driver's license number and a copy of the license appended thereto;
 - (5) if the applicant is a corporation, the names and addresses of each of the principal officers of the corporation. If the applicant is not a corporation, the names and addresses of the partners, trustees, owners or other persons with controlling interests;
 - (6) the number of velocabs to be operated;
 - (7) a description of each velocab, including the vehicle type, seating capacity, manufacturer, serial number, and a recent color photograph appended thereto;
 - (8) the names and physical addresses of each person who will act as an operator of a licensed velocab;
 - (9) the telephone number of the velocab dispatch operator;
 - (10) the rates proposed to be charged to patrons using the service;
 - (11) a map of the City indicating streets upon which the velocab proposes to operate;
 - (12) proof of insurance as required by Section 4.26.070 below; and
 - (13) such other material as the City Controller may require.
- (b) Each applicant shall sign the application which shall contain a warning that the application may be denied or the permit suspended or revoked if the applicant misrepresents facts relevant to the fitness of the applicant to be granted a velocab license.

- (c) Each applicant shall provide separate signed statements asserting whether the applicant or the person or persons to operate the velocab:
 - (1) has been convicted of any crime, misdemeanor, or violation of any municipal regulation or ordinance together with the details thereof;
 - (2) has been convicted of four or more violations of the motor vehicle provisions of the Indiana Code within any 12-month period;
 - (3) is free of defective vision, defective hearing and any other infirmities as provided by the Indiana Code 9-24-2-3;
 - (4) has been involved in an incident described in 4.26.090(f);
 - (5) has had a license revoked under this Chapter, or any other similar ordinance of the City of Bloomington or any county or municipality, has been revoked together with the details thereof; and
 - (6) has read the requirements of this Chapter and understands its provisions.
- (d) Any person issued a license shall immediately notify the Controller if any information required herein changes.
- (e) Any application that does not include all information requested by the application or is not supported by the materials required herein shall be denied.

4.26.050 Velocab License – Qualifications of Operators

Prior to the issuance of a license or a renewal of a license under this Chapter, the applicant shall attest that each person identified as an operator of a velocab is:

- (a) The holder of a valid motor vehicle operator's license issued by the State of Indiana; and
- (b) At least eighteen years of age.

4.26.060 Velocab License – Safety

- (a) No velocab license shall be issued or renewed unless the person who wishes to obtain a license under this Chapter submits proof that each vehicle designated in the application complies with the requirements of 4.26.150 and verifies that each vehicle has undergone an independent safety inspection.
- (b) It is unlawful to operate a velocab or employ a person to operate a velocab which is unsafe for public transportation, which does not meet the requirements of 4.26.150, or which has not undergone an independent safety inspection.
- (c) If, at any time after issuing a license for a velocab, that velocab is determined to be unsafe for public transportation by the Chief of Police or his or her designee, the velocab shall be taken out of service until the time the Chief of Police is satisfied that it has been repaired and is sufficiently safe to be returned to public service.

4.26.070 Velocab License – Insurance Requirements

- (a) It is unlawful for any person to operate a velocab within the City of Bloomington unless at the time of such operation the owner has in effect a valid policy of commercial general liability coverage or business auto coverage with a velocab endorsement on the vehicle. Proof of insurance shall be provided by an applicant for a velocab license at the time of application. Applicant shall also provide the City with a municipal hold-harmless certificate.
- (b) The terms of the policy shall provide that the insurance company assumes financial responsibility in an amount not less than \$1,000,000 per occurrence or \$2,000,000 in the aggregate for bodily injuries and personal injuries or property damage caused by the operation of the velocab, including but not limited to, velocabs operated by the officers, employees, agents, or lessees of the owner.
- (c) A valid certificate of insurance issued by a company providing the required insurance policy shall be available for inspection at the owner's principal place of business. A certificate of insurance shall provide that the insurer will immediately notify the Controller of any cancellation of, or change in, the owner's insurance policy and that such notice shall be in writing and shall be sent by registered mail at least thirty days before cancellation of the policy. The certificate shall include all of the following:
 - (1) the full name of the insurer;
 - (2) the name and address of the insured;
 - (3) the insurance policy number;
 - (4) the type and limits of coverage;
 - (5) the specific vehicles insured;
 - (6) the effective dates of the insurance policy; and
 - (7) the certificate issue date.

- (d) Proof of insurance shall include that the City of Bloomington shall be held harmless and included as an additional insured on said insurance.

4.26.080 Velocab License – Issuance

- (a) After consideration of the application and all information and data obtained relative thereto, the Controller shall issue a license to the applicant within fourteen days of the receipt of the complete application if he or she determines that the applicant has the qualifications and meets the requirements of this Chapter and all other applicable laws and policies.
- (b) If the Controller fails to issue the license within fourteen days of completion of the application, the applicant may appeal to the Board of Public Works. The Board shall, in an expeditious manner, determine whether the applicant has complied with all provisions of this chapter and shall authorize the controller to issue the license if there is such compliance.
- (c) The Controller shall not issue a license if applicant does not satisfy the requirements of this Chapter.

4.26.090 Velocab License – Denial, Suspension and Revocation

The Controller shall not approve a license and may suspend, revoke, or decline to renew a license if any of the following conditions are present:

- (a) An owner or operator is in violation of any City ordinance;
- (b) An operator has been convicted of assault; battery; resisting arrest; any felony involving force and violence; any misdemeanor or felony reckless driving or driving under the influence; or any crime reasonably related to the qualifications, function, or duties of the passenger transport business or the ability of the operator to safely transport passenger, unless five years has elapsed from the date of discharge from a penal institution, or the successful completion of probation for such conviction;
- (c) An applicant or operator has been convicted of a crime that requires registration under the Indiana Penal Code as a sex offender;
- (d) An applicant made a false statement in the application or has submitted an incomplete application or has not fulfilled a promise made with, or in, the application;
- (e) Any requirement of this Chapter is not being, or cannot be, met;
- (f) The velocab or velocab operator was involved in a vehicle accident involving a velocab, where velocab passengers were injured and where the velocab operator was found to be at fault;
- (g) Any person who is to participate in the business or any person who will be responsible for the management or supervision of the applicant's business has, at any time, had a license under this Chapter by the City or any other velocab law revoked any other governmental agency or body. An application shall also be denied if the purpose of the business is otherwise unlawful;
- (h) Any person who is to participate in the business or any person who will be responsible for the management or supervision of the applicant's business or any person who will be responsible for the management or supervision of the applicant's business has, within ten (10) years, violated the provisions of this Chapter; and
- (i) Immediately upon the revocation of a license issued under this Chapter, written notice thereof shall be given by the Controller to the holder of a license by certified mail, return receipt requested, addressed to the applicant's physical address or his/her agent as set forth in the application. Immediately upon the mailing of such notice, the license shall become null and void. Concurrently, City staff shall notify the licensee of the revocation in person or by phone.

4.26.100 Velocab License – Fee & Term

- (a) Fee. The Controller shall charge a nonrefundable fee of \$30 to recover the cost of activities associated with the administration, regulation and issuance of velocab licenses. This fee does not include the cost of inspection.
- (b) Term.
 - (1) Velocab licenses shall be valid for a period of one year from the date of issuance; and
 - (2) Velocab licenses shall become invalid immediately if the velocab license is defaced, altered, forged or counterfeited.

4.26.110 Velocabs – Fare Card

- (a) Every licensed velocab shall be equipped with a card prominently displayed showing the fares and rates to be charged for the transportation of passengers. Such card shall be affixed to the velocab in such a way as to be visible to all passengers.
- (b) It is unlawful to collect fares and charges other than those specified on the license application and fare card.

4.26.120 Velocabs – Driver Card

Every licensed velocab shall be equipped with a card showing the name and photograph of the driver operating the velocab. Such card shall be affixed to the velocab in such a way as to be visible to all passengers.

4.26.130 Velocabs – Signs

Every licensed velocab shall be designated by the name of the company and telephone number as it appears on the business license and the name and telephone number shall be printed in legible letters on each side of the vehicle that are readable at one hundred fifty feet or more by the naked eye by a person with normal vision

4.26.140 Other Laws Applicable to Velocabs

Every operator shall be subject to all applicable laws, rules and regulations of Chapter 15.56 of the Bloomington Municipal Code and the Indiana Code, 9-21-11 et seq. and any other applicable City of Bloomington or State of Indiana law.

4.26.150 Equipment Regulations

(a) During the hours of darkness, an operator must use:

- (1) a headlight capable of projecting a beam of white light for a distance of 500 feet to the front; and
- (2) battery-powered taillights mounted on the right and left, respectively, at the same level on the rear exterior of the passenger compartment. Taillights shall be red in color and plainly visible from all distances within 1,000 (one-thousand) feet to the rear of the velocab.

(b) All velocabs must be equipped with the following:

- (1) rear and side reflectors;
- (2) lighted turn signals visible from both the front and the rear of the velocab; such turn signals must be able to operate independently to signal a left or right turn and simultaneously to signal “hazard;”
- (3) an operational braking system and one that is appropriate for the maximum carrying capacity of the velocab; the braking system must enable the operator to make the braked wheels skid on dry, level, clean pavement;
- (4) a horn or bell capable of emitting sound audible under normal conditions from a distance of not less than 200 feet; however, a velocab may not be equipped with a siren or whistle;
- (5) rearview mirror;
- (6) tires having a tread depth sufficient to be designated as operationally safe;
- (7) seatbelts for passengers; and
- (8) other items as the City may so deem necessary.

(c) An operator may not operate a velocab:

- (1) with any lighting in or on the velocab in excess of the requirements provided herein;
- (2) which has an attached sidecar and/or which is used to tow another vehicle of any type while transporting passengers; and
- (3) wider than fifty-two inches at its widest point.

4.26.160 Prohibited Manner of Operation

It shall be unlawful for any person:

- (a) To operate, or cause to be operated, a velocab upon or along any street or street segment unless such street or street segment is first approved for velocab operation by the Chief of Police and/or the Director of Public Works. The Chief of Police and/or Director of Public Works may deny operations on designated streets at certain times;
- (b) To operate, or cause to be operated, a velocab on a sidewalk;
- (c) To operate a velocab on any sidepath or multi-use trail designed for use by pedestrians and bicyclists, unless the velocab operator yields to slower users and to on-coming users of the facility;
- (d) To stand, park or solicit on City of Bloomington Parks and Recreation property unless such activity is approved by the Board of Park Commissioners;
- (e) To operate a velocab in any traffic lane on any public street other than the lane nearest the curb, except when making left turns;

- (f) To load or unload passengers in the roadway unless such is done safely, appropriate to existing roadway conditions, and in a manner that does not impede traffic;
- (g) To load or unload passengers without using flashing hazard lights;
- (h) To operate, or cause to be operated, a velocab in any manner which impedes or blocks the normal or reasonable movement of pedestrian or vehicular traffic unless such operation is necessary for safe operation or in compliance with law;
- (i) To operate, or cause to be operated, a velocab in an unsafe manner or condition;
- (j) To operate, or cause to be operated, a velocab while under the influence of alcoholic beverages or controlled substances, including medication prescribed by physician if said medication impairs driving;
- (k) To smoke while operating a velocab;
- (l) To exceed the occupancy limits of the velocab as outlined in the rated seating capacity of the vehicle;
- (m) To permit a passenger to ride on any part of the velocab other than by sitting on the seats designed for such purpose; and
- (n) To solicit patronage in a loud tone of voice or in any manner so as to annoy or obstruct the movement of a person, nor shall an operator follow a person for the purpose of soliciting patronage.

4.26.170 Penalty

Citations may be issued by the Chief of Police or his or her designee:

- (a) Each day that any violation continues shall be considered a separate violation for purposes of the penalties specified in this Chapter.
- (b) Any person, firm, limited liability company, corporation or organization who violates any provision of this Chapter, or who makes a false statement upon an application for a license provided herein, shall be subject to a fine of two hundred and fifty dollars (\$250.00).
- (c) Any person, firm, limited liability company, corporation or organization who conducts any business described in this Chapter, without first obtaining a license as described herein, shall be assessed a fine of five hundred dollars (\$500.00).

4.26.180 Appeal

Any person aggrieved by the action of the City Controller in the denial, suspension or revocation of a license shall have the right of appeal to the Board of Public Works. Such appeal shall be taken by filing with the Department of Public Works within ten (10) days after the action complained of, a written statement setting forth fully the grounds for appeal.

4.26.190 One-Year Review.

One year from the effective date of this ordinance, the Common Council shall review the requirements of this ordinance and revise this Chapter as necessary.

4.26.200 No Effect On Taxicab Regulations.

Nothing contained in this Chapter shall in any manner repeal, change or otherwise modify the provisions of the Bloomington Municipal Code Chapter 16.40 applicable to taxicabs.

SECTION 2. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each and every Section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

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

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2009.

ANDY RUFF, President
Bloomington Common Council

ATTEST:

REGINA MOORE, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2009.

SIGNED and APPROVED by me upon this _____ day of _____, 2009.

MARK KRUZAN, Mayor
City of Bloomington

Synopsis

This ordinance is sponsored by Councilmember Satterfield and adds Chapter 4.26 “Velocabs” to Title 4 “Business Licenses Regulations” of the Bloomington Municipal Code. Chapter 4.26 requires that all persons wishing to operate a velocab within the City of Bloomington obtain an operator’s license, adhere to numerous safety equipment requirements, follow safe operating practices, submit to an independent safety inspection, and carry velocab-specific liability insurance. The Chief of Police and/or the Director of Public Works must approve the streets upon which velocab operators wish to operate. The ordinance calls for the Council to revisit this provision one year after the ordinance’s effective date and revise the ordinance as necessary.



City of Bloomington Office of the Common Council

To: Council Members
From: Mike Satterfield, Council Member, District III
Re: Ordinance 09-23: *To Amend Title 4 of the Bloomington Municipal Code Entitled "Business Licenses and Regulations" (Adopting Chapter 4.26 entitled, "Velocabs")*
Date: 25 November 2009

Nature and Intent

The *Velocab Ordinance* brings modern oversight to a form of transportation that has been used for centuries. However, unlike the old hand-pulled rickshaws, this ordinance allows only for the use of human power in the form of bicycles. In the interest of fostering this clean form of transport, the ordinance finds that some regulation is necessary to provide for the safe, fair, and efficient operation of velocabs within our city.

Many of the provisions of this ordinance are specific to the nature of the velocabs, while others are similar to City requirements for business licensing. For example, the rules governing the manner of operation and those pertaining to vehicle inspections are unique to velocabs. However, elements of the application, insurance, and denial and revocation sections are modeled after City's *Itinerant Merchants Ordinance*, Ordinance 09-05.

As the regulation of velocabs is new to the City, and as the prevalence of velocabs grows, this ordinance should be considered a work in progress. For that reason, the ordinance requires that the Council revisit this provision in one year to discern what works well and what needs further legislative action. In one year, we will have a better understanding of the way these regulations work "on the ground."

Velocabs are an increasingly popular form of collective transport and hundreds of communities in the U.S. have passed legislation intended to open a market for these vehicles. Both Indianapolis and Nashville, Indiana have passed such laws. Similarly, tourist destinations such as Asheville, North Carolina and college towns such as Austin, Texas have analogous provisions. While the rules vary widely, more and more communities are adopting legislation governing velocab operations in an effort to apply modern rules to this age-old form of transportation.

Stakeholder Feedback

This ordinance is the result of much collaboration with City staff and a lot of work with stakeholders. As you are aware, Chris Waggoner of *Fresh Air Taxis* petitioned the City some time ago to permit velocabs. City Legal worked on the proposition for a while and then handed the measure off to the Council Office. In the interest of garnering wide stakeholder feedback, I've worked closely with Waggoner and the local bike shops. I've worked with, or solicited feedback from, City staff of the following departments: Public Works, Parks, Police, Mayor's Office, Legal, Controller, and Planning.

Furthermore, I've discussed proposal with City's Bicycle and Pedestrian Safety Commission. The Commission is favorable to the proposal. Similarly, I've run the trail and parks-specific provisions (operating on sidepaths or trails [4.26.160(c)] and standing, parking or soliciting on Parks property [4.26.160(d)]) by the Parks Board. They too, were favorable to the proposal contingent upon the whole provision being revisited by the Council in a year.

Velocabs promise to provide Bloomington with an emissions-free form of transportation while enhancing local tourism and encouraging the local entrepreneurial spirit.

I respectfully request your support.



PDX Pedicabs. A pedicab/velocab in Portland, Oregon



Ridevelocab, a Sacramento, CA company

ORDINANCE 09-24

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

Re: Adding BMC 2.23.090 Establishing the Bloomington Commission on Aging

WHEREAS, the senior population in Bloomington and Monroe County is growing and will be in need of increased services in the future; and,

WHEREAS, the Bloomington community is becoming a regional retirement destination requiring the investment of additional resources; and,

WHEREAS, the City administration considers it a priority to be in a position to address the needs and interests of the senior population; and,

WHEREAS, local commissions are instrumental in encouraging the development of programs at the local level that address issues and concerns important to various social groups;

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

Section 1. Chapter 23, entitled “Community and Family Resources Department” of Title 2 of the Bloomington Municipal Code, entitled “Administration and Personnel,” shall be amended by adding the following Section and reflecting that new section in the Table of Contents for that chapter:

2.12.110 Commission on Aging

The Bloomington Commission on Aging is hereby established.

- (a) Members. The Commission shall be composed of nine members.
- (b) Appointments. Five members shall be appointed by the Mayor and four by the Common Council.
- (c) Qualifications. Commission members shall be residents of Monroe County. Preference for appointments shall be given to people with expertise in, or representing, one or more of the following areas: senior issues, health and wellness, recreation, employment, social services, transportation and affordable housing.
- (d) Terms. The initial commissioner terms of three Mayoral and two Council appointments shall expire on December 31, 2010. The terms of the remaining initial appointments shall be for two years and shall expire on December 31, 2011. All subsequent terms shall be for two years.
- (e) Purpose and duties. The Commission may do the following:
 - (1) Develop study committees addressing concerns of seniors in health and wellness, housing, transportation, employment, social services and recreation; and
 - (2) Encourage the development of programs of particular benefit to senior citizens; and
 - (3) Apply for grants as may contribute to the strengthening and refining of a coordinated program to benefit senior citizens, upon approval of such grant applications by the appropriate City official (s); and
 - (4) Serve as a catalyst to promote positive public and private remedies to the multi-faceted challenges confronting seniors in our community and the resulting effects on the entire community; and
 - (5) Network with like-minded groups such as the AARP, Active Aging Coalition, Area 10 Council on Aging, RSVP, and other relevant local agencies, sharing ideas, information, data and future plans; and

- (6) Celebrate the contributions seniors make to the Bloomington community; and
- (7) In the pursuit of these purposes, the Commission may appoint additional volunteers and commission associates.

(f) Procedure - rules and regulations. The Commission may adopt rules, regulations and by-laws for the conduct of its affairs, which are consistent with the purpose of this section. Such rules, regulations and by-laws and amendments thereto may be adopted by the Commission after a public hearing by a majority vote of the Commission. The rules, regulations and by-laws of the Commission shall be available to the public at the office of the Commission.

(g) Reporting requirement. The Commission shall submit identical written reports to the Mayor and the Common Council Office by the end of December of each year describing the activities of the Commission in the previous calendar year as well as future plans. Any issues or concerns regarding the Commission itself, its organization or its purpose also shall be addressed in this report.

SECTION II. If any sections, sentence or provision of this ordinance, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

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

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2009.

ANDY RUFF, President
Bloomington Common Council

ATTEST:

REGINA MOORE, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2009.

SIGNED and APPROVED by me upon this _____ day of _____, 2009.

MARK KRUZAN, Mayor
City of Bloomington

SYNOPSIS

This ordinance amends Title 2 of the Bloomington Municipal Code, entitled "Administration and Personnel," by inserting Section 2.23.090, which creates a Bloomington Commission Aging. The Commission will work to address the concerns and problems seniors in our community face in health and wellness, housing, employment, social services, transportation, and recreation.



MARK KRUZAN	PETE GIORDANO
MAYOR	DIRECTOR
CITY OF BLOOMINGTON	COMMUNITY & FAMILY RESOURCES
401 N Morton St	p 812.349.3559
Post Office Box 100	f 812.349.3440
Bloomington IN 47402	controller@bloomington.in.gov

Memorandum

To: Council Members
From: Pete Giordano, Director, Community & Family Resources Department
Date: November 18, 2009
Re: Ordinance 09-24

Ordinance 09-24 will establish the City of Bloomington Commission on Aging under Title 2, Chapter 12 of the City of Bloomington Municipal Code.

Bloomington is experiencing an increase in its senior population as it has become a regional retirement destination in addition to the large number of 'baby boomers' which are now moving into their senior years. This population is important to the future development and character of our community and we, as a community, need to begin to plan effectively to serve their needs. The administration feels the creation City of Bloomington can be important component of a comprehensive community response to rise to this need.

By way of background, members of the Active Aging Coalition recently approached the Mayor about the need for a City commission geared toward the needs of Bloomington's senior population. This group has done considerable work in this area and hoped to have the backing of the City in further studying and tackling ongoing issues. I, along with Paula McDevitt of the City's Parks and Recreation Department, worked with these individuals to identify such issues and generate the necessary legislation to formalize the commission.

The purpose of the Commission on Aging includes the development of study committees to address the numerous challenges confronting seniors in Bloomington, the encouragement and enhancement of programs and services particularly beneficial to them, and collaboration with other community groups and agencies.

Nine members will serve on the Commission, five having been appointed by the Mayor and four having been appointed by the Common Council. After an initial period of staggered terms, the appointees shall serve for two years with the term expiring at the end of the relevant calendar year. Please feel free to contact me if you have any additional questions or concerns.

RESOLUTION 09-20

**TO APPROVE AND AUTHORIZE THE EXECUTION OF A
COLLECTIVE BARGAINING AGREEMENT BETWEEN
THE CITY OF BLOOMINGTON
AND
THE BLOOMINGTON METROPOLITAN FIREFIGHTERS, LOCAL 586**

WHEREAS, Chapter 2.34 of the Bloomington Municipal Code establishes a procedure for Firefighters Collective Bargaining; and

WHEREAS, the City and the Bloomington Metropolitan Firefighters, Local 586 have negotiated and reached agreement on provisions for a collective bargaining agreement to take effect January 1, 2010 and conclude December 31, 2013; and

WHEREAS, it is in the best interests of the City to approve and execute the agreement;

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

The Common Council hereby approves and authorizes the execution of the Collective Bargaining Agreement between the City of Bloomington and the Bloomington Metropolitan Firefighters, Local 586, a copy of which Agreement is attached hereto and made a part hereof.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2009.

ANDY RUFF, President
Bloomington Common Council

ATTEST:

REGINA MOORE, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2009.

REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2009.

MARK KRUZAN, Mayor
City of Bloomington

SYNOPSIS

This resolution approves and authorizes the execution of a four-year Collective Bargaining Agreement between the City of Bloomington and the Bloomington Metropolitan Firefighters, Local 586.



INTERDEPARTMENTAL MEMO
CITY OF BLOOMINGTON LEGAL DEPARTMENT

TO: City Council Members

FROM: Kevin R. Robling, Corporation Counsel & Chief of Staff

CC: Mark Kruzan, Mayor
Maria Heslin, Deputy Mayor
Dan Sherman, Council Attorney
Jim Parrott, President, Bloomington Metropolitan Firefighters Local 586
Roger Kerr, Fire Chief
Mike Trexler, Controller
Daniel Grundmann, Director, Employee Services

RE: Police and Fire Salary Ordinance Amendment (Ordinance 09-25); and Resolution to Approve Collective Bargaining Agreement between the City of Bloomington and Bloomington Metropolitan Firefighters Local 586 (Resolution 09-20)

DATE: November 20, 2009

Attached is a copy of Ordinance 09-25, the proposed salary ordinance amendment to the 2010 Police and Fire Salary Ordinance (Ordinance 09-13), along with the Resolution to Approve the Collective Bargaining Agreement between the City of Bloomington and Bloomington Metropolitan Firefighters Local 586 (Resolution 09-20). The contents of each are the result of negotiations between the City of Bloomington ("City") and the Bloomington Metropolitan Firefighters Local 586 ("Firefighters"). The collective bargaining agreement with the FOP was approved in 2006, and there are no changes to that agreement. *This salary ordinance amendment includes no changes to the Police portion of the 2010 Police and Fire Salary Ordinance.*

The City's new four-year collective bargaining agreement with the Firefighters, ratified by the Firefighters in October of 2009, is effective January 1, 2010, through December 31, 2013.

The new four-year collective bargaining agreement provides the Firefighters with a twelve-percent (12%) increase over the term of the agreement. The basic salary of the Firefighters will increase three-percent (3%) in each year of the contract. Annual salary rates are reflected on pages 7 and 8 of the agreement. Additionally, the City will

increase its contribution into the employee's retirement pension (PERF) by one-percent 1.0% in 2010. (The City is required to contribute twenty-one percent of an employee's salary to PERF while the employee is required to contribute six-percent. By contract, the City has paid three of this six-percent. This agreement raises that percentage to four of the six-percent). This increase will remain effective for the term of this agreement.

Longevity pay will increase from \$1,500 to \$2,000 for firefighters after 20 years of service. [This increase also serves to increase the Firefighters' retirement pay by increasing the base-pay-plus-20-years component of the formula used by PERF to calculate benefits.] In the fourth year of the Agreement, the longevity pay for firefighters in their 18th and 19th year of service will increase from \$1,200 to \$1,400.

The Agreement also increases the cap in longevity / certification pay / professional and command appointments / education pay from \$4,400 to \$4,800.

Your approval of the Collective Bargaining Agreement resolution and the salary ordinance amendment will resolve salary, benefit and negotiable issues with our firefighters through the end of 2013. This will fulfill the statutory requirements allowing us to honor the Collective Bargaining Agreement in 2010.

The City and the Firefighters negotiated with mutual cooperation and respect and have forged a fair and reasonable contract. We respectfully request your approval.

Please do not hesitate to contact me at roblingk@bloomington.in.gov or by telephone at 349-3426 if you have any questions or comments prior to the meeting.

FISCAL IMPACT – FIRE COLLECTIVE BARGAINING AGREEMENT

- A 3% increase in wages for 2010, 2011, 2012 and 2013.
 - 2010 \$200,843
 - 2011 \$206,869
 - 2012 \$213,075
 - 2013 \$219,467
 - Total \$840,253
- An increase in the City's contribution of the firefighters' PERF contribution from 3% to 4%.
 - 2010 \$54,125
 - 2011 \$55,760
 - 2012 \$57,432
 - 2013 \$59,155
 - Total \$226,483
- Increase in longevity pay for firefighters at 20 years from \$1500 to \$2000.
 - 2010 \$18,000
 - 2011 \$18,000
 - 2012 \$20,400
 - 2013 \$21,000
 - Total \$126,000
- Increase in longevity pay for firefighters at 18 and 19 years of service from \$1200 to \$1400 in the fourth year of the contract.
 - 2013 \$220
- Increase cap in longevity / certification pay / professional and command appointments / education pay from \$4400 to \$4800.
 - 2010 \$480
 - 2011 \$480
 - 2012 \$480
 - 2013 \$480
 - Total \$1,920
- **Total Costs**
 - 2010 \$273,458
 - 2011 \$281,108
 - 2012 \$291,386
 - 2013 \$300,322
 - Total \$1,146,275

**COLLECTIVE BARGAINING AGREEMENT
BETWEEN THE CITY OF BLOOMINGTON
AND THE BLOOMINGTON METROPOLITAN FIREFIGHTERS,
LOCAL 586**

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**COLLECTIVE BARGAINING AGREEMENT
BETWEEN THE CITY OF BLOOMINGTON
AND THE BLOOMINGTON METROPOLITAN FIREFIGHTERS, LOCAL 586**

ARTICLE I. Terms, Conditions and Definitions

A. Agreement Terms and Conditions

This Agreement between the parties constitutes a four (4) year settlement of all bargainable issues, as defined in Bloomington Municipal Code §2.34, and following, for calendar years 2010, 2011, 2012, and 2013. It is understood and expressly agreed by the parties that all terms and conditions in this Agreement are contingent on and subject to the following conditions:

- (1) Receipt in each and every year of the Agreement (2010, 2011, 2012, and 2013) by the Civil City of Bloomington of no less than one million, two-hundred thousand (\$1,200,000.00) dollars from the Utility Department of the City of Bloomington in satisfaction of what is commonly known as the "Interdepartmental Agreement."**
- (2) The City of Bloomington being legally authorized in each and every year of the Agreement (2010, 2011, 2012, and 2013) to increase its *ad valorem* property tax by a minimum of at least three percent (3%) rate of growth over the previous year's maximum permissible *ad valorem* property tax levy, and a maximum increase equal to the total non-farm personal income growth multiplied by the maximum permissible *ad valorem* property tax levy for the preceding year (beginning with fiscal year 2010) as provided for and defined in Ind. Code § 6-1.1-18.5 *et seq.* entitled "Civil Government Property Tax**

Controls.” The City shall not be required to petition for financial relief as provided for and defined in the above-cited chapter as a prerequisite to showing its inability to increase its *ad valorem* property tax levies in the above-stated amounts.

- (3) Receipt in each and every year of the Agreement (2010, 2011, 2012, and 2013) by the Civil City of Bloomington of at least seven million, five-hundred thousand dollars (\$7,500,000.00) as county option income tax distribution as provided for and defined in Ind. Code §6-3.5-6-1 *et seq.* entitled "County Option Income Tax."**
- (4) Any and all changes in State and/or Federal law, policies, procedures, or regulations which have a fiscal impact upon the City of Bloomington shall be fully funded by the source from which such change originates.**

In the event that any of the above-stated conditions do not occur, then it is specifically understood and agreed by the parties that the City may declare this Agreement open with respect to the salary rates provided in Article V for all subsequent years covered by this Agreement. The City shall inform the Unit of such declaration in writing. In the event of such declaration by the City, the parties shall immediately as practicable begin new negotiations on the subject of said salary rates only, pursuant to Bloomington Municipal Code §2.34, and following.

In the event that Bloomington Municipal Code §2.34.010 “Recognition” is amended to recognize another union in lieu of the Bloomington Metropolitan Firefighters Local 586, then it is specifically understood and agreed by the parties that all terms and conditions of

employment as agreed to in this Agreement shall remain in effect throughout the years covered in this Agreement.

In the event that Bloomington Municipal Code §2.34.040, "Issues Subject to Bargaining," is amended, then it is specifically understood and agreed by the parties that either party may declare this Agreement open with respect to said added issue(s) for all subsequent years covered by this Agreement.

B. Definitions

Anniversary Date: The date employee began work at the Fire Department

Certification: State approved Master Firefighter and/or NFPA certification

City: City of Bloomington

City Day: Personal day for firefighter which is one Tour of Duty

Collective Bargaining Agreement: A legally binding contract between the City and Unit which regulates the terms and conditions of employment

Department: Bloomington Fire Department

NFPA: The National Fire Protection Association

OSHA: Occupational Safety and Health Administration

BMF: The Bloomington Metropolitan Firefighters Local 586

Tour of Duty: The 24-hour shift worked by firefighters in the Department

ARTICLE II. Recognition

This Agreement between the parties is entered into pursuant to and in compliance with Bloomington Municipal Code §2.34, and following.

ARTICLE III. Management Rights

The City retains the responsibility and authority to manage and direct on behalf of the public the operation and activities of the City to the full extent authorized by law. Such responsibility and authority shall include, but not be limited to:

- 1. The right to direct the work of its employees;**
- 2. The right to establish policy;**
- 3. The right to maintain the efficiency of public operations;**
- 4. The right to design and implement safety programs for employees;**
- 5. The right to design and implement a physical fitness and job training program for employees;**
- 6. The right to determine what services shall be rendered to the public and how they can best and most efficiently be rendered;**
- 7. The right to determine job content and job descriptions;**
- 8. The right to determine, effectuate, and implement the objectives and goals of the City;**
- 9. The right to manage and supervise all operations and functions of the City;**
- 10. The right to establish, allocate, schedule, assign, modify, change, and discontinue City operations, work shifts, and working hours;**
- 11. The right to establish, modify, change and discontinue work standards;**
- 12. The right to hire, examine, classify, promote, train, transfer, assign, and retain employees; suspend, demote, discharge, or take other disciplinary action against employees in accordance with applicable law and to relieve employees from duties due to lack of work or funds or other legitimate reason;**
- 13. The right to increase, reduce, change, modify, and alter the composition and size of the work force;**
- 14. The right to determine, establish, set and implement policies for the selection, training and promotion of employees;**

15. **The right to create, establish, change, modify, and discontinue any City functions, operation and department;**
16. **The right to establish, implement, modify, and change financial policies, accounting procedures, prices of goods, or services, public relations, and procedures and policies for the safety, health and protection of City property and personnel;**
17. **The right to adopt, modify, change, enforce, or discontinue any existing rules, regulations, procedures and policies which are not in direct conflict with any provision of this Agreement;**
18. **The right to establish, select, modify, change, or discontinue equipment, materials, and the layout and arrangement of machinery;**
19. **The right to determine the size and character of inventories and their disposal;**
20. **The right to determine and enforce employee quality and quantity standards;**
21. **The right to contract, subcontract, merge, sell, or discontinue any function or operation of the City;**
22. **The right to engage consultants for any function or operation of the City;**
23. **The right to sell, transfer, lease, rent or otherwise dispose of any City equipment, inventories, tools, machinery, or any other type of property or service;**
24. **The right to control the use of property, machinery, inventories, and equipment owned, leased or borrowed by the City;**
25. **The location, establishment, and organization of new departments, divisions, subdivisions, or facilities thereof, and the relocation of departments, divisions, subdivisions, locations and the closing and discontinuance of the same; and**
26. **The right to classify jobs and to allocate individual employees to appropriate classifications based upon duty assignments.**

The above enumeration of management rights is not inclusive of all such rights and it is understood and agreed by the parties that all rights granted the City by Constitution, statute, charter, ordinance or in any other manner are retained by the City.

ARTICLE IV. Union Rights

1. Dues Check-off. Upon receipt of voluntary, written and signed authorization in such form as complies with Ind. Code §22-2-6-2 from employees who are covered by this Agreement and are members of the Bloomington Metropolitan Firefighters Local 586, the City shall deduct from the earnings of each said employee an amount representing their regular, monthly dues for the preceding month and shall remit such monies, together with the appropriate records to a designated BMF Local 586 official.

2. Bulletin Boards. The BMF Local 586 shall be allowed one bulletin board in each fire station. Additional bulletin boards and locations will be allowed only with the approval of the Fire Chief.

3. Non-discrimination. The City shall not prohibit any employee from joining or refusing to join the BMF Local 586 or any successor recognized under §2.34 of the Bloomington Municipal Code.

4. Time off for Union Business. The City recognizes that information from the International Association of Firefighters benefits the City as well as the Firefighters. To encourage participation in state or national events, the City shall provide the BMF Local 586 with the opportunity to schedule time off for Union Business. During the term of this Agreement, the Union may schedule a maximum of seven (7) Tours of Duty off for use by Union membership during each year of this Agreement. Union time off may be scheduled

in twelve (12) hour, one-half (1/2) tour of duty increments, from the beginning to the middle of the tour of duty, or from the middle to the end of the tour of duty. Absence for Union Business shall be scheduled with the approval of the Chief or the Chief's designee. Such absence may not jeopardize the efficient operations of the Department. The Chief's approval may not unreasonably be withheld. Time spent on Union Business shall be paid as benefit time off, and shall not count as "hours worked" for FLSA purposes.

5. Meetings. The City shall allow Union Meetings to take place in department stations. Union Members who are on duty shall be allowed to attend these meetings. If all stations are permitted to attend simultaneously, the meetings shall be held at Headquarters with a limit of twelve (12) meetings of no more than two (2) hours duration on an annual basis. Provided, however, the efficient operations of the Department shall not be jeopardized by the scheduling of Union Meetings.

ARTICLE V. Basic Salary Ordinance

A. Effective January 1, 2010, the base salary rate for Firefighter 1st Class, Sergeant and Captain shall increase three percent (3.0%) and shall be as follows:

Firefighter 1 st Class	\$44,605.00
Sergeant	\$46,366.00
Captain	\$49,914.00

B. Effective January 1, 2011, the base salary rate for Firefighter 1st Class, Sergeant and Captain shall increase three percent (3.0%) and shall be as follows:

Firefighter 1 st Class	\$45,943.00
Sergeant	\$47,757.00
Captain	\$51,411.00

C. Effective January 1, 2012, the base salary rate for Firefighter 1st Class,

Sergeant and Captain shall increase three percent (3.0%) and shall be as follows:

Firefighter 1 st Class	\$47,321.00
Sergeant	\$49,190.00
Captain	\$52,953.00

D. Effective January 1, 2013, the base salary rate for Firefighter 1st Class,

Sergeant and Captain shall increase three percent (3.0%) and shall be as follows:

Firefighter 1 st Class	\$48,740.00
Sergeant	\$50,665.00
Captain	\$54,541.00

F. PERF. The City shall contribute four percent (4.0%) of the salary of a fully paid first class firefighter to the Public Employees Retirement Fund (PERF) on behalf of each fund member in the Department. These payments are based on the salary of a first class firefighter plus twenty years of longevity and are authorized pursuant to Ind. Code §36-8-8-8.

ARTICLE VI. Longevity/Certification/Appointments/Education

A. Longevity Pay

Additional pay for longevity shall be credited on the firefighter's anniversary date of hire after the completion of years of service as reflected in the chart below.

<u>YEARS OF SERVICE</u>	<u>2010 - 2013</u>
1	0
2	300
3	300
4	600
5	600
6	900
7	900

8	900
9	900
10	900
11	900
12	900
13	900
14	1,200
15	1,200
16	1,200
17	1,200
18	1,200*
19	1,200*
20+	2,000

* Beginning January 1, 2013, longevity pay for firefighter's with 18 and 19 years of service shall increase to \$1400.

B. Certification Pay

The following amounts will be added to the annual salary of firefighters who have the following certifications:

1 st Master Firefighter or NFPA equivalent	\$300.00
Each additional certification	\$100.00

<u>Number</u>	<u>Amount</u>
1	\$300
2	\$400
3	\$500
4	\$600
5	\$700
6	\$800
7	\$900
8	\$1,000

A maximum of eight (8) certificates, or one thousand dollars (\$1,000.00), shall apply.

Additionally, firefighters who have achieved EMT certification shall receive an additional

five-hundred dollars (\$500.00) per year. Any and all certifications must be current and on file at Headquarters to receive certification pay.

C. Professional and Command Appointments

Additional pay for professional and command appointments shall be as follows:

Headquarters Sergeant	\$400
Headquarters Captain	\$600
Air Mask Technician, Shift Investigator	\$600
Engineer	\$700
Training Officer	\$800
Chauffeur	\$900
Rescue Technician	\$1200
Confined Space Rescue Team Member	\$300
Confined Space Rescue Team Coordinator	\$500

D. Education

Education Pay shall be paid to firefighters with advanced degrees from accredited colleges or universities. Education Pay shall be recognized as either Level 1 or Level 2.

Those firefighters, if any, with 2-year Associate degrees shall be classified as Level 1. Those firefighters, if any, with 4-year Bachelor degrees, shall be classified Level 2.

Education Pay shall be paid as follows:

Level 1 . . . Associate 2-year degree	\$500
Level 2 . . . Bachelor 4-year degree	\$1,200

E. Other

Maximum additional pay under Sections A through D of this Article shall not exceed four thousand, eight hundred dollars (\$4,800.00) annually.

ARTICLE VII. Clothing Allowance

Effective January 1 of each year of this Agreement, each firefighter shall receive a clothing allowance of one thousand six hundred dollars (\$1,600.00). Firefighters may be required to furnish and maintain all uniforms and equipment by the City pursuant to Ind. Code § 36-8-4-4. Checks for clothing allowance will be issued in two equal payments to each firefighter no later than the regularly scheduled payday which falls on or immediately preceding June 15 and December 15 of each year of this Agreement.

ARTICLE VIII. Holiday Pay

For the term of this Contract, employees in the Unit shall receive one-hundred dollars (\$100.00) per holiday for each holiday an employee is regularly scheduled to work. Holidays are New Year's Day, Martin Luther King Day, Good Friday, Easter, Memorial Day, July 4, Labor Day, Veteran's Day, Thanksgiving, Christmas, Election Day (when applicable), and Primary Election Day (when applicable). In addition, in any year when there is neither a Primary Election Day nor a General Election Day, the second Monday in October, known as Columbus Day, shall be a holiday for purposes of this Agreement.

ARTICLE IX. Life Insurance

During the term of this Agreement all employees in the Unit shall receive group life insurance in the amount of fifty thousand dollars (\$50,000.00); or a total of one hundred thousand dollars (\$100,000) in the event of accidental death, the premiums for which shall be paid by the City.

ARTICLE X. Firefighter Health and Safety

It is recognized and agreed by the City and the employees in the Unit that compliance with applicable laws and regulations governing safety and health matters are an important priority. The City will continue to make reasonable provisions in compliance with such laws and regulations for the safety and health of its employees.

If an employee has justifiable reason to believe that the employee's safety and health are in danger due to an alleged unsafe working condition, or alleged unsafe equipment, the employee shall inform the immediate supervisor who shall have the responsibility to determine what action, if any, should be taken.

If an employee is ordered to perform a task in such a manner that the performance of the task would be in direct violation of a specific safety rule or regulation, the employee has the right and responsibility to refuse to perform the task until the hazard has been evaluated and a determination of the hazard has been made.

Employees have the responsibility to communicate their OSHA concerns to their immediate supervisor. Employees may further report continuing OSHA concerns to higher levels of supervision within the Fire Department, to the Risk Management Division of the City Legal Department, or to IOSHA without fear of reprisal.

ARTICLE XI. Health Insurance/Dental Insurance

Firefighters shall be eligible to participate in the City's group medical/dental insurance plan. The City shall pay the majority of the premium cost, and the firefighter shall pay the same premium rate for coverage as other eligible City employees. The final decision as to scope of coverage and the choice of insurance carrier shall rest with the City.

Retired employees covered by the terms of this Memorandum shall be eligible for inclusion in the City's group health insurance plan in accordance with State and Federal law.

Retired employees shall pay the entire premium. Said payments shall be due and payable at a time and place determined by the City. The premium for retired employees may be different than the premium for active employees.

The City and employees jointly recognize the problem of potential medical premium increases. In the event of premium increases, City and employees shall work cooperatively to manage insurance costs, including the consideration by them of reducing or eliminating coverage for this purpose. Dependent and family dental coverage shall be at the option of the employee and costs for such coverage shall be borne by the employee.

ARTICLE XII. Bereavement

If there is a death in the employee's immediate family (spouse, registered domestic partner, child, brother, sister, parent, parent of spouse, the parent or child of domestic partner, grandparent, grandchild, or step equivalents thereof), the employee shall be extended two tours of duty as bereavement leave. If an additional tour of duty is required, the employee shall be permitted to schedule a vacation day or City Day off without regard to staffing level. In the event the employee is notified of the death of an immediate family member while on duty, the employee shall be relieved from duty, irrespective of time, and such relief shall not count as a bereavement day.

In the case of the death of other relatives of an employee (brother-in-law, sister-in-law or step equivalents thereof), the employee shall be permitted to schedule a vacation day or City Day off without regard to staffing level. As an alternative, if the employee elects to

work their regular schedule after the death of a family member, the employee will be given time off during work to attend the funeral; such time off may not exceed four (4) hours.

Additional time off for bereavement may be scheduled and approved by the Chief if determined to be in the best interests of the employee. Such time may be allocated for payroll purposes as vacation days or City Days, without regard to staffing levels.

ARTICLE XIII. Unscheduled Duty/Holdover/Mandatory Training Pay

Members of the Unit shall receive **Unscheduled Duty Pay** at the contractual rate of twenty-five dollars (\$25.00) per hour, at an established minimum of two (2) hours pay with no maximum limit. **Unscheduled duty** shall include only instances when a firefighter is called in from off-duty time, and shall not include holdover from an on-duty shift ("end-of shift run"). **Holdover time** shall be calculated as "time worked" in one-half (1/2) hour increments with no maximum. The two (2) hour minimum shall not apply to holdover duty.

Mandatory Training required by the Department during a firefighter's off-duty time, shall also be compensated at the contractual rate of twenty-five dollars (\$25.00) per hour with a minimum of two (2) hours pay and a maximum of eight (8) hours pay.

The contractual overtime provided in this Article is paid in situations where the firefighter does not reach the Fair Labor Standards Act (FLSA) threshold during a work period. In rotations where the firefighter reaches the FLSA maximum hours of work during a rotation, the firefighter will receive the greater of the contractual rate per hour or the applicable FLSA overtime rate for **Unscheduled Duty** and **Mandatory Training Pay**.

ARTICLE XIV. Acting Pay

A firefighter in the Unit may be required to perform additional duties in an "acting" capacity due to the illness, vacation, or retirement of another member of the Department. Firefighters shall not be compensated for duty served in an "acting" capacity at a higher rank on behalf of a firefighter who is sick or on vacation; but will receive "acting pay" for the position in the event the "acting" status exceeds thirty (30) days after the effective date of the retirement of the individual who created the vacancy.

A reassignment payment of ten dollars (\$10.00) will be made when a firefighter is transferred from their regularly-assigned Engine, Rescue, Aerial or Truck Company to another Engine, Rescue, Aerial or Truck Company for a period of greater than twelve (12) hours if the reassignment results in the firefighter having to change stations. This payment will be for each full tour of duty on the shift to which they are regularly assigned.

In the event a call back of off-duty personnel is initiated and a “temporary” Engine Company is established for any length of time, the proper call-back pay procedure shall be followed and shall supersede any language of this Article.

If an entire Company is reassigned to another station for any length of time, this will not constitute a change or reassignment as contemplated by this Article XIV, and no reassignment payment will be made. Further, if a reserve or back-up apparatus is placed in service as a front-line apparatus, such change shall not constitute a change or reassignment as contemplated by this Article.

To receive reassignment payment as contemplated by this Article XIV, the affected firefighter must complete a reassignment payment slip and turn it in to the assigned station

ranking officer on the date of reassignment. Failure to complete the reassignment slip will result in forfeiture of payment.

ARTICLE XV. Vacation/City Days

After having completed twelve (12) months of continuous employment, members of the Unit shall receive a minimum of five (5) tours of duty as paid vacation days each calendar year. In addition, members of the Unit shall receive additional tours of duty off for years of continuous active service with the Department as contained in the Table below. These vacation days must be taken within the calendar year and may not be accumulated. Vacation must be approved by the Station Captain and scheduled with the Battalion Chief no later than February 1 of the year in which they are taken in order to guarantee the tour of duty off.

Vacation days shall be considered twenty-four (24) hour tours of duty, for purposes of scheduling in accordance with the table below:

<u>Years of Service</u>	<u>24-hr Tour of Duty</u>
0	0
1	5
2	5
3	5
4	5
5	5
6	6
7	6
8	6
9	7
10	7
11	7
12	8
13	8
14	8
15	9

16	9
17	9
18	10
19	10
20	10
21	11
22	11
23	11
24	12
25	12
26	12

In addition to the above vacation days, employees in the Unit shall receive four (4) additional days, commonly known as "City Days". City days may be scheduled in either twelve (12) hour, one-half (1/2) tour of duty increments from the beginning to the middle of the tour of duty, or from the middle to the end of the tour of duty; or these days may be scheduled for an entire twenty-four (24) hour tour of duty. Such days must be scheduled at least forty-eight (48) hours in advance with the Station Captain and approved by the Battalion Chief. City Days must be taken within the calendar year and may not be accumulated.

Approval of Vacation and City Days shall be dependent upon the number of personnel scheduled off for the tour of duty.

ARTICLE XVI. Sickness/Injury/Pregnancy

Firefighters of the department shall report sick only when they are suffering from an illness or injury which would prevent them from properly performing their assigned duties. Such report shall be made to the station captain or battalion chief no less than one (1) hour prior to the reporting time for duty. Sick leave will require a doctor's statement containing the expected date of return to duty and any limitations of duty. The statement

shall be submitted to the Chief's office on the date of the missed tour of duty or as soon as reasonably possible thereafter. To assist management in scheduling and/or reassignment decisions, the firefighter shall contact the Station Captain or Battalion Chief prior to the next regularly scheduled tour of duty in order to inform the supervisor of the expected date of return and any limitations of duty. The firefighter shall return to duty as soon as possible after an illness or injury.

The Fire Chief or Board of Public Safety may order a member to consult a physician, psychiatrist, or clinic regarding the physical or psychological condition or for the purpose of obtaining a second opinion. Cost of such diagnostic consultation and/or testing shall be borne by the City. Cost of therapy and/or treatment shall be borne by the firefighter. Reports of diagnostic consultation and/or testing shall be submitted to the Chief or Board.

Firefighters shall be entitled to sick leave with full pay without limitation, subject to processing of medical disability pension status under current Indiana law. Additionally, the City will pay for the medical expenses of the firefighter in accordance with current Indiana law at the time of the illness or injury. Such expenses will be paid by the City to the extent that such expenses are not reimbursed by the firefighter's medical insurance or workers compensation insurance, subject to a maximum liability to the City of the amount of non-reimbursed medical expenses that would have been incurred if the firefighter was on the City's medical insurance plan.

A firefighter who is pregnant shall be treated as any other employee with a medical disability.

ARTICLE XVII. Layoffs

In the event that the City may find layoffs necessary, they shall notify BMF Local 586, in writing, of the number of sworn personnel to be laid off.

Sworn personnel with the least seniority will be laid off first and recalled last. Sworn personnel that have been laid off will be given the opportunity to return to duty before any new personnel will be hired.

Civilian personnel will not be hired as the result of a layoff to perform any duties previously performed by a firefighter.

ARTICLE XVIII. Negotiation Time

Future contract negotiations, pursuant to Bloomington Municipal Code §2.34, shall be scheduled in a manner to provide that representatives of the Unit will be granted duty time off, with the approval of the Fire Chief, to participate in collective bargaining meetings and negotiations with the City scheduled to occur during duty time. Generally, not more than two (2) Unit members will be excused from the same shift for participation in such meetings. In special circumstances, the Unit may request a third (3rd) member from the same shift be excused. Approval of the Fire Chief will not be unreasonably withheld.

Unit members will not be compensated by the City for time spent in negotiations or union business scheduled during firefighter's off-duty time.

ARTICLE XIX. Labor-Management Committee

The City and employees in the Unit agree to utilize a joint Labor-Management Committee which shall consist of three (3) representatives appointed by the Mayor and

three (3) representatives appointed by the Unit. Additionally, one non-voting member shall be mutually selected by the members to serve as the Labor-Management Committee Advisor. This Committee shall meet at least on a quarterly basis, and additionally as requested by either party, in order to discuss any and all facets of the employment relationship. If a majority of the Committee decides as a result of such discussion that a change should be made, then the Committee shall forward such recommendation to the Fire Chief and to the Union President. The Chief may approve the recommendation without Board of Public Safety approval, or shall forward to the Board of Public Safety within thirty (30) days with a positive or negative recommendation or without a recommendation. A copy of the Chief's submission, if any, shall be forwarded to the Union President, who may also provide a recommendation to the Board of Public Safety, with a copy to the Chief. The Board of Public Safety shall consider the matter at its next regularly scheduled meeting.

In the event that a majority of the Committee shall fail to reach an agreement on any proposal after four (4) meetings in which the proposal was subject to good faith discussions, then any three (3) members of the Committee may forward their recommendation to the Fire Chief and Union President to resolve. Within thirty (30) days the Fire Chief and Union President shall resolve the matter or forward it on to the Board of Public Safety with their recommendations. The Board of Public Safety shall consider the matter at its next regularly scheduled meeting.

The parties recognize and acknowledge that the Board of Public Safety does not have fiscal appropriation powers.

ARTICLE XX. Non-Discrimination

The parties hereto agree that they shall not discriminate against any person because of his or her race, color, sex, disability, sexual orientation, national origin, familial status or ancestry, or any other legally protected classification.

The parties further acknowledge their continuing responsibility affirmatively to seek equal employment practices under the City of Bloomington's Affirmative Action Plan, whereby all employees will be given equal opportunity to be employed in positions which provide the greatest opportunity for use of their skill, ability and experience.

ARTICLE XXI. Personnel Service Records

Inspection of documents contained in an employee's personnel file shall be in accordance with state law. Each employee shall be given a copy of all additions to their file at the time such additions are made or in a reasonable time thereafter.

Complaints determined to be unfounded or those in which the employee was found not to be involved or is exonerated will not be placed in the employee's personnel file. Sustained complaints will be retained in accordance with state law.

Adverse personnel actions may not be considered by the department beyond three (3) years from the date of the adverse personnel action.

ARTICLE XXII. Agreement Grievance Procedure

Any dispute between the parties arising out of the meaning, interpretation or application of this Agreement shall be resolved in conformity with the following procedures.

The term “work days” as used in this Article shall mean the days Monday through Friday inclusive and excludes Saturdays, Sundays, and holidays on which City Hall is closed.

- 1. An aggrieved firefighter shall notify the Battalion Chief, in writing, of a concern or complaint within five (5) working days of its occurrence. The Battalion Chief shall attempt to resolve the matter with the firefighter and station captain, and shall provide a written response within ten (10) working days of receipt. If the matter is not satisfactorily resolved at this level, then the aggrieved officer may proceed to Step Two of this Procedure by initiating a grievance.**
- 2. Any matter not resolved at Step One of this Procedure may be presented, in writing, to the Union Grievance Committee within ten (10) working days of the response of the Battalion Chief. The Union Grievance Committee shall determine if a grievance exists. The Union Grievance Committee shall consist of the three (3) shift stewards and any two (2) Executive Board members. If any member of the committee is involved in the grievance, they shall be replaced by one of the remaining executive board members. Any remaining Executive Board Member shall replace any member of the Committee that is on vacation, city day, or sick leave.**

After the Union Grievance Committee has met, and decides that a grievance does exist, the Union shall within ten (10) working days, with or without the aggrieved person or persons in the bargaining unit, present the grievance in writing to the Chief of the Fire Department or their designee.

- 3. Any grievance forwarded under Step Two of this Procedure shall be presented by the Union Grievance Committee, in writing, to the Chief within ten (10) working days. The Chief shall serve a written response upon the President of the Union within ten (10) working days of receipt.**
- 4. Within ten (10) working days of receipt of the Chief’s written response to Step Three, the Union Grievance Committee shall determine whether the grievance shall proceed to Step 4, the Board of Public Safety. Notification shall be made in writing to the Secretary of the Board. The Board shall hear the grievance at the next regularly scheduled meeting to occur at least seven (7) working days after receipt. The parties recognize and acknowledged that the Board of Public Safety does not have fiscal appropriation powers.**
- 5. In the event that a grievance is not resolved in Step Four of this Procedure, it may be submitted to non-binding advisory arbitration by the giving of written notice by one party to the other within ten (10) working days of the response of the Board of Public Safety. If such notice is given, the parties shall jointly**

request the American Arbitration Association to appoint an impartial arbitrator pursuant to its rules. The arbitrator may interpret this Agreement and apply it to the particular issue presented, but shall have no authority to add to, subtract from or in any way modify the terms of this Agreement or any agreement made supplementary hereto. The arbitrator shall, in any case upon which there is power to rule under the provisions of this Agreement, hold hearings upon the issue, make such investigations as deemed necessary and proper to a decision and shall render a decision, in writing, within a reasonable time. The expenses and fees of the arbitrator shall be borne equally by the City and the Union.

ARTICLE XXIII. Interdepartmental Transfer

The City of Bloomington values the public service provided by employees. Transfer from the Fire Department to a civilian position or the Police Department shall be as follows:

Any accumulated vacation time or "City Day" shall be taken before transfer from the department or paid to the employee.

The employee will receive and accumulate vacation days based on one-half of the employee's respective of years of service, as applied to either the Police Department's vacation or Civil City's vacation/PTO schedule. As an example, if the employee has 20 years of service with the Fire Department, he or she will receive the same number of vacation days as an employee with 10 years of service with the Police Department or Civil City.

If the transfer is to the Police Department, no vacation time shall be taken in the first year of service. If the transfer is to a civilian position, no vacation time may be taken during probation or the applicable period for the new position.

The employee shall enjoy the same rights as any new employee on probationary status upon transferring to a new position.

The employee shall receive no other benefit from transfer (including, but not limited to longevity or training steps) and must start at the entry level step required for all new employees. The provisions of this Article are also intended to apply equivalently to transfers to the Bloomington Fire Department. Any transfer to the Bloomington Fire Department shall require both compliance with all hiring criteria and successful completion of the probationary period. The sole benefit of inter-departmental transfer shall be eligibility for additional vacation days.

ARTICLE XXIV. Full and Complete Agreement

The parties acknowledge that during the negotiations that preceded this Agreement each had the unlimited right and opportunity to make demands and proposals with respect to any bargainable subject or matter, as defined by Bloomington Municipal Code §2.34, and that the understanding and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. Subject to the conditions set forth under the title "Term and Conditions of Agreement," this Agreement, including any supplements and exhibits attached hereto, concludes all collective bargaining between the parties during the term hereof, and effective January 1, 2010, constitutes the sole, entire and existing Agreement between the parties hereto and, effective January 1, 2010, supersedes all prior agreements and undertakings, oral and written, express or implied, or practices between the City and the Unit or its employees, and expresses all obligations and restrictions imposed on each of the respective parties during its term on all bargainable issues as defined by Bloomington Municipal Code §2.34.

Negotiations for future contracts will begin in the spring of the last year of this Contract intended to result in a new agreement approved by both parties by July 1st of the last year of the contract. In the event that a new agreement is not reached before July 1st of 2013, then the terms and provisions of the Agreement shall nonetheless remain in full force and effect until an agreement on a new contract is reached; provided, however, the terms and the conditions of the agreement shall not be extended for more than one year from the expiration of this Agreement.

This Agreement between the City of Bloomington and the Bloomington Metropolitan Firefighters Local 586, or its successor in recognition, constitutes a complete agreement as to all bargainable issues, effective January 1, 2010, through December 31, 2013.

**BLOOMINGTON METROPOLITAN
FIREFIGHTERS LOCAL 586**

CITY OF BLOOMINGTON

James Parrott, President

Mark Kruzan, Mayor

Neville Vaughan, Vice President

Andy Ruff, President
Bloomington Common Council

SIGNED this _____ day of _____, 2009.

Reviewed and Approved this _____ day of _____, 2009.

Kevin R. Robling
Corporation Counsel & Chief of Staff
City of Bloomington

I:\common\LGL\Roblingk\BFD Contract 2010-2013 (Final) proofed by HW accepted by KRR.doc

ORDINANCE 09-25

TO AMEND ORDINANCE 09-13 WHICH FIXED THE SALARIES OF OFFICERS OF THE POLICE AND FIRE DEPARTMENTS FOR THE CITY OF BLOOMINGTON, INDIANA, FOR THE YEAR 2010 -

Re: Reflecting Collective Bargaining Agreement Affecting Positions in the Fire Department

WHEREAS, the City of Bloomington and the Bloomington Metropolitan Firefighters Local 586 have successfully executed a collective bargaining agreement including year 2010;

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

SECTION I. Section 1 of Ordinance 09-13 which fixed salaries for officers in the Fire department for 2010 shall be amended by deleting it in its entirety and replacing it with the following:

SECTION I A. From and after January 1, 2010, pursuant to Indiana Code § 36-8-3-3 (d), the salary and pay schedule for the officers of the Fire Department of the City of Bloomington, Indiana, shall be fixed as follows, to wit:

FIRE DEPARTMENT

<u>Job Title</u>	<u>Grade</u>	<u>Minimum</u>	<u>Maximum</u>
Chief *	12	47,978	97,411

<u>Job Title</u>	<u>Base Salary</u>
Deputy Chief – Administration	\$60,320
Deputy Chief – Operations	\$60,320
Fire Prevention Officer	\$52,374
Battalion Chief	\$55,848
Captain	\$49,914
Sergeant	\$46,366
Firefighter 1 st Class	\$44,605
Probationary Officer	\$39,586

* Salaries shown are the minimum and maximum for the job grade.

In addition to the salary and pay schedule listed above, the City shall also contribute four percent (4.0%) of the salary of a fully paid Firefighter 1st Class to the Public Employees Retirement Fund on behalf of each firefighter under the authority of I.C. § 36-8-7-8 and 36-8-8-8.

SECTION I B. Additional pay for all job positions except Chief.

Effective January 1, 2010, increases to the base salary described above on the basis of longevity, professional assignment, certification, and education shall be paid as reflected below. The maximum annual total for longevity, professional assignment, certification, and education pay under Section I B. is \$4,800.

Longevity:

Additional pay for longevity shall be credited on the firefighter’s anniversary date of hire after the completion of years of service as reflected in the chart below.

<u>Years of Service</u>	<u>Amount</u>	<u>Years of Service</u>	<u>Amount</u>	<u>Years of Service</u>	<u>Amount</u>	<u>Years of Service</u>	<u>Amount</u>
1	\$0	6	\$900	11	\$900	16	\$1,200
2	\$300	7	\$900	12	\$900	17	\$1,200
3	\$300	8	\$900	13	\$900	18	\$1,200
4	\$600	9	\$900	14	\$1,200	19	\$1,200
5	\$600	10	\$900	15	\$1,200	20+	\$2,000

Certification:

1st Master Firefighter or NFPA Advanced certification	\$300
Each additional certificate	\$100

Maximum of eight (8) certificates or \$1,000.00 shall apply. Additionally, firefighters who have achieved EMT certification shall receive an additional \$500.00 per year. Any and all certifications must be current and on file at Headquarters to receive certification pay.

Professional & Command Classifications:

Additional pay for professional and command appointments shall be as follows:

Confined Space Rescue Team Member	\$ 300
Confined Space Rescue Team Coordinator	\$ 500
Headquarters Sergeant	\$ 400
Air Mask Technician, Shift Investigator, Headquarters Captain	\$ 600
Engineer	\$ 700
Training Officer	\$ 800
Chauffeur	\$ 900
Rescue Technician	\$ 1,200
Shift Fire Inspector	\$ 1,710

Education:

Education Pay shall be paid to firefighters with advanced degrees from accredited institutions at two levels:

Level 1	Associate 2-year degree	\$ 500
Level 2	Bachelor 4-year or higher level degree	\$ 1,200

Other:

Unscheduled Duty Pay	\$25.00 per hour Minimum 2 hours - no maximum
Holdover Pay	\$12.50 per half-hour Minimum 0.5 hours - no maximum
Mandatory Training Pay	\$25.00 per hour while off duty Minimum 2 hours - maximum 8 hours
Holiday Pay	\$100 per day
Clothing Allotment	\$1,600
Reassignment Pay	\$10 per tour of duty

SECTION I C. Salary Increase for Chief

Effective January 1, 2010, subject to the maximum salaries set by this ordinance; an increase may be included in the Chief's base salary. This increase may be some combination of market and merit components.

ANDY RUFF, President
Bloomington Common Council

ATTEST:

REGINA MOORE, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2009.

REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2009.

MARK KRUZAN, Mayor
City of Bloomington

SYNOPSIS

This ordinance amends the City of Bloomington Police and Fire Salary Ordinance for the year 2010 (Ordinance 09-13) by reflecting changes negotiated in a collective bargaining agreement with the Bloomington Metropolitan Firefighters Local 586 achieved after the approval of the original salary ordinance.

Memorandum

To: City Council members
From: Daniel Grundmann, Employee Services Director
CC: Dan Sherman, Council Attorney
Mayor Kruzan; Deputy Mayor Maria Heslin; Mike Diekhoff, Police Chief;
Roger Kerr, Fire Chief; Kevin Robling, Corporation Counsel; Mike Trexler, Controller
Date: November 18, 2009
Re: 2010 Police and Fire Salary Ordinance amendment (Ordinance 09-25)

This memo references Police and Fire Salary Ordinance amendment (Ordinance 09-25). The contents are the result of negotiations between the City of Bloomington and the Bloomington Metropolitan Firefighters Local 586. At the time the initial salary ordinance (Ordinance 09-13) was submitted for approval, collective bargaining was not finalized. This amendment addresses the results of the now completed process.

For the firefighters, Firefighter 1st Class, Sergeant, and Captains will receive a 3.0% increase and the rates will be \$44,605, \$46,366, and \$49,914 respectively. In order to avoid exacerbating issues of wage compression, remaining positions will also receive a 3.0% increase with the exception of the Fire Chief, who is compensated according to the non-union compensation plan. Additionally, in accordance with the collective bargaining agreement, PERF contributions increase from 3.0 to 4.0%.

The salary ordinance also includes unit compensation for longevity, education, certification, training, and other miscellaneous qualifications defined by and provided for in the collective bargaining agreements.

We respectfully request your approval. Please contact me at 349-3578 if you have any questions or comments prior to the meeting.

In the Council Chambers of the Showers City Hall on Wednesday, January 21, 2009 at 7:30 pm with Council President Andy Ruff presiding over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
January 21, 2009

Roll Call: Mayer, Piedmont-Smith, Rollo, Ruff, Sandberg, Satterfield, Sturbaum, Volan, Wisler

ROLL CALL

Council President Ruff gave the Agenda Summation

AGENDA SUMMATION

There were no minutes to be approved at this meeting.

APPROVAL OF MINUTES

REPORTS:

Councilmember Isabel Piedmont-Smith said that the celebration of the life of the late Reverend Martin Luther King, Jr. (MLK) was particularly poignant this year as the very next day we watched the inauguration of the first African-American President of the United States, Barack Obama. She noted that King not only worked for the causes of African-Americans, but worked tirelessly on behalf of peace and non-violence and to alleviate poverty in our country. She read from MLK address at the Riverside Church in New York City on April 4, 1967.

- COUNCILMEMBERS

Councilmember Tim Mayer noted the presidential inauguration, saying that “we have chosen hope over fear.” He read a section of a January 17, 2009 New York Times editorial by Verlyn Klinkenborg which used these same words regarding regeneration and new beginnings.

Councilmember Mike Satterfield thanked agencies that served the homeless at this time of year. He asked citizens to consider buying from locally owned businesses, noting how money would stay in the local economy.

Councilmember Chris Sturbaum said the country was just now recovering from the assassinations of the 1960s and we needed to get to work in our own little corner of the world.

Councilmember Andy Ruff said that although the MLK speech Piedmont-Smith read was given a long time ago, and we’ve now elected a black man as president of the US, we haven’t come that far in terms of peace and justice. He said that MLK supported unions for promoting strength and economic security, but since his death unions have been dramatically weakened. He noted too, that peace has not prevailed. He said we all need to seize the day and do what we can to help. The Obama administration cannot do everything and we all need to work in whatever way we can to keep the ‘new days’ from clouding up.

There were no reports from the Mayor or other city offices.

- MAYOR and CITY OFFICES

COUNCIL SIDEWALK COMMITTEE REPORT

- COUNCIL COMMITTEES

It was moved and seconded that the council accept the Disclosure of Conflict of Interest for Dan Sherman. Sherman noted that one of the sidewalk projects considered in the Sidewalk Committee meetings this year would have passed in front of his house.

MOTION TO ACCEPT
DISCLOSURE OF CONFLICT OF
INTEREST

The motion received a roll call vote of Ayes: 9, Nays: 0.

Dan Sherman noted the Sidewalk Committee members and staff members that supported the work of the committee. He outlined the funding sources, criteria for funding, process of deliberation and then explained the six sidewalk segments that were selected for funding this

- Sidewalk Committee Report

cycle. He noted the last Sidewalk Committee meeting and debriefing meeting would take place in the future.

Volan thanked Sherman for his report, and asked if the entire \$225,000 in funding came from residential parking permit sales. Sherman said that the Bloomington Municipal Code included this provision. Volan asked how many projects were proposed, and asked for an example of one that didn't get funded. Sherman said over 40 projects were proposed and gave examples of a couple of projects that were not funded.

Satterfield noted that it was a comprehensive report. Sherman said that the deliberations took about 10 hours. Satterfield asked about the Kinser Pike project, and what criteria enabled the project to be highly ranked. Sherman said that not only did it rate highly, but it rose higher because of intuitive and anecdotal information. Sherman said that there was no actual measure of pedestrian usage at this time.

Mayer added that there were pedestrian counters that triggered a count when a person walked by it. He thanked the committee for considering the East Third Street project and said that there was no sidewalk on the entire length of Third Street from Bryan to the bypass, and had been that way since the area had been improved in the 1970s. He outlined areas on that street where he considered creating a sidewalk to be critical.

Sherman noted that the Greenways project would extend all the way to the bypass.

Piedmont-Smith said there was no pedestrian signal at Kinser Pike and the bypass and wondered who would be in charge of putting one in. Sherman said it would be a state or INDOT issue, and confirmed that the City could request a pedestrian signal there.

Community member Michelle Cole said that it would be helpful to see the scores for the proposed projects, especially for those not chosen for funding.

Sidewalk Committee member Wisler said that even though the committee was funding 6 projects in the city, more sidewalks would be constructed through other programs of the city. He added there was a small amount of funding in this program, and that 'walk scores,' pedestrian level of service, and cost were all considered. He said that some of the cost component was the acquisition of right-of-way, and then explained that concept. He said that some projects had a higher score, but that the cost of right-of-way acquisition made a difference in the project viability. He added that if citizens would donate portions of the right-of-way, it would make residential sidewalk projects a lot more feasible.

Wisler said he was particularly interested in the Kinser/by-pass crossing because it was a busy intersection surrounded by attractive destinations with the school, skate park, and business plazas. He said he was also interested in the 17th Street and Kinser Pike intersection, but that right-of-way acquisition was too expensive. He said that these may be recommendations for next year.

Sidewalk Committee member Rollo said that while the scoring was not arbitrary, it needed a bit more refining. He said that the committee process helped capture factors that were not reflected in the scoring criteria. He gave some examples. Rollo thanked the committee members for their work, saying that they were committed and made the process work well. He also thanked Mayor Kruzan for his support in sidewalk funding.

- Sidewalk Committee Report
(cont'd)

Rollo noted that most of the sidewalk projects that the city was currently working on were actually not required of developers in the past. He said it was a shame that the public had to make up for the lack of planning in the past, even remote past. He noted the cautionary tale that there's a lot to be considered when the city approves development projects, including storm water, sewers, sanitation and all city services. He said that there were hidden costs, and we ought to have ways that we can establish full cost accounting with these projects. He added that pursuing the concurrency and adequacy of services needed to be examined as well.

Sandberg noted the priority system used in this funding and commended the committee in allocating the limited resources. She said that there was wide representation on the committee, and asked citizens to contact council members if they had residential sidewalk needs. She noted her support of the recommendations in the report.

Sturbaum said he had served for a number of years on this committee and that there were always too many projects to complete with too little money. He noted the additional support for this work with money by the mayor, and the support of the utilities department. He said new thinking about sidewalks was forthcoming; that sidewalks are an asset, not a 'taking.' He hoped that more folks would donate their right-of-way to the sidewalk projects to make them more affordable.

Volan said that the Alternative Transportation Fund (from the regulation the overuse of free parking from the core neighborhoods) funded the sidewalk projects, and noted its value as such. He said that, similarly, the demand for downtown parking should also fund the downtown non-motor vehicle transit.

President Ruff asked Volan not to stray from the sidewalk committee report and recommendations topic.

Volan said that the report was made possible by parking, and his point was relevant.

Mayer thanked the committee for its work and consideration of the sidewalk on East Third Street. Mayer said that he had served on the committee, but wondered if a Barrett Law would be appropriate in these instances. He noted that a Barrett Law was one where a municipality could assess a levy for street, curbs, sidewalks, alleys and sewer improvements on the benefitted properties.

Piedmont-Smith thanked the committee members, as well as Dan Sherman and Justin Wykoff for their work. She noted that all the projects with the assigned scores were available to the public on the council website within the packet that outlined the Sidewalk Report. She noted that the Moore's Pike Sidewalk would improve sight lines and increase safety in this area for pedestrians.

Piedmont-Smith noted that residents from District 5 had requested a sidewalk on Madison Street between Dodds and Patterson. She wanted them to know that the project was not deemed feasible at this time because of low levels of traffic in that area. She noted the same could be said of a project requested on Fairview south of the hospital. She added that the request for a sidewalk on the north side of Miller Drive was not ranked higher because of the complete sidewalk on the south side of the street. She added that these projects would be considered in the future.

Ruff noted that this committee's work was daunting. He said that even though there were not a lot of projects funded at one time, a decade of this incremental work had made a significant change in the sidewalk inventory.

It was moved and seconded that the council adopt the recommendations in the Sidewalk Committee Report.

- Sidewalk Committee Report (cont'd)

The motion received a roll call vote of Ayes: 9, Nays: 0.

METROPOLITAN PLANNING ORGANIZATION REPORT

- Metropolitan Planning Organization Report

Councilmember and Metropolitan Planning Organization member Ruff said that at the request of Indiana University, as well as the City of Bloomington, the MPO Policy Committee added its support to their statements regarding the establishment of new at-grade railroad crossings. He said it is usually difficult to get new at-grade railroad crossings because, in order to keep potential contacts between vehicles and trains to a minimum, the railroad company doesn't like to allow new railroad crossings.

Statements of support for additional at-grade rail crossings.

Ruff noted that IU had approached the MPO for a statement of support for their interest in creating a new at grade rail road crossing at Woodlawn. He said it had come to the Policy Committee with a hold recommendation from the Citizens Advisory Committee and the Technical Advisory Committee, as they had expressed an interest in hearing more about the north side plans of the University before endorsing the crossing. He said the Policy Committee made the endorsement in light of the closing of the crossing at Walnut Grove.

Ruff said the Policy Committee approved a request for a statement of support from the City to establish a crossing at South Johnson Avenue, which is south of 3rd Street on the west side near Basswood Drive. It would eventually provide a connection between 2nd and 3rd Streets and is part of the master thoroughfare plan.

He added that the Citizens Advisory Committee of the MPO worked with planning staff to develop a complete streets policy to insure that needs of all users of the corridor were met as part of a road construction or reconstruction project. The draft statement was put together and then modified by the CAC, at which point it was also supported by the Technical Advisory Committee. After, it came to the Policy Committee for adoption and implementation.

Adoption of the Policy Committee of the Complete Streets Policy for the Bloomington/Monroe County Metropolitan Planning Organization.

Ruff asked Planning Director Tom Micuda to briefly explain the Complete Streets Policy.

Micuda said the Complete Streets Policy was adopted by the policy committee of the MPO. Micuda said that this was a relatively new concept that was gradually being adopted in communities across the country, and that Bloomington was in the initial wave of communities considering the Complete Streets Policy. He said the policy would provide a check in the transportation planning process as streets were designed to consider all modes of transportation. He noted that there was a test score that would need to be met for funding from the MPO. Micuda added that this would be implemented in the next round of the Transportation Improvement Program which is the Four Year Capital Plan for MPO street projects.

Ruff commended citizens of the community who helped draft and bring this policy forward. He noted that a spirited debate took place as the policy was adopted.

There were no comments at this point in the meeting.

PUBLIC INPUT

There were no appointments to boards or commissions at this meeting.

BOARD AND COMMISSION APPOINTMENTS

LEGISLATION FOR SECOND
READING

It was moved and seconded that Ordinance 09-02 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the Committee Do-Pass Recommendation of 8-0-0. It was moved and seconded that Ordinance 09-02 be adopted.

Director of Employee Services Department Daniel Grundmann explained the legislation.

Grundmann limited his presentation to unanswered questions about the Ordinance, referring councilmembers to the complete synopsis and previous discussion of the legislation.

He noted that he did not expect any additional budget appropriations due to the changes of grades for the Police Department's Executive Assistant or Office Manager.

He addressed an issue brought up in previous discussions about a Limited Part Time (with Benefits) Motor Equipment Operator, which would be a 12 hour per week position. Grundmann said that this situation was covered in Section Two of the Personnel Manual and it indicates that the LPT with Benefits was a little used classification within city policy, but allowed benefits to be paid to someone who holds a position with less than 20 hours of work per week but for more than nine months per year. He defined these benefits as health insurance, but not benefit time, or Paid Time Off.

Piedmont-Smith said that the City had a Job Evaluation Committee, and that as a long time supervisor at IU, she knew that it was difficult to keep up with changes in job descriptions. She said she was happy to support their recommendation.

Ordinance 09-02 received a roll call vote of Ayes: 9, Nays: 0.

It was moved and seconded that Resolution 09-01 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the Committee Do-Pass Recommendation of 5-1-2. It was moved and seconded that Resolution 09-01 be adopted.

Resolution 09-01 To Amend the Interlocal Cooperation Agreement Between the City of Bloomington and Monroe County, Indiana in Regard to Planning and Zoning Jurisdiction - Re: Amending the Map of Said Jurisdiction to Transfer 38.31 Acres Located at 2865 East Rhorer Road from Monroe County to the City of Bloomington

Plan Director Tom Micuda spoke to this resolution. He noted that the County Commissioners and Monroe County Plan Commission had discussed this change in the City/County Interlocal Planning Agreement recently. He said that the resolution and the following ordinance on the agenda would first transfer property into the City of Bloomington's planning jurisdiction and then designate a zoning classification for the property. Micuda noted that the zoning request was for a Planned Unit Development allowing up to 38 single family detached housing units on 38 acres on Rhorer Road.

As background, Micuda showed maps that included the city and county planning jurisdictions, corporate boundaries, the City's Areas Intended for Annexation (AIFA) and properties that were proposed to be transferred. He noted that approval of the resolution would place the property into the AIFA as well as the city planning jurisdiction.

Micuda outlined reasons the request could be supported. He noted that the

Ordinance 09-02 To Amend Ordinance 08-15 Which Fixed the Salaries of Appointed Officers, Non-Union and A.F.S.C.M.E. Employees for all the Departments of the City of Bloomington, Monroe County, Indiana, for the Year 2009 - Re: Positions in the Police Department, Public Works Department, Parks and Recreation, and Utilities

Resolution 09-01 To Amend the Interlocal Cooperation Agreement Between the City of Bloomington and Monroe County, Indiana in Regard to Planning and Zoning Jurisdiction - Re: Amending the Map of Said Jurisdiction to Transfer 38.31 Acres Located at 2865 East Rhorer Road from Monroe County to the City of Bloomington

environmental regulations under city jurisdiction would be stricter than county jurisdiction, and that element of control would be favorable to the city. Secondly, he said that the acreage most likely would be developed with other property that the petitioner controls in the area in a large PUD request, but the city would still get planning control through the Plan Commission and Common Council processes. This would be better than having a split jurisdiction and having the city and county reviewing separate portions of the development.

He then spoke of the proposed zoning situation, saying that the proposal for 38 units per acre was a place holder as it was not an "up zone" for the petitioner. He added that this zoning designation was consistent for the property around the site in question.

Micuda pointed out adjacent properties on maps and told their position, contiguity, zoning and probability for development in the future.

Micuda noted that at the Committee of the Whole meeting on this issue he was questioned about the County Commissioners' discussion on this subject. Micuda said that the commissioners met on June 20, 2008, and unanimously approved the amendment to the interlocal agreement.

Micuda said that the resolution had been before the county's Plan Commission. Micuda set forth some issues regarding future development under city jurisdiction.

These issues included that rights-of-way be dedicated consistent with the Thoroughfare Plan. Micuda noted that the city's jurisdiction would call for sidewalk rights-of-way as a matter of course. Because the property was not immediately being considered for annexation, the County Highway Department would review the infrastructure to make sure it met standards.

Micuda said that street connectivity was recommended in the future development in terms of the surrounding properties, but that this would be subject to environmental and engineering feasibility analysis that would occur later.

Micuda also noted another question from the Committee of the Whole discussion that asked about the impacts of development in this area to the Monroe County Community School Corporation. He said that a representative of MCCSC sits on the development review committee and noted that a development of 38 units per acre on the property in question would have negligible effect on school enrollment. However, if a larger aggregated development of 152 acres would occur at some point, it would have impacts and would have to be considered as any PUD proposal.

Micuda concluded by saying that the City Plan Commissioners and County Commissioners had recommended this request. The City Plan Commission advocated the separation of the zoning designation request from the transfer of jurisdictions.

Rollo asked if the petitioner's representative, who coincidentally sat on the City Plan Commission, recused himself from votes on this issue. Micuda said he did.

Rollo asked if anything like the placeholder PUD had been implemented before. Micuda said it was unique to this situation although it was sometimes used when preliminary plans of a PUD are not complete. Rollo asked if there were any negative precedents being set with these actions. Micuda said he didn't anticipate any because the PUD designation was not really the choice of the petitioner, but came from the transfer of jurisdictions.

Rollo asked if the Urban Services Boundary included the AIFA or came to

Resolution 09-01 (cont'd)

the edge of the AIFA. Micuda said that that term was created by the county to indicate sewer service was acceptable in a petition to develop a property. If a development with sewers was planned outside of that boundary, the boundary would have to be amended by the County Plan Commission. He said that the boundary was at the edge of the city's AIFA and added that the Utilities Service Board had slightly increased the boundary to include the property being discussed.

Rollo asked if there were any plans to annex the property, since the property would be placed in the city's AIFA. Micuda said there was not a plan to do so, but it would be included in the properties that would be periodically reviewed for annexation.

Wisler clarified with Micuda the AIFA boundary and corporate boundaries on maps. Wisler asked if there was any portion of the property owned by the petitioner that was within the city boundary. Micuda said that there was a 13-acre parcel within the corporate limits. Wisler asked the representative of the petitioner if there were plans to build residential units on both properties, within and outside of the corporate boundaries.

Travis Vencel, representative of YFD, LLC, petitioner, said that Wisler's question had nothing to do with the question being asked of the council at this meeting. He said that whether or not the parcel came into the city's planning jurisdiction, whether the areas were owned by one individual or several, inside or outside the corporate limits, the land in question would be developed, and the parcels adjacent to it would be developed. He said he had no idea of what any structures would look like at this point.

Wisler said his question was more about how developable that section of the property was to which Vencel said he guessed that the 13-acre parcel would not have 13 separate lots.

Volan noted that there was no mention of annexation of property with this resolution, and asked why it would not be eligible for annexation since infrastructure would be used.

Micuda said that the properties in the AIFA infrastructure would remain under county purview and would stay there until the area was annexed.

Micuda further addressed Volan's question about the timing of annexation. He said that the City reviewed parcels with an eye to fiscal benefit, services and other costs to the city, but that built out areas with higher assessed valuation were generally more attractive for annexation.

There was no public comment on this resolution.

In final council comments, Wisler said that this was an interesting case, citing the AIFA and corporate boundary issues. He said the request that the parcel be put into the City's jurisdiction so that a developer would have to deal with only one governmental entity rather than two separate processes with two entities was a good reason to consider this favorably.

He noted for the record that he had concerns about putting property in the AIFA because the people who lived there were disadvantaged in having to live by rules that are passed by the Common Council, and yet don't get to vote for council members. He said he hoped when folks bought these properties, they would understand that they'd be governed by zoning and development laws of the city.

Wisler said that it was important to him that corporate boundaries be intuitive and that people understand whether or not they live in the city. He said this could be confusing, as these properties are developed, and that a neighborhood could be split by a corporate boundary. He was concerned that citizens know where to get services, noting that one neighbor might have to call the Bloomington Police Department where another might have

to call the County Sheriff for services. He noted again that he would watch to see if the boundary and distinction between city and county would be apparent in terms of citizen services and rights.

Volan noted that there needed to be a mechanism for transferring development rights between properties and gave the example of an owner with a right to build 443 units being able to sell those rights to another land owner that already had infrastructure and schools within the city boundaries. He said that would preserve land around the edges of the city that really shouldn't be developed. He noted that he was against the development of these parcels altogether and was inclined to say no to this development and by extension say no to this proposal.

Rollo said it was prudent to be able to consider this development as a PUD as it would work to the benefit of both the petitioner and the community. He added that it was prudent to have the potential development handled by a single governmental entity, and he believed the process of City Plan Commission and Council review was best. He said that the Environmental Commission commented at the committee meeting on this item, and the city's more stringent environmental ordinances and oversight would come to bear on this site.

Piedmont-Smith said she agreed that she would rather not see this site developed at all, noting that what was proposed was "suburban sprawl." She added that given the circumstances she would rather have this suburban sprawl be controlled by the Unified Development Ordinance and city regulations than the county regulations. She specifically noted the county had less stringent regulations about working towards sustainability and environmental concerns. She said she would be keeping her eye open for the final PUD and hoped it would be something that was prudent for the future of the community.

Sandberg thanked Micuda for the additional information with regards to the school system and agreed that it was best to have this PUD under city control.

Resolution 09-01 received a roll call vote of Ayes: 8 Nays: 1 (Volan)

It was moved and seconded that Ordinance 09-01 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the Committee Do-Pass Recommendation of 5-1-2. It was moved and seconded that Ordinance 09-01 adopted.

Ordinance 09-01 To Amend the Bloomington Zoning Maps to Designate 38 Acres in the Process of Being Transferred From the Monroe County to the City Planning Jurisdiction as a Planned Unit Development (PUD) to Allow Up to 38 Single Family Detached Dwelling Units - Re: 2865 East Rhorer Road (YFD, LLC)

It was moved and seconded that Reasonable Condition #1 to Ordinance 09-01 be adopted.

Reasonable Condition #1

Piedmont-Smith explained the rationale for adding the reasonable condition that incorporates the Conservation Subdivision type into this PUD. She said the provision would ensure that houses would be clustered in one area so that the rest of the parcel could remain green space. She said the property, currently mostly greenspace, had a stream, sinkholes and environmentally sensitive land that could be protected with this measure. She added that the Planning Department and petitioner were amenable to this request.

This action is sponsored by Councilmember Piedmont-Smith and imposes a Reasonable Condition on PUD-33-08 under authority of BMC 20.04.080 (g)(1). This Reasonable Condition would require the final plan for this PUD to incorporate the Conservation Subdivision type specified in the Unified Development Ordinance.

Sturbaum noted that this 'reasonable condition' was reasonable.

Reasonable Condition #1 (cont'd)

Rollo asked if, by putting the condition on this parcel, there might be anything unforeseen in a larger PUD with surrounding parcels.

Micuda clarified the 'reasonable condition' provision, saying that if the 38-acre parcel came up for development on its own, it would have to be immediately reviewed under the conservation easement option. The action wouldn't bind the city to do that with a larger PUD, but the reasonable condition would indicate the preference of the council, and still be a binding determination on the 38-acre parcel.

Rollo asked if the 'reasonable condition' provision would be exempt if it came as part of a PUD. Micuda said it would be discussed as part of the PUD process in terms of what the appropriate subdivision type would be, given the properties location and strengths. He reiterated that the council was indicating a preference, even if it was not a binding decision on the rest of the property.

There was no public comment on the 'reasonable condition' provision.

There were no additional comments on Reasonable Condition #1

The motion for Reasonable Condition #1 to PUD 33-08 received a roll call vote of Ayes: 9, Nays: 0.

Volan clarified that the first resolution changed the agreement between the city and county so that the acreage could be transferred to the city planning jurisdiction. The subsequent ordinance changed internal zoning maps because, when a parcel is brought into the city planning jurisdiction, it must be given a zoning designation.

Vote On Ordinance 09-01 as amended.

Micuda said that the county designation on the property was 1 unit per acre, a designation class that was eliminated in the city per the 2007 Unified Development Ordinance. In response to Volan's comments about zoning designations near that proportion, Micuda said that Residential Estate districts had 2.5 acre lots, and that Residential Single Family districts had quarter acre lots.

Volan asked how the development of the 38-acre plot would be affected if it was not part of a larger PUD proposal. He specifically asked if neighbors would find themselves living next to properties unlike theirs. Micuda answered that if the zoning request got adopted, but the larger PUD is turned down, there would still be PUD zoning on this property for up to 38 single family detached housing units that would be developed in a conservation subdivision pattern. He added that the process would include a public hearing and the opportunity to involve neighbors.

Rollo expressed concerns about concurrency in this area. He asked about an evaluation of services that would accommodate a large scale development. Micuda said the analysis was in process and that sections of such an evaluation were being drafted. He added that it would be considered as part of services in an area of a quadrant of the city and would be part of any analysis the planning department would do for a PUD request.

Rollo asked about the recommendation that connectivity be maximized for this parcel, and asked if this referred to a stream crossing from Canada Farm. Micuda said that some individual plan commissioners were concerned. He said that there were benefits to connectivity in terms of other properties, but drawbacks in terms of environmental

impacts. He said that the developer needed this information to fully understand their options.

Vote On Ordinance 09-01 as amended (cont'd)

Rollo stated for the record that he was particularly interested in sanitary sewer services. He said having an analysis as to whether a prospective large development could be accommodated would help him in making a decision on a PUD.

Volan again referred to transferring development rights, asking if there was any way that this could happen through a PUD process. Micuda said it would not likely happen because he didn't think a property in the city's jurisdiction had the significant amount of land needed to do this. He also said that a PUD was specific to one piece of property, and that transfer of development rights included multiple properties. He offered to do more research on this issue.

Volan noted that a possible PUD on the land in question might include two non-contiguous parcels. Micuda said that since the larger PUD had not been yet proposed, he would investigate the possibilities. Volan said Micuda's use of the word 'possible' was encouraging.

There was no public comment on this item

Ordinance 09-01 as revised by Reasonable Condition #1 received a roll call vote of Ayes: 8, Nays: 1 (Volan).

There was no legislation for first reading.

LEGISLATION FOR FIRST READING

It was moved and seconded to suspend the rules to take up an item that was not on the agenda. The motion was approved by a voice vote.

Motion to Suspend Rules

It was moved and seconded to cancel the Committee of the Whole meeting scheduled for January 28, 2009 due to lack of legislation to be considered. The motion was approved by a voice vote.

Motion to cancel Committee of the Whole meeting scheduled for 1/28/09.

There was no public input at this point in the meeting.

PUBLIC INPUT

The meeting was adjourned at 10:09 pm.

ADJOURNMENT

APPROVE:

ATTEST:

Andy Ruff, PRESIDENT
Bloomington Common Council

Regina Moore, CLERK
City of Bloomington

In the Council Chambers of the Showers City Hall on Wednesday, March 25, 2009 at 7:30 pm with Council President Andy Ruff presiding over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
March 25, 2009

Roll Call: Mayer, Piedmont, Rollo, Ruff, Sandberg, Satterfield, Sturbaum, Volan, Wisler

ROLL CALL

Council President Ruff gave the Agenda Summation

AGENDA SUMMATION

The minutes of February 18, 2009 and March 11, 2009 were approved by a voice vote.

APPROVAL OF MINUTES

Councilmember Sturbaum urged that people call Evan Bayh and tell him "to get with it".

REPORTS:
COUNCILMEMBERS

Councilmember Volan wished everyone happy allergy season.

Councilmember Ruff commented on the death of life long Bloomington resident Tim McCammon who was working at a local quarry when he died. He wished the best to his family.

Ruff also wished the best of luck to the Bloomington High School South basketball team in the state championship.

Kathy Mayer from the Community and Family Resources Department and also co-chair of the upcoming Homeward Bound Walk introduced her co-chair for the event, Janet Cravens from General Electric. She described the event and passed out packets of information to council members.

MAYOR and CITY OFFICES

There were no reports concerning any council committees at this meeting.

COUNCIL COMMITTEES

Mark Haggerty presented information to the Council about the local jail. He said many in the jail have mental disabilities or addictions. He said there are now 350 people in the jail, 100 more than last year when that number was considered a scandal. He said 90% of those in the jail are substance abusers, 80% of the felons are DWIs, and 25% are black in a county that has a 2% black population. He added that everyone in the jail is poor. He said the conditions of the Monroe County Jail are ridiculous because of the lack of recreation and education in this overcrowded confinement which therefore cannot be reformative. He described the increase of local heroin use. He said we were incubating criminals in this facility and that something reformative must be done with these people who are poverty stricken or the problem would get even worse. He suggested that it was time for the city to take responsibility and to do something about this problem rather than foisting it off as a county problem.

PUBLIC INPUT

Bruce Anderson said that if we would remove ourselves from the Marxist and Stalinist mindset of Obama and apply the constitution, we would form community incubator foundations and get rid of the big industrial mindsets that create federal unions which created the current bailout problems. In terms of the jail overcrowding, he said the application of mercy would reduce the population, and suggested that the city stop enforcing the excessive bail and bonds and arresting people for walking home drunk. He spoke against taxation without representation.

Suzanne Kern thanked the city for supporting the Community Access Television station because of the ability the public has to view local media, produce videos and view international news casts.

Andrew Sharp reported that the Monroe County Council would be discussing an ordinance to ban smoking in a car with a child under 13 years old. He said although he disagreed with smoking in a car with a child, it is ultimately the parent's responsibility, not the government's. He also said he couldn't find anything on the web site about running for City Council, and suggested it should be on the web site.

It was moved and seconded that Jeanie Walters be reappointed to the Bloomington Urban Enterprise Board. The appointment was approved by a voice vote.

It was moved and seconded that Doug Wissing be appointed as an advisory member to the Historic Preservation Commission. The appointment was approved by a voice vote.

It was moved and seconded that Mike Szakaly and David Walters be reappointed to the Redevelopment Commission. The appointments were approved by a voice vote.

It was moved and seconded that Ordinance 09-04 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the Committee Do-Pass Recommendation of 6-0-3. It was moved and seconded that Ordinance 09-04 be adopted.

President Ruff announced that there was an amendment to introduce.

It was moved and seconded to adopt Amendment #1.

Councilmember Sturbaum reviewed the amendment and said this amendment altered the original proposal from changing all buildings in one year, to changing one each year for the next twenty years to allow the ability to focus on each building individually.

Councilmember Piedmont-Smith added that in addition to changing the way Phase II was conducted, a few other changes needed to be made including allowing the staff flexibility for determining when each building would be completed.

Councilmember Rollo explained that changing this ten year schedule to a 12 year schedule was done at the request of Mick Renneisen, Parks and Recreation Department Director, because the greatest burden for buildings to be completed was in the Parks Department.

Councilmember Wisler said his biggest concern was the cost of Phase II because he was concerned the Council was mandating something for which the cost was not fully understood. He said this amendment helped correct that issue. He thanked the sponsors for their work.

Councilmember Sandberg expressed her gratitude to the sponsors of this amendment which she said made this a better piece of legislation, and even though she was supportive of the original ordinance, would support the amended version even more whole-heartedly.

Piedmont-Smith thanked the staff for their assistance with these changes and asked for support of this amendment.

PUBLIC INPUT (cont'd)

BOARD AND COMMISSION APPOINTMENTS

LEGISLATION FOR SECOND READING

Ordinance 09-04 To Amend Title 2 of the Bloomington Municipal Code Entitled "Administration and Personnel" (Adding Chapter 2.29 Entitled "Green Building Program")

Amendment #1 to Ordinance 09-04
This amendment sponsored by Councilmembers Piedmont-Smith, Rollo, Sturbaum and Mayer allows for a transitioning in of the Phase II evaluation of existing buildings. Rather than requiring that Phase II for all existing buildings be completed by 2011, this provides that at least one building shall undergo Phase II analysis each year, beginning January 1, 2011. The amendment requires that Phase II for all buildings be completed by 2020. The amendment also eliminates the requirement that the City develop a 10-year schedule for bringing all buildings into LEED compliance and instead, requires that the City must: 1) register eligible buildings with the United States Green Building Council and 2) implement operational improvements and equipment upgrades necessary to obtain certification by 2022, subject to available funds. The City Administration endorses these changes. Lastly, the amendment makes a technical correction to the definition of "LEED" to make clear that that LEED offers four rating levels.

Sturbaum said the report to Council each year required by this amendment was helpful, and added that he was pleased to support this.

Amendment #1 to Ordinance 09-04
(cont'd)

Councilmember Mayer thanked Sturbaum for this idea and for bringing it forward. He said Council Attorney Sherman's research on LEED systems found that the city staff would be relied on for much of the pertinent information. Mayer encouraged the administration to set up a system to track time spent on this issue for inclusion in the annual report since it was a cost to the city, and may have future implications as it relates to this ordinance.

Amendment #1 to Ordinance 09-04 received a roll call vote of Ayes: 9, Nays: 0.

Vote on Amendment #1 to Ordinance 09-04

It was moved and seconded that Ordinance 09-04 be adopted as amended.

Discussion of Ordinance 09-04 as amended

Piedmont-Smith reviewed the main point of the ordinance and said it required all new city buildings to meet LEED Silver Standards for new construction which then would certify them as green buildings. She said the ordinance also ensured that existing buildings be brought to LEED "existing building standard" which would be the focus for the city. She reviewed the process and said that the accumulation of credits, awarded in several categories, translated to the certification standards of Certified, Silver, Gold or Platinum. She listed the categories for receiving credits as Sustainable Sites, Water Efficiency, Energy and Atmosphere, Materials and Resources, Indoor Environmental Quality, and Innovation In Operations. Ninety-two points are possible. A Silver designation required at least 43 points which is required by this ordinance.

Councilmember Wisler asked whether there were any characteristics or practices awarded credits that wouldn't be allowed in Bloomington such as wind turbines which he said were not in compliance with the UDO. Piedmont-Smith said she was unsure as to whether any of the items were in conflict with the UDO. She said she could get him an answer. Wisler said he thought that this information was important because there may be things the city wanted to encourage but which may not have been addressed in the UDO.

Councilmember Satterfield asked whether there was sufficient staff to satisfy the LEED requirements or would the city need to add staff to bolster the city's expertise.

Susie Johnson, Director of Public Works said she didn't think any staff would need to be added at this point. However, the city would need to hire a consultant to assist with the Phase II analysis.

Mayer asked Johnson about his suggestion of tracking staff time and wondered if that was acceptable to the administration.

Johnson said it would take additional staff time, but said it could be done. He said he was concerned about the additional staff time, but added that it was important work, and said it was important to recognize there was a cost associated with this work.

Public Comment

Bruce Anderson said he thought it would be helpful to explore the perpetual motion system because it was a self-sustaining system which would save much more money, because once the system is in motion it would stay in motion. He also suggested a more secure system for air quality would be to explore electrostatic air recirculation systems similar to what is found on submarines since it could remove biohazards and nuclear fallout.

Public Comment

Joe Davis, who identified himself as a green building activist and LEED- accredited said he had concerns about the limited benefits of the LEED accredited system for evaluating the city buildings. He said there were other tools available which had been used around the country. He reported that Bill Brown, IU Sustainably Director has said there are many paths to achievement of high performance buildings, not just LEED. He said LEED Silver certification could be achieved while totally avoiding addressing water efficiency, an issue mentioned by Councilmember Volan at the last meeting. He said LEED was weakened by choice in that matter. Davis added that if the city is limited to just one tool, then the city handicaps itself in achieving its goals. He said he was in support of the program and believed in LEED as a system, however he said other systems could be more beneficial. He added that as knowledge evolved, we shouldn't be limited to this one system, and suggested that this issue be tabled as more information is explored to expand the toolbox beyond LEED.

Public Comment
Ordinance 09-04 as amended (*cont'd*)

Jim Shackelford said the ordinance was a good idea. He said as a newcomer, his sense was the council and the city staff were knowledgeable and that the city was on a good track. He added that while LEED was a good set of guidelines, there were things better than LEED. He said the city could do better than LEED, and that as mentioned by Councilmember Satterfield, it would be undesirable to set up a bureaucracy which would become expensive in order to comply with LEED. He said sustainability was cheap in the long run, but if it was expensive in the long run, then it wasn't sustainability. He said the bottom line was to find the easiest, most pleasant, most aesthetically pleasing, most practical, simplest, cheapest way to live. He added that the city could be successful if not tied to anything counterproductive.

Tom McGlasson Jr. who serves on the City's Environmental Commission and its Green Building Committee, and has worked with this project from the very beginning said he acknowledged the previous two commenters and their points, and while not wanting to dispute them he said it was important to review why LEED was chosen. He said other communities were explored and LEED seemed to be the most common system in use. It also seemed to be the most broad system that encompassed a multitude of aspects from construction to demolition. He said it was the best option for the city to begin this program, because it was important to start somewhere and to keep it fairly simple. He added that there was nothing to prevent the council from using another system sometime in the future, but to be aware that other systems could be more costly and burdensome.

Jackie Bauer from the Environmental Commission Green Building Committee said those opposing LEED were concerned about abuses of the system. She said there was nothing that could be done to prevent someone who didn't care about Green Building standards from coming into a position of authority, but what this ordinance did was hold any person in authority to a minimum standard. Bauer said that no matter what system was used, there could be abuse. She said this ordinance did not restrict the city to LEED Silver, so the city could always go beyond that standard if there was a concern that other systems would provide greater standards. She said she thought it was a good thing to establish a minimum and urged support of this ordinance as written.

Councilmember Volan asked if there was any particular harm in providing additional standards. He asked why the city wouldn't want to embrace other standards.

Council Comment
Ordinance 09-04 as amended

Rollo said that this was the preeminent standard, and had been vetted and widely used. It also did not preclude the city from doing better. He added that the higher standards of Gold and Platinum would be

Council Comment
Ordinance 09-04 as amended (*cont'd*)

explored, but the cost also increased for those standards. He said this was the best and least confusing way to proceed and would accomplish the LEED goal of using one-quarter less energy than conventional buildings.

Volan said he didn't question the value of the LEED standard, but rather to what extent were other standards examined.

Rollo said that he had looked at other standards early on, and that LEED had the most respect among architects and engineers, but added that he did not test one against the other.

Satterfield asked if the review process was satisfactory for determining the best standard five to ten years in the future, and did it allow the consideration of standards other than LEED.

Piedmont-Smith said she believed so, because the annual report from staff would indicate whether there was a problem with LEED. She added that this was using the most tested system.

Sturbaum said if this operated correctly, it would be revenue neutral down the road. He said it made good sense financially and for the planet.

Sandberg said she was pleased with the ordinance as is, but acknowledged that the council could always revisit this later on if needed since this was a journey into uncharted waters. She said she wasn't too concerned about this being perfect because it was an excellent start.

Wisler said he thought it was important that the city was leading by example by placing the standards on government buildings before private sector development. He said pardon the pun, but thought it was great that the city do "LEED" by example. He cautioned however, that with this system, the same standard could have a positive impact in one case but ignore an egregious error in another case. He also questioned how LEED points were awarded. He said points were awarded for trading in a gas powered snow blower for an electric snow blower, but in a place where electricity is derived from coal, he wondered how much environmental impact that would have when more points should be given for shoveling the snow rather than using a gas or electric snow blower. He said the standard was not perfect and would be happy to offer amendments to allow for other standards as they came to the forefront. He said LEED was the standard by which progress could be measured most readily. His biggest concern, however, had been cost. He said he believed the city needed to show that this was an economically beneficial thing to do and to set an example that others would follow. He urged the city not to demonstrate that this was affordable by government, but not everyone else. He said he was pleased with the effort to control the cost as well as with the spirit of the ordinance and would support it.

Mayer thanked the authors and the staff. He said the amendment improved this ordinance. He also mentioned that the ordinance covered the buildings within the civil city which was taxpayer funded, but also covered the Utilities Department which was rate payer funded. He said his conversation with staff in that department assured him that they were comfortable with this.

Rollo said it had been known that energy and water scarcity along with global warming were pressing problems in this century. He said this was another step in a process that began with the recognition of climate change and peak oil issues. This ordinance allowed the city to attend to the problems. This addressed the cost issue in two ways. First, the initial cost and what it will pay back and save taxpayers, but also takes

in the greater cost of pursuing an unsustainable path. In addition to the dividends that energy savings would pay, this also addressed peak oil because with more energy efficient buildings there will be less natural gas used which then could be substituted for liquid fuels.

He thanked his council colleagues for their patience and the hard work of Piedmont-Smith and the research efforts of the council staff. He also thanked the city staff, Mick Renneisen, Susie Johnson, Mike Hicks, Danny Lopez and Adam Wasson, along with Bill Brown, IU Sustainability Director.

Ruff said on behalf of the entire council he wanted to recognize the tremendous amount of work that went into this. Particularly he thanked the council members, the council staff, the city staff, members of the Environmental Commission, the Commission on Sustainability and members of the public who contributed.

Rollo added a special thanks to the Environmental Commission which started this project in their Green Building Committee over two years ago, and demonstrated how legislation could originate at a grass roots level in a city board or commission.

Ordinance 09-04 as amended received a roll call vote of Ayes: 9, Nays: 0.

Council Comment
Ordinance 09-04 as amended (*cont'd*)

Final vote on Ordinance 09-04 as amended

There was no legislation for first reading.

LEGISLATION FOR FIRST READING

Bruce Anderson said he had been studying the creator of the present wireless cell communication system that originated with a need in WWII. He referred to the reluctance of a fire department to use the wireless system because of the health warnings and hazards. He said he was curious about the provisions put into place to monitor health situations due to cell phone transmissions.

PUBLIC INPUT

Ruff announced that after adjournment of this meeting, the Council would reconvene in a Committee of the Whole Meeting.

The meeting was adjourned at 9:18 pm.

ADJOURNMENT

APPROVE:

ATTEST:

Andy Ruff, PRESIDENT
Bloomington Common Council

Regina Moore, CLERK
City of Bloomington

In the Council Chambers of the Showers City Hall on Wednesday, September 16, 2009, at 7:00 pm with Council President Andy Ruff presiding over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
September 16, 2009

Roll Call: Mayer, Piedmont-Smith, Rollo, Ruff, Sandberg, Satterfield, Sturbaum, Volan, Wisler
Absent: None

ROLL CALL

Council President Ruff gave the Agenda Summation

AGENDA SUMMATION

There were no minutes to be approved at this meeting.

APPROVAL OF MINUTES

Tim Mayer recognized the passing of former Indiana University President Myles Brand, noting that they worked together on the task force to deal with the Thompson plant closing. He said that Paul Kleindorfer, who worked in customer service at Utilities, had also passed and noted that he would be missed. He said they both had a great impact on Bloomington.

REPORTS:
COUNCILMEMBERS

Susan Sandberg noted the upcoming community forum scheduled for October 20, 2009, entitled "There's No Place Like Home: Affordable Housing and Emergency Shelters." She said that the forum would provide personal testimonials and information to the Community and Family Resources Commission.

Isabel Piedmont-Smith announced that a coalition of organizations had put together a series of programs for a local celebration of Peace Week during September 18-24, 2009.

She also noted that the County Council was considering a tax abatement request by Printpack, a national corporation that was planning to close their local manufacturing plant and build a new plant in Monroe County. Piedmont-Smith said she had nothing against Printpack and the jobs they sustained in the community, but didn't appreciate their assumption of receipt of a tax abatement just because they asked for it. She reiterated that tax abatements were given at the discretion of the County Council with recommendation from the County Economic Development Commission. She said that although businesses across the country had this same attitude, the public benefit of each case should determine its outcome. She said their taxes provided services and if the burden for paying them was going to be reduced, there should be some public benefit in return. She noted the newspaper had editorialized that a hesitance on this issue by any County Council member reinforced the suggestion that Monroe County and the City of Bloomington were unfriendly to business. She said that statement was hearsay and that in the last several years Bloomington had been highly ranked in this regard and chided the newspaper for perpetuating the false vision of the community. She concluded by saying that the community needed to look at what businesses brought in return for their wanting to pay less taxes.

Andy Ruff acknowledged passing of Peter Duong, an Indiana University student who was killed in a pedestrian/auto accident on the north side of campus.

Andy Ruff noted that unemployment rates were among measures of economic well-being, according to the Indiana Business Review and the Herald Times. He said that one of the stated purposes for the proposed

section of the I-69 highway was to stimulate economic development, job growth and solve economic woes of the southwestern most counties of the state.

Ruff showed a map of Indiana that overlaid county unemployment rates with interstate highways corridors throughout the state, including the proposed southern Indiana route for I-69. In the overlay was indication of county unemployment rates that were both higher and lower than the national and state averages.

Ruff pointed out that the lowest unemployment rates in the state were along the proposed I-69 corridor and the highest were along the existing route in the northeast portion of the state. He said that this was not an isolated example, but a trend that had been going on for many years. He also said that after studying the proposed highway issue since 1992, the data was no surprise and did not tell the whole story, but that it was an interesting graphic presentation of the issue.

Ruff suggested that available scarce dollars to target economic problems would be better spent in ways other than the proposed highway. He said that interstate highways do not stimulate the type of economic development that the community needs.

James McNamara, Director of Pets ALIVE Spay/Neuter Clinic, defined the terms 'spay' and 'neuter,' and explained the non-profit was formed in 2002 as a response to the euthanasia rate at the City of Bloomington's local shelter. He noted the original emphasis was on awareness and adoption with the spay/neuter clinic founded in 2005 based on a national Humane Alliance. McNamara gave a comprehensive look at the clinic from its client base, to services to fundraising and fee structures for services. McNamara said the severe pet overpopulation crisis in the US was being met with an answer of euthanasia, and that although adoption was one solution, it was not enough. Minimizing the number of pets coming into shelters by spaying and neutering was the best answer, with financial help given to those who could not afford the surgery.

MAYOR and CITY OFFICES

Councilmember Ruff reported on the Metropolitan Planning Organization (MPO) Committee meeting held on Friday, September 11, 2009.

COUNCIL COMMITTEES

- RUFF- MPO

He explained that the MPO, consisting of officials from county and city government, City of Ellettsville, Indiana University and others are required to exist and act as a conduit for federal transportation money coming into the community. He said this gave the community a direct voice for decision making regarding that funding.

Ruff said a lot of bad information was going around that interfered with a good grasp of the issue of possibly purchasing property on South SR 37. He said that the property was part of the proposed, but not yet approved segment of I-69 highway extension. The extension had not received a Record of Decision resulting from a final Environmental Impact Study approval under the federal National Environmental Policy Act. He added that construction dates proposed by INDOT were a decade away even if final approval was given by the Federal Government soon.

Ruff said that buying property for the proposed highway was not yet scheduled, but a property owner who no longer lived in the community approached INDOT saying that they were unable to sell their property because it was in the prospective I-69 right-of-way. They asked for assistance.

• RUFF- MPO Report (cont'd)

INDOT had a provision whereby in hardship cases they could buy out a property before it was actually needed for a road or highway.

INDOT asserted that under federal law funding requirements the buyout had to go into the local Transportation Improvement Program (TIP) -- a plan for expenditures within a fairly narrow period of time. Ruff said that INDOT did not provide actual evidence of this requirement. He added that this was despite a long list of good, valid questions asked by the MPO including other INDOT funds that could possibly be used to buy the property, the need for approval by a local body, and others.

Ruff indicated that at first INDOT said the property could be bought in other ways. At its last meeting he said the MPO was told that it couldn't be done that way, but without any actual documentation.

Ruff asserted that INDOT was, in a backhanded way, forcing the community to formally accept the I-69 highway into their TIP.

INDOT also asserted that they could withhold funding for approved projects – tens of millions of dollars – if the inclusion of the property into the TIP wasn't done in this way.

He noted that the Mayor asked for documentation of the federal transportation law and that INDOT never provided any citation of legal code saying that money could be withheld from the community.

Ruff said that in the southern part of the proposed highway interchanges had been eliminated to save money, and that the governor has proposed that that sections of the right-of-way be shrunk and median be reduced to save on construction costs. He noted that with these and other changes happening, it was not obvious that there would be a need for a future right-of-way acquisition that would include the Tapp Road property. He questioned what the impact on this property would be in the coming ten to twenty years, especially in light of no Record of Decision noted above.

Ruff noted that one of the requirements of the projects' inclusion in the TIP is that the project be 'fiscally constrained.' That means that there were identified and expected sources of funds for the project. He said that that funding does not exist for I-69 anywhere north of Crane Naval Base and it was doubtful that increases in costs would even be able to cover the portion of the road being built to that point.

Ruff said, since the project was not 'fiscally constrained,' the following would apply. He read from the federal code as it applied to local MPO's:

- **450.322 Development and content of the Metropolitan Transportation Plan.** *A state or MPO shall not be required to select any project from the illustrative list of additional projects included in the plan.*

He further explained that an "illustrative project" was one that the state was allowed to put in a plan as a placeholder when there was no identified funding.

Ruff asserted that INDOT had been trying to skirt this issue by saying they didn't have identified funding, but were going to find creative funding, and then created a new category called Creative Financing and claimed that the I-69 project was not just "illustrative."

He said that with all these questions and no good answers, the local MPO wasn't sure if they were being duped into including this tacit statement of I-69 in the local TIP when they really didn't need to.

Ruff said that Mayor Kruzan's idea of having the City purchase the property for affordable housing was the perfect solution. He said it met the owners' needs without the delays of INDOT, and that the newspaper headline should have read "City Assists Property Owner in Hardship Buyout." He said this action actually helped INDOT as it was only considering buying the property because of the hardship request and otherwise wouldn't purchase the property for years to come. He added that if INDOT needed this land, it could purchase it from the City without a hardship provision.

He said the Mayor's solution also addressed the community's concern that the MPO might be putting I-69 into the TIP without reason.

Ruff said that the city would have the benefit of affordable housing rather than INDOT buying and razing the house on the property.

He concluded by saying that the Herald-Times newspaper editorial was unprofessional and insulting. To describe MPO members as 'giddy' because the solution simply was the best for that particular instance was disrespectful to the leadership of the community and didn't do justice to the effectiveness of the solution. He reiterated that the agenda item was to simply deal with a 'hardship' case of a property owner.

He said that considering the circumstances he felt that this lengthy report was needed to set the record.

Mark T. Day, co-chair of Citizens for Responsible Deer Management, introduced Andrea Morrison, the other co-chair of the group. They presented a petition signed by 506 residents requesting the City and County to establish a community based task force to develop a program for controlling local deer population. He said that a similar set of petitions with signatures of 564 county residents was presented to the county commissioners and he read a statement outlining reasons for establishing a task force, the urgency of the problem, experiences of other communities and why the group believed the city/county joint task force was needed. He also presented the Indiana Urban Deer Zone Law and noted that a list of possible candidates for a task force. He said this had become a major issue in the state of Indiana and across the country. He said he was concerned for public health and safety, biodiversity and sustainability, economics and aesthetics.

PUBLIC INPUT

Andrea Morrison recommended a task force follow a community based style of management that would involve local government, residents, public wildlife management agencies, and interest groups. Said a task force was needed to identify and study the problem with public meetings, and then implement a plan to reach and sustain a safe density of deer.

David R. Grubb identified himself as involved in tree transfer and as a landscape gardener. He spoke of environmental issues and sustainability in the county areas.

Gabe Rivera spoke of issues regarding ending the war on drugs referring council members to his websites to view clips of interest. He added that he was appreciative of this time to address the council.

David Meese, an IU student who lived in an apartment above the Bakehouse on College Avenue downtown, said he was required to purchase a permit for \$64 per month to park in his 'neighborhood.' He said people in other neighborhoods paid \$25 for a neighborhood permit for the whole year and said that this was discriminating. He said a subsidy to park in the garage, or a pass to park a couple of blocks away would help those who lived downtown.

There were no appointments to boards or commissions at this meeting.

BOARD AND COMMISSION
APPOINTMENTS
LEGISLATION FOR FIRST
READING

It was moved and seconded that the following legislation be introduced and read by title and synopsis. Clerk Moore read the legislation.

Appropriation Ordinance 09-08 To Specially Appropriate from the Electronic Map Generation Fund Expenditures Not Otherwise Appropriated (Appropriating Funds to Retain Consultant for the City’s Geographic Information System)

Appropriation Ordinance 09-08

Appropriation Ordinance 09-09 To Specially Appropriate from the General Fund Expenditures Not Otherwise Appropriated (Appropriating a PetSmart Charities Grant for Use by the Animal Care and Control Department)

Appropriation Ordinance 09-09

Ordinance 09-17 To Vacate Four Public Parcels - Re: A Portion of North Madison Street, West 12th Street and Two Alleys Located Between North Rogers Street, the Indiana Railroad, 350 West 11th Street and West 11th Street. (Doug Dayhoff, Upland Brewing Company, Inc., and Middle Court Real Estate, LLC [together “Upland”], Petitioners)

Ordinance 09-17

David R. Grubb spoke again about the beauty of this area of the country and how the natural resources should not be destroyed.

PUBLIC INPUT

Andrea Morrison said that the Citizens for Responsible Deer Management had a website with other US cities’ solutions to deer management information.

Gabe Rivera said he had submitted a program to the local cable access channel, noted his website and youtube address and asked people not to carry guns during peace week and afterwards.

Parliamentarian Volan said for the record that the next council gathering would not afford a public comment section of the agenda because it was a Committee of the Whole meeting.

The meeting was adjourned at 8:34 pm.

ADJOURNMENT

APPROVE:

ATTEST:

Andy Ruff, PRESIDENT
Bloomington Common Council

Regina Moore, CLERK
City of Bloomington