



## Packet Related Material

### Memo

### Agenda

### Calendar

### Notices and Agendas:

*None*

### Legislation for Final Action:

**Res 03-27** To Approve a Statement of Benefits - Re: 1000 West Kirkwood (Richard Groomer, Petitioner)

*(Please see the October 3<sup>rd</sup> Packet for Legislation, Summary, and Background Materials)*

Contact: Maren McGrane at 349-3406 or [mcgranem@city.bloomington.in.us](mailto:mcgranem@city.bloomington.in.us)

**Ord 03-28** To Amend Title 15 of the Bloomington Municipal Code Entitled "Vehicles and Traffic" - Re: Certain Stop, Yield, and Signalized Intersections, Restricted Turns at a Red Light, Parking Zones, and Cross Walks

*(Please see the October 3<sup>rd</sup> Packet for Legislation, Summary, and Background Materials)*

New - Revised Am 01 Submitted Wednesday Evening (Sponsored by Councilmember Sabbagh)

Contact: Justin Wykoff at 349-3593 or [wykoffj@city.bloomington.in.us](mailto:wykoffj@city.bloomington.in.us)

**Ord 03-29** To Amend Ordinance 96-31 which Established a Telecommunications Non-Reverting Fund (Telecom Fund) - (Allowing the Infrastructure Portion of the Fund to be Used for the Maintenance and Repair of the City's Telecommunications Infrastructure)

*(Please see the October 3<sup>rd</sup> Packet for Legislation, Summary, and Background Materials)*

Contact: Greg Volan at 349-3485 or [volang@city.bloomington.in.us](mailto:volang@city.bloomington.in.us)

**App Ord 03-10** To Specially Appropriate from the Telecommunications Non-Reverting Fund (Infrastructure) Expenditures Not Otherwise Appropriated (Appropriating Funds for Maintenance and Repair of the City's Fiber Optic Assets)

*(Please see the October 3<sup>rd</sup> Packet for Legislation, Summary, and Background Materials)*

Contact: Greg Volan at 349-3485 or [volang@city.bloomington.in.us](mailto:volang@city.bloomington.in.us)

**Res 03-28** To Adopt Policies for the Bloomington Digital Underground

*(Please see the October 3<sup>rd</sup> Packet for Legislation, Summary, and Background Materials)*

New - Revised Policies Submitted Wednesday Evening

Contact: Greg Volan at 349-3485 or [volang@city.bloomington.in.us](mailto:volang@city.bloomington.in.us)

**Legislation and Background Material for First Reading:**

*None*

**Minutes from Regular Session:**

September 17<sup>th</sup>

## **Memo**

### **Five Items Ready for Final Action and No Items Ready for First Reading for the Regular Session on Wednesday, October 15th**

There are five items ready for final action at your Regular Session next Wednesday. Those items, summaries, and background material can all be found in the October 3<sup>rd</sup> weekly packet.

#### **Revisions, Possible Amendments, and Corrections**

The following bullet-points identify two documents that were revised after they were distributed in the last week's packet, note a possible amendment to one of them, and correct one website address which appeared in last week's memo.

**Am 01 to Ord 03-28 - Revised Document.** This amendment converts the 1-way stop at Bainbridge and Elliston to a 3-way stop. It was revised to correct an error in Section 2 of the amendment and appears in this packet.

**BDU Policies - Revised Document and Possible Amendment.** The policies for operating and using the Bloomington Digital Underground are approved by and attached to **Res 03-28**. They were revised by the Administration to assure representation by the non-profit sector on the Board of Public Works advisory committee (see the last sentence in Section 3.1) and appear in this packet.

- \* Please note that Councilmember Sabbagh may introduce an amendment that would have the City revisit the nature and composition of the Advisory Committee sometime next year. Greg Volan has informed me that the Administration would be amenable to revisiting this issue after one year.

**Res 03-27 (Tax Abatement for 1000 West Kirkwood) - Corrected Website Address for The Plan for West Kirkwood** - In summarizing **Res 03-27**, which authorizes a tax abatement for the construction of a new building at 1000 West Kirkwood, last week's memo provided an old website address for the Plan for West Kirkwood. The correct address is noted below:

<http://www.city.bloomington.in.us/planning/lr/corridor/kirkwood/index.html>

**No First Readings - No Need To Hold Committee of the Whole on October 22nd**

The Deputy Mayor has informed me that no legislation will be ready for Council action during the second cycle of October and unless there are some resolutions coming forward (none that I know of), you should entertain a motion to cancel the Committee of the Whole on October 22<sup>nd</sup>.

**NOTICE AND AGENDA  
BLOOMINGTON COMMON COUNCIL REGULAR SESSION  
7:30 P.M., WEDNESDAY, OCTOBER 15, 2003  
COUNCIL CHAMBERS  
SHOWERS BUILDING, 401 N. MORTON**

**I. ROLL CALL**

**II. AGENDA SUMMATION**

**III. APPROVAL OF MINUTES FOR:** Regular Session, September 17, 2003

**IV. REPORTS FROM:**

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

**V. APPOINTMENTS TO BOARDS AND COMMISSIONS**

**VI. LEGISLATION FOR SECOND READING AND RESOLUTION**

1. Resolution 03-27 To Approve a Statement of Benefits – Re: 1000 W. Kirkwood Avenue (Richard Groomer, Petitioner)

Committee Recommendation: Do Pass 9 – 0

2. Ordinance 03-28 To Amend Title 15 of the Bloomington Municipal Code Entitled “Vehicles and Traffic” – Re: Certain Stop, Yield, and Signalized Intersections, Restricted Turns on a Red Light, Parking Zones, and Cross Walks

Amendment 1 – Committee Recommendation: Do Pass 7 – 0 – 2  
As Amended – Committee Recommendation: Do Pass 7 – 0 – 2

3. Ordinance 03-29 To Amend Ordinance 96-31 Which Established a Telecommunications Non-Reverting Fund (Telecom Fund) (Allowing the Infrastructure Portion of the Fund to Be Used For the Maintenance and Repair of the City’s Telecommunications Infrastructure)

Committee Recommendation: Do Pass 8 – 0

4. Appropriation Ordinance 03-10 To Specially Appropriate from the Telecommunications Non-Reverting Fund (infrastructure) Expenditures Not Otherwise Appropriated (Appropriating funds for maintenance and repair of the City’s fiber optic assets)

Committee Recommendation: Do Pass 3 – 0 – 6

5. Resolution 03-28 To Adopt Policies for the Bloomington Digital Underground

Committee Recommendation: Do Pass 6 – 0 – 3

**VII. LEGISLATION FOR FIRST READING**

None

**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  
Indiana

City Hall  
401 N. Morton St.  
Post Office Box 100  
Bloomington, Indiana 47402



**Office of the Common Council**  
(812) 349-3409  
Fax: (812) 349-3570  
e-mail: council@city.bloomington.in.us

**To: Council Members**  
**From: Council Office**  
**Re: Calendar for the Week of**  
**October 13, 2003 – October 18, 2003**  
**Date: October 10, 2003**

Monday, October 13, 2003

4:00 pm Commission on the Status of Black Males, McCloskey

Tuesday, October 14, 2003

8:00 am Corporation for Capital Improvements and Attractions, Hooker  
12:00 pm Housing Network, IU Research Park – 501 N. Morton St.  
5:30 pm Bloomington Community Arts Council, Kelly  
5:30 pm Public Transportation Corporation Board, Public Transit Center – 130 W. Grimes Ln.

Wednesday, October 15, 2003

10:00 am Tree Commission, Hooker Room  
7:00 pm Council of Neighborhood Associations, McCloskey  
7:30 pm Common Council – Regular Session, Council Chambers

Thursday, October 16, 2003

7:30 am Domestic Violence Task Force, Hooker Room  
8:00 am Housing Authority Board of Commissioners, HA Office – 1007 N. Summit Dr.  
9:00 am Step Ahead Board, Stonebelt – 3400 Old SR 37  
2:00 pm Child Care Development Fund Oversight Committee, McCloskey  
3:30 pm Bloomington Municipal Facilities Corporation, Hooker Room  
5:45 pm Martin Luther King Jr. Birthday Commission, McCloskey

Friday, October 17, 2003

*There are no meetings scheduled for today.*

Saturday, October 18, 2003

7:00 am Bloomington Community Farmers' Market, Showers Commons

**\*\*\* Amendment Form \*\*\***

**Ordinance #:** 03-28

**Amendment #:** 01

**Submitted By:** Councilmember Sabbagh, District 5

**Date:** October 5, 2003 (Section 2 Revised After Distributed in Packet)

**Proposed Amendment:**

1. Section I of Ordinance 03-28 shall be amended by inserting Elliston Drive/Bainbridge Drive into the list of stops that are being deleted from Section 15.120.010 Schedule A, so that the foregoing list will read as follows:

STOP INTERSECTIONS

**Traffic on**  
Elliston Drive  
Hillsdale Drive  
Tenth Street

**Shall Stop for Traffic on**  
Bainbridge Drive  
Third Street  
Morton Street

2. SECTION III of Ordinance 03-28 shall be amended by adding a 3-Way stop at Bainbridge and Elliston Drives to list of multi-stop intersections being added to Section 15.120.010 Schedule B so that the list will read as follows:

MULTI-STOP INTERSECTIONS

Bainbridge Drive & Elliston Drive	3-Way
Canada Park Drive, The Stands Road & Olcott Park Entrance	3-Way
Tenth Street & Morton Street	4-Way

**Synopsis**

Councilmember Sabbagh is sponsoring this amendment at the request of residents on Bainbridge and Elliston Drives. It would convert the "T" intersection at Bainbridge and Elliston Drives from a 1-Way stop for traffic on Elliston to a 3-Way Stop for traffic on both Elliston and Bainbridge Drives.

<b>10/8/03 Committee Action:</b>	Do Pass:	7 - 0 - 2 (Gaal and Ruff)
<b>10/15/03 Regular Session Action:</b>	Pending	
October 5, 2003		

## **Policies for Bloomington Digital Underground**

The Bloomington Digital Underground is a comprehensive program of the City of Bloomington to encourage the installation of fiber optic cable throughout the city. As part of this program, the City of Bloomington has installed, and will continue to install, City-owned fiber optic assets in the public rights-of-way. The following set of policies shall govern the use, operations, and management of the fiber optic assets owned by the City of Bloomington.

### **Section 1. General Principles.**

Section 1.1. The goals of the Bloomington Digital Underground program are the following:

- (a) providing for the City's telecommunication needs;
- (b) protecting the City's investments in its rights-of-way and its visual attractiveness; and
- (c) lowering the barriers of entry for competitive telecommunications providers.

Section 1.2. The City shall not use its fiber optic assets to provide telecommunications services to end users. The City, however, may use its fiber optic assets for its own communications network.

Section 1.3. The City shall strive to make its fiber optic assets available to telecommunications providers on equal terms. To the greatest extent possible, the City shall remain a neutral party, maintaining a neutral playing field on which telecommunications providers can compete on equal terms.

### **Section 2. Definitions.**

Section 2.1. The term "end user" shall mean any person to whom telecommunications services are provided, and who are not in the business of providing telecommunications services to other persons.

Section 2.2. The term "fiber optic assets" shall include the following:

- (a) fiber optic conduit installed in the public rights-of-way;
- (b) fiber optic cable installed in the public rights-of-way;
- (c) manholes and handholds installed in the public rights-of-way; and
- (d) splicing trays, fiber termination racks, and other peripheral equipment used to manage dark fiber.

Section 2.3. The term "telecommunications" shall mean the electronic transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information sent and received.

Section 2.4. The term "telecommunications provider" shall mean any person in the business of providing telecommunications services, including, but not limited to, local exchange carriers, internet service providers, and providers of dark fiber.

Section 2.5. The term “telecommunications service” shall mean making telecommunications available to the public for a fee.

### **Section 3. Governance.**

Section 3.1. The City’s fiber optic assets shall be managed by the Board of Public Works. The Board of Public Works shall create a standing advisory committee to provide advice and recommendations on the usage, pricing, and management of the City’s fiber optic assets. The advisory committee shall consist of seven representatives from the business, technology, economic development, and Indiana University communities, and from not-for-profit groups serving a public, educational, or charitable interest.

Section 3.2. The Chief Information Officer, with assistance from the Controller’s Office, shall be responsible for keeping track of the total capital cost of the City’s fiber optic assets and the operating income and expenses for using the City’s fiber optic assets.

Section 3.3. Income generated from use of the City’s fiber optic assets, up to a maximum of one-hundred and twenty-five percent (125%) of the total amount previously appropriated from the infrastructure portion of the Telecommunications Non-Reverting Fund (“Telecom Fund”), shall be deposited in the infrastructure portion of the Telecom Fund.

Section 3.4. All expenses needed to use, operate, and manage the City’s fiber optic assets shall be funded primarily from the Telecom Fund and shall be approved by the Common Council during the regular budgeting process or through supplemental appropriations. However, such expenses may be paid from other funding sources as approved by the appropriate authorizing agency.

Section 3.5. The Chief Information Officer shall be responsible for managing the day-to-day operations of the City’s fiber optic assets. The Chief Information Officer shall use staff and resources from the Information & Technology Services Department as needed.

Section 3.6. The Engineering Department shall be responsible for managing all construction projects in which City-owned fiber optic assets will be installed, and for supervising the connections of City-owned fiber optic assets to fiber optic conduit and cable that is owned by entities other than the City of Bloomington.

### **Section 4: Usage**

Section 4.1. Fiber optic assets shall be used first by the City of Bloomington for its own internal network. The City shall reserve a reasonable number of fiber optic conduit and fiber strands for its current and expected future needs.

Section 4.2. Based upon a recommendation from the Chief Information Officer, the Board of Public Works shall determine an appropriate amount of fiber optic conduit and fiber strands to make available to entities other than the City of Bloomington.

(a) The City shall make fiber optic conduit and fiber strands available directly to telecommunications providers and to dark fiber providers.



(b) The City shall not make fiber optic conduit and fiber strands available directly to end users, other than public entities, governmental units, and not-for-profit groups serving a public, educational, or charitable interest.

Section 4.3. The City shall make fiber optic conduit or fiber strands available to customers on an infeasible right to use (“IRU”) lease basis. Ownership of the fiber optic assets shall remain with the City.

Section 4.4. The Board of Public Works shall approve all contracts used in leasing fiber optic assets to customers.

Section 4.5. The Board of Public Works shall enact safeguards to ensure that no entity be allowed to lease the entire available infrastructure in an attempt to prevent competitors from using it. In deciding whether to make the City’s fiber optic assets available to a private entity, the Board of Public Works shall consider (a) the scarcity of unused fiber optic assets and (b) the purchaser’s immediate need for the amount of fiber optic assets requested.

## **Section 5: Pricing**

Section 5.1. The Board of Public Works shall set, and the Common Council shall approve, rates for leasing the City’s fiber optic conduit and fiber strands. The Board of Public Works shall set, and the Common Council shall approve, one-time charges for all related services, such as fiber splices and manhole connections.

Section 5.2. In setting rates, the City shall try to achieve the following goals:

(a) Receiving a return on investment for its capital expenditures. The City’s return on investment shall include indirect (non-monetary) returns, such as the potential for economic growth.

(b) Recovering operating expenses for managing the fiber optic infrastructure.

(c) Encouraging utilization of the City’s fiber optic assets as an alternative to new fiber installation.

Rates should be set with an awareness of the market price for leasing of fiber optic conduit and fiber strands.

## **Section 6: Expansion**

Section 6.1. The City shall take advantage of opportunities to install fiber optic conduit during City construction projects.

In the Council Chambers of the Showers City Hall on Wednesday, September 17, 2003 at 7:30 pm with Council President Gaal presiding over a Regular Session of the Common Council.

COMMON COUNCIL  
REGULAR SESSION  
September 17, 2003

Roll Call: Banach, Diekhoff, Ruff, Pizzo, Gaal, Rollo, Cole, Sabbagh, Mayer

ROLL CALL

Council President Gaal gave the Agenda Summation

AGENDA SUMMATION

The minutes of September 3, 2003 were approved by a voice vote.

APPROVAL OF MINUTES

Ruff reported that the Living Wage Coalition in Bloomington held a forum and information sharing session for the public on Monday, September 15, 2003 entitled "An Introduction to the Living Wage." He said that he, Jen Kern from the Association of Community Organizations for Reform Now (ACORN), Toby Strout from Middle Way House and Father Dan Atkins from St. Paul's Catholic Center spoke along with a low wage worker. Ruff said the audience was favorable to a living wage ordinance as pointed out by Councilmember Sabbagh that night. Ruff said this, along with some of the resolutions considered by the council this year didn't always draw an audience from an opposing view, or even those folks who have questions. He encouraged folks to participate in a thorough community exchange by being engaged in both sides of issues. He said he hoped the fact that there weren't more Council Members there indicated that there was a comfort level with the issue and support for it in the future.

MESSAGES FROM  
COUNCILMEMBERS

- Disclosure of Interest from Councilmember Timothy Mayer

Tim Mayer recognized the death of Governor Frank O'Bannon and said he would be missed. Mayer said he had the opportunity to meet the governor several times on the campaign trail, and also when O'Bannon came to Bloomington on governmental visits. Mayer mentioned the passing of Danny Bynum and noted with fondness his office supply store that Mayer frequented. Mayer commended the Engineering and Street Departments for their work at 10<sup>th</sup> and Morton. He said the realigned street, paving, new curbs, brick and utilities work had totally improved the intersection. Mayer also noted that Lotus Fest would kick off on Wednesday, September 24, 2003.

Mayer submitted a Disclosure of a Potential Conflict of Interest saying that his employer, Inari Information Services, Inc., was pursuing a competitive bid contract to design a report for the Housing and Neighborhood Development Department. The disclosure indicated that Mayer would not receive commission or profits from this work.

It was moved and seconded to accept this conflict of interest disclosure statement. The motion was approved by a voice vote.

ACTION ON ACCEPTANCE OF  
DISCLOSURE

Sabbagh said that the Living Wage forum Ruff spoke of was interesting. He expressed his condolences to the family of Governor O'Bannon and said he had given a good part of his life to the State of Indiana. He said his goodness and congeniality would be missed. Sabbagh said that the community had also lost Mr. Earls who started the Smithville Telephone Company and extended his condolences to the family.

Rollo said he thought the Living Wage Forum was an excellent gathering of persons who had expertise in the field of social welfare, and indicated that Councilmember Ruff did a very good presentation there.

Rollo reported on information from the City of Bloomington's engineering department on two construction projects in his district. He said the College Mall project was progressing, adding that donated ginkgo trees will be placed in the median which will then be mulched and planted with bulbs. He added that this would occur after paving and curbing had taken place. He said citizens should see the completion of this project by the middle of October.

Rollo reported that the stormwater and sidewalk project on Ruby Lane would be finished prior to Thanksgiving.

Rollo commented that even with projects like the huge College Mall Road Projects that are complex and really needed, he was intrigued with a recently reported study by the Center for Urban Policy and the Environment at IUPUI that stated that Bloomington and other cities were not spending enough on infrastructure. Rollo added the report noted that Bloomington has plenty of residential built investment but that Bloomington suffers from a comparative deficiency in public spending on infrastructure; he said that development is outpacing infrastructure. He said that this was a concern for policy makers and that it behooved the council, as they review and vote on development proposals, to be careful not to risk adding to this burden for the community, and better, perhaps, to internalize costs of development so that they are not unfairly borne by the public, but are reflected in the investment by those profiting from the development. He said this was sound public policy and that we owed it to the citizens of the community to preserve our quality of life. Rollo said the study concluded by stating that while the report was not cause for panic, that these were early warning signs that the quality of life could be damaged in the long term.

Gaal noted that a moment of silent reflection was held during the last council session when Governor O'Bannon fell ill, noted that the week before he died, O'Bannon was in Bloomington with the Dalai Llama to participate in a meeting to encourage compassion and peace in our world. Gaal noted that this was a unique Bloomington connection for O'Bannon and his family. He asked citizens to keep both O'Bannon's family and new Governor Kernan in their thoughts.

Gaal noted events in the community:

- Lotus Festival
- Living Wage Forum with Jen Kern from ACORN. Gaal said he had had the opportunity to meet with Kern during her visit.
- The 30<sup>th</sup> anniversary celebration of CFC, INC. with a civic engagement retrospective video on investment and regeneration of the downtown made possible by the generosity of Bill and Gayle Cook. He listed a few of these examples.
- A celebration to welcome IU President Adam Herbert to Bloomington. Gaal said that Herbert wants to be engaged as a partner with the community.
- Greater Bloomington Chamber of Commerce Annual Meeting. He congratulated new president Denise Lessow, and also congratulated two city elected officials, John Fernandez and Tony Pizzo who were honored at the luncheon. He said this indicates they are reaching out beyond their membership into the community, and while we may not agree with the chamber, we have been able to find common ground; he cited the organizations backing of the smoking ordinance.

Gaal said the Bloomington Economic Development Corporation was an issue that the council had struggled with for four years. He said he believed that progress had been made to broaden participation in the group as well as the definition of economic development; he stressed that the council worked together to do this by gaining representation for council and representation for labor and environment calling this a

broadening of community participation in the BEDC. He added that we need to find common ground in redeveloping commercial space vs. using greenspace outside the city. He said he looked forward to the new administration’s continuance of broad representation from the community on economic development discussions as this was in the best interest of Bloomington.

Messages from Council Members  
(cont’d)

Deputy Mayor James McNamara read a proclamation by the mayor declaring September “National Alcohol and Drug Addiction Recovery Month.”

MESSAGE FROM THE MAYOR

Brian O’Neill, Amethyst House board member and member of the Indiana Addictions Issues Coalition thanked the mayor for the proclamation and the council for allowing the proclamation to be read. He briefly spoke about addictions and encouraging folks to seek treatment.

COMMITTEE REPORTS

There were no committee reports.

PUBLIC INPUT

Tracie Wilson who lives on Smith and Jackson said she received a notice from Parks and Recreation that the city would be removing a tree from an area in front of her house. She said in inquiring about it Lee Huss, the urban forester, said he believed the tree to have been damaged by construction last year. She asked if it could just not be trimmed by removing damaged branches and was told that this was not cost effective. Wilson asked if cost effectiveness should be the polity determining whether trees should be saved. She said that the character of the neighborhood was held in some of the older and larger trees in the area. She asked that there be another assessment of this tree, and asked for any assistance or advice the council could offer.

BOARD AND COMMISSION APPOINTMENTS

It was moved and seconded that Rick Dietz be appointed to the Telecommunications Council. The appointment was approved by a voice vote.

LEGISLATION FOR SECOND READING

There was no legislation for second reading.

LEGISLATION FOR FIRST READING

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

Appropriation Ordinance 03-09

To Specially Appropriate from the Risk Management Fund and from the Cumulative Capital Improvements (Rate) Fund Expenditures not Otherwise Appropriated (Appropriating Monies For Worker’s Compensation Expenses and for Insurance Premiums from the Risk Management Fund and Monies Received for Intersection Improvements at East Third Street and Clarizz Boulevard from the CCI (Rate) Fund)

Ordinance 03-26

To Amend Chapter 2.23 of the Bloomington Municipal Code Entitled “Community and Family Resources Department” in order to Reauthorize the Commission on the Status of Black Males

Ordinance 03-27 To Amend the Bloomington Zoning Maps from RS4.5 to PUD and to Approve the Preliminary Plan for the Bryan Park Place Planned Unit Development – RE: 1330 S. Dunn Street (S. Dunn Street, LLC, Petitioners)

It was moved and seconded that the council accept the withdrawal of Ordinance 03-27 with the understanding that the petitioner is waiving all rights flowing from a final action of the Plan Commission in favor of their petition.

Dan Sherman, Council Attorney/Administrator explained that according to state law (I.C. 36-7-4-608) and local code, rezoning petitions that come forward from the Plan Commission go into effect 90 days after their certification to the council unless the council takes final action either in the form of adopting or rejecting the ordinance.

MOTION TO ACCEPT  
WITHDRAWAL

The motion to accept the withdrawal of Ordinance 03-27 received a roll call vote of Ayes: 9, Nays: 0.

There was no public comment at this time.

PUBLIC INPUT

The meeting was adjourned at 8:19 pm.

ADJOURNMENT

APPROVE:

ATTEST:

Chris Gaal, President  
Bloomington Common Council

Regina Moore, CLERK  
City of Bloomington

Unapproved