

In the Council Chambers of the Showers City Hall on Wednesday, September 14, 2011 at 7:30 pm with Council President Susan Sandberg presiding over a Special Session of the Common Council.

COMMON COUNCIL  
SPECIAL SESSION  
September 14, 2011

Roll Call: Mayer, Piedmont-Smith, Rollo (arrived at 8:10 pm), Ruff, Sandberg, Sturbaum, Volan (arrived at 8:43 pm), Wisler  
Absent: Satterfield

ROLL CALL

Council President Sandberg gave the Agenda Summation and welcomed a SPEA class who attended the session.

AGENDA SUMMATION

It was moved and seconded that Ordinance 11-10 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the committee recommendation of Do Pass 9-0. It was moved and seconded that Ordinance 11-10 be adopted.

LEGISLATION FOR SECOND  
READING

Daniel Grundmann, Director of Human Resources, noted that the item was discussed in length at the previous meeting. He noted this was the city salary ordinance for 2012, and that it had some minor changes to the ordinance approved for the year 2011. He said that this included changes as a result of contractual collective bargaining with the American Federation of State, County and Municipal Employees (AFSCME). He outlined changes for positions in Community and Family Resources, Economic and Sustainable Development, Fire Department, Housing and Neighborhood Development, Information and Technology Services, Parks and Recreation Department, Public Works, and Utilities citing recommendations from the Job Evaluation Committee.

Ordinance 11-10 An Ordinance Fixing 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 2012

Mayer noted for the mainly student audience that Grundmann had given a synopsis for this component of the budget and that the issue had been discussed in depth at a previous meeting.

Wisler asked Grundmann to summarize the changes in the collective bargaining agreement. Grundmann said that this agreement had been in place for several years, so the only change reflected by this ordinance was the minimum and maximum wages in each grade in the agreement. Wisler asked if the council was being asked to codify set annual increases in salary ranges that were required by the agreement that was bargained about 3 to 4 years before.

Wisler asked if the impact was that the non-union employees were covered with a proposal from the administration while the union employees were covered by the agreement. Grundmann said there were subtle differences in that with the non-union employees the council was approving the minimum and maximum salaries in each grade, while in the collective bargaining agreement, steps within each pay grade were also approved. Wisler said he then understood that this legislation was not setting any particular employees wage the way that the budget would enable supervisors to do. Grundmann agreed.

There was no public comment on this item.

Mayer thanked Grundmann for the time, energy and work that he put into negotiating the contracts, noting that he felt employees were well cared for.

Ordinance 11-10 received a roll call vote of Ayes: 6, Nays: 0 (Rollo, Volan had not arrived).

It was moved and seconded that Appropriation Ordinance 11-07 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the committee recommendation of Do Pass 7-0.

It was moved and seconded that Appropriation Ordinance 11-07 be adopted.

Mike Trexler, City Controller, noted that this item dealt with the 2011 budget. He said that the fuel budgets for the last two years were flat, but the Police Department couldn't control their use of fuel as other departments might be able to. He said that this would actually be a transfer from the Rainy Day fund into the General Fund, and then appropriate the expenses for fuel from the General Fund. He said the second part was for health insurance. He noted that the Health Insurance Trust Fund was not a fund that needed the same double transfer in order to make the payments for health insurance expenses.

Sturbaum asked if the health insurance extra expense was a one time thing with more predictability with the new health care plan. Trexler said that was the case.

Piedmont-Smith asked what the Rainy Day balance would be after this transfer. Trexler said after the appropriations the balance was projected to be \$4,647,996 at the end of the year.

Wisler asked if the Health Insurance Trust Fund was an account or pool of funds controlled by IACT which is pooled with other cities. Trexler said it was just the City's. Wisler asked if this meant that previously the city paid claims directly out of the HIT Fund, and now the premiums were paid out of that fund and claims were settled out of the IACT Trust Fund. Daniel Grundmann, Director of Human Resources, confirmed that fact. He reviewed the costs of health insurance for the past three years, explaining increases and the change of health plans for the city, and added that with the new plan there was more predictability. Wisler asked why the surprise for the claims at this time. Grundmann said it might have been a matter of a greater amount budgeted for this cost. He said the high claims of 2010 hit the city hard with a small portion of the insured group accounting for almost a quarter of the claim funds. While Grundmann admitted the costs of health care had never decreased, that the city budgeted reasonably for the next year, and there were reasonable cash reserves, 2010 was a horrible year for claims that couldn't have been predicted.

Wisler asked about the six year projection of cash balance data with the increases in cost covered by this ordinance taken into consideration. Trexler said that the long term projection was actually driven by the costs Grundmann had just discussed. He added that his projections were based on even projections in growth and costs except for health insurance increases.

Sturbaum said the self insurance worked for a long time, but the IACT plan now allowed the city to use a larger pool with a more steady and predictable cost without as big a risk.

Mayer said the Rainy Day Fund was set up under the Fernandez Administration and carried forward today. He said this was an appropriate use of the fund, and wanted to note the health of the fund to this point.

Appropriation Ordinance 11-07 received a roll call vote of Ayes: 7, Nays: 0 (Volan had not arrived).

Appropriation Ordinance 11-07 To Specially Appropriate from the General Fund and Rainy Day Fund Expenditures Not Otherwise Appropriated (Appropriating Funds for Additional 2011 Health Insurance and Fuel Expenses

It was moved and seconded that Resolution 11-12 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, saying that no committee discussion was held on this item. It was moved and seconded that Resolution 11-12 be adopted.

Patty Mulvihill, Assistant City Attorney, said that the Bloomington Police Department and the Monroe County Sheriff's department had been jointly awarded a grant that authorizes them to purchase two complete polygraph systems and to pay for about 80% of the training costs associated with an employee from each department to attend an out of state session. She said that the training was at no cost, but the 12 week program in Pennsylvania would incur transportation, housing, and other costs for the two officers.

She said that both departments wanted the polygraph machines as an investigative tool in missing persons cases, felony investigations and pre-employment interviews. She said if the city or county needed to have this tool used now, they would contract, for \$500 a session, with Columbus or Indianapolis, both with certified operators.

Mulvihill said that since both departments were awarded the money equally, the funds would be deposited into just one account, and the Interlocal Agreement would indicate to the granting authority that the money would be used equally as it was intended. She added that an additional \$2500 from each department would be needed to completely pay for the equipment and training. She indicated that the county had already signed the agreement, and it was awaiting approval and signatures of city officials.

Rollo asked how many investigations the polygraph would be useful for. Mulvihill said the possibilities were countless including missing persons cases, larceny cases and felony cases. She said the police chief believed that it would be used frequently once it was on site and available.

Piedmont-Smith asked again for the actual cost of the machines. Mulvihill said two machines would cost \$18,128.

Sandberg asked why the training was important. Mulvihill said that polygraph machines were not admissible in a court of law, but were considered highly effective tools in investigations. She added that their level of effectiveness was directly related to the operator and the training received. The operator running the machine correctly and interpreting the data correctly was a result of extensive and essential training. She said the training was held in very few places of the country and lasted for three months.

A call for public comment brought an unidentified person to the podium who questioned the \$500 charge for the polygraph sessions.

Referring to a statement made by Mulvihill that didn't specifically say how many times the new machines would be used, Nick Foust noted that past history of felony cases and other instances where the polygraph would have been used would have given a good indication of use.

Marty Spechler noted that training was a crucial part of the use of the machines; he wanted reassurance that the officers would train their replacements so that that expense would not need to be repeated.

Ruff noted that at a recent internal work session, the participants of that meeting discussed the training issues that Spechler noted. Ruff said those notes were available for the public.

Resolution 11-12 received a roll call vote of Ayes: 7, Nays: 0. (Volan had not arrived).

Resolution 11-12 To Approve an Interlocal Cooperation Agreement Between the City of Bloomington and Monroe County, Indiana in Regard to 2011 Edward Byrne Memorial Justice Assistance Grant (JAG) (To Purchase and Train Staff to Operate Polygraph Equipment)

It was moved and seconded that Ordinance 11-15 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, saying that there was no committee recommendation on this item.

It was moved and seconded that Ordinance 11-15 be adopted.

Patty Mulvihill, Assistant City Attorney, gave a history of the legislation that prompted the change in ordinance. The Indiana General Assembly passed Senate Enrolled Act 292 with relation to the distribution and sales of firearms, ammunition and firearm accessories. She said it related to the city because the Act voided the City of Bloomington's provisions related to the carrying and possession of firearms in locations of City property, specifically Lake Griffey, Lake Lemon areas and also the City Council Chambers. She said political subdivisions were specifically prohibited from regulating possession or carrying of a firearm. She said that the section of the municipal code that regulated the discharge of a firearm within the city limits had, could and would still be enforced by the Police Department. She said that according to the Act, local government could still prohibit the intentional display of a firearm in a public meeting.

Mulvihill said that Ordinance 11-15 created two new sections, one that prohibited the intentional display of a firearm at a city council meeting, and the second that prohibited the intentional display of a firearm in a public meeting of a board or commission that was open to the public. Mulvihill said that the Indiana Association of Cities and Towns (IACT) had advised local government to make the change in this ordinance immediately to avoid suit. She said that if a plaintiff would sue and win, they would be entitled to recover "actual damages, consequential damages and liquidated damages of three times the plaintiff's attorney fees."

She summed up the actions as bringing our ordinance in line with the state statute, and creating two new sections that would specifically prohibit people from intentionally displaying firearms in public meetings.

Mayer asked Mulvihill to qualify any exclusion to this act for legislative bodies. Mulvihill said that there was an exclusion if there was a courtroom in the building, such as the State House. She said there was an exception if the governmental facility was leased out because the lessee could require that carrying firearms be prohibited during the lease of the facility.

Rollo asked how the display of a firearm differed from carrying concealed weapons. He specifically asked if one could enter the council chambers with a concealed weapon. Mulvihill said one could with a concealed weapon permit. She said that 'intentional display' did not include a holstered firearm as that was the way it was to be carried. Rollo asked what would happen if someone had a concealed weapon and the persons at the meetings didn't know it was present in the room. He worried about this major change in law and said he felt it was a step backwards. Mulvihill said that IACT and the association of police chiefs were committed to lobbying the General Assembly to make significant changes to the law as it stood.

Sturbaum asked if the State was entirely cognizant of the ramifications of this law. Mulvihill said that the General Assembly had many and complicated issues in the last session on numerous fronts. Sturbaum asked if there could be a court in City Hall. Mulvihill said it could theoretically be done but was a highly regulated and complicated process.

Piedmont-Smith asked the requirements for a concealed weapon permit, asking particularly about the difficulty of obtaining one, and the

Ordinance 11-15 To Amend Title 2 of the Bloomington Municipal Code Entitled "Administration And Personnel" and Title 11 of the Bloomington Municipal Code Entitled "Lakes and Reservoirs" - Re: Conforming Local Code with Senate Enrolled Act 292

Ordinance 11-15 (cont'd)

background check involved. Mulvihill said she didn't know the particulars, but the general process for gun permits was a fingerprinting and background check done by the police authority. They then made a recommendation to the state police as to the person being in good standing or not. She said the state police were the final determiner of the permit process. Piedmont-Smith asked if there was a check of mental health history, to which Mulvihill said she didn't think so.

Avi Spechler said he attended Quaker schools for four years and was not a fan of guns or violence. He added that having guns around democracy was not a way to facilitate the democratic process.

April Dyar said that she was at Wal-Mart when two non-American individuals wanted to purchase firearms. She said when they could not provide valid ID's the employees told the men where in Bloomington they could purchase a firearm without identification.

Sturbaum said he was only somewhat relieved that discharging a firearm in the building was illegal.

Piedmont-Smith said that it was a small step from carrying a firearm to discharging a firearm and in the heat of a moment someone could lie dead. She said that it was interesting that the state legislators who voted in favor of this law were not going to be affected by it in their place of business because there was a courtroom there. She questioned if they felt that their lives were more important than those of local officials, and noted that in recent history individuals with mental health problems have fired on legislators. She expressed her dismay at the irresponsible passage of what she called a 'reckless statute.' She said she would vote for this because the council's hands were tied and she didn't want taxpayer money to go to a lawsuit that the city could not win.

Rollo said that it was clear that threatening elected officials and city employees was a hazard in the country and there were examples to prove this. He said it was a shame that things had moved to where there was a need for a police officer to attend the meetings of the council. He hoped this issue would be revisited by more rational and sane legislators. He said he would support the ordinance, but found it distressing to do so.

Ordinance 11-15 received a roll call vote of Ayes: 7, Nays: 0, Abstain: 1 (Volan).

Rather than being adopted at this meeting, the council adopted a motion at their meeting on September 7, 2011 that Ordinance 11-09, Ordinance 11-11, Appropriation Ordinance 11-05 and Appropriation Ordinance 11-06 be considered at a second Committee of the Whole meeting on Tuesday, September 27, 2011, and the Regular Session on October 5, 2011.

Ordinance 11-09 An Ordinance Fixing the Salaries of Officers of the Police and Fire Departments for the City of Bloomington, Indiana, for the Year 2012

Ordinance 11-11 To Fix the Salaries of All Elected City Officials for the City of Bloomington for the Year 2012

Appropriation Ordinance 11-05 An Ordinance for Appropriations and Tax Rates (Establishing 2012 Civil City Budget for the City of Bloomington) – *Note: This ordinance was previously scheduled for adoption this evening in a notice advertised twice in August.*

Appropriation Ordinance 11-06 An Ordinance Adopting a Budget for the Operation, Maintenance, Debt Service and Capital Improvements for the Water and Wastewater Utility Departments of the City of Bloomington, Indiana for the Year 2012

It was moved and seconded that the rules be suspended to take up an item not on the agenda.  
The motion was approved by a roll call vote of Ayes: 8, Nays: 0.

SUSPENSION OF RULES

It was moved and seconded that the council consider Ordinance 12 (Transit Budget) for Adoption at the Regular Session on September 21, 2011.

COUNCIL SCHEDULE

Mayer noted that this action would allow Transit to meet their legal obligations regarding the budget proposal, review and passage according to state statute.

Volan said he had made the motion to delay this item but respected Mayer's concern over the timeliness of the Transit budget, and because there was no dispute about it, he supported this motion.

Piedmont-Smith noted that the Public Transit Corporation could legally work within the time frame of the proposed hearing on October 5<sup>th</sup>. She said that on September 21<sup>st</sup> there was only one item of legislation, and therefore she felt it was wiser to consider this on an evening with a lighter legislative load.

Rollo asked if the director of Public Transit was agreeable. Someone in attendance indicated he was.

The motion received a roll call vote of Ayes: 8, Nays: 0.

LEGISLATION FOR FIRST READING

Ordinance 11-16 An Ordinance Amending Ordinance 10-18, as Amended by Ordinance 11-02, Extending the Time for the Issuance by the City Of Bloomington, Indiana, of Economic Development Revenue Bonds for the Benefit of Bloomington Dyslexia Center, LLC and Authorizing Other Actions in Respect thereto

Ordinance 11-16

The meeting was adjourned at 8:42 pm.

ADJOURNMENT

APPROVE:

ATTEST:



Susan Sandberg, PRESIDENT  
Bloomington Common Council

Regina Moore, CLERK  
City of Bloomington