



City of Bloomington Common Council

LEGISLATIVE PACKET- Addendum **(Issued on Wednesday, 22 April 2020)**

Wednesday, 22 April 2020

Special Session

Starting at 6:30 PM

Proposed amendments to Ordinance 20-09 contained herein

Please see the note on the [Agenda](#) addressing public meetings during the public health emergency

For a schedule of upcoming meetings of the Council and the City's boards and commissions, please consult the City's [Calendar](#).

***** Amendment Form *****

Ordinance #: 20-09
Amendment #: Am 01
Submitted By: Cm. Flaherty, At-Large
Date: April 20, 2020

Proposed Amendment:

1. Section 2 of Ordinance 20-09 shall be amended to read as follows:

SECTION 2. For the duration of the COVID-19 disaster emergency declared by Governor Holcomb under Indiana Code Section 10-14-3-12 (Current Declared Emergency), the Mayor of the City of Bloomington shall have the powers to act in conformity with and waive any and all procedures and formalities in accordance with Indiana Code Section 10-14-3-17(j), the Governor's executive orders, or any other applicable law, declaration, order, or decree.

2. Section 3 of Ordinance 20-09 shall be amended to read as follows:

SECTION 3. In accordance with the powers in the preceding Section 2 and the guidance from the State Board of Accounts, the Controller shall have the authority to approve payment of all necessary expenditures on behalf of the City of Bloomington for the duration of the Current Declared Emergency, and any board or commission normally tasked with the approval of such expenditures shall review and approve the Controller's authorizations once the declared emergency has ended.

Synopsis

This amendment is sponsored by Cm. Flaherty and clarifies that Sections 2 and 3 of the ordinance only apply the the statewide disaster emergency declared by the Governor Holcomb as a result of the COVID-19 pandemic and under the authority of IC 10-14-3-12. It makes clear the intent of the Council that the exercise of powers set forth in Sections 2 and 3 should follow from an emergency declaration by the Governor and a discussion between the Mayor and the Council about how the City will operate during that emergency.

4/15/20 Committee Action: None
4/22/20 Regular Session Action: *Pending*

(April 20, 2020)

See next page for strikeout version of affected provisions:

Amendment in Context of the Ordinance

SECTION 2. For the duration of the ~~declared~~ COVID-19 disaster emergency ~~declared by Governor Holcomb~~ under Indiana Code Section 10-14-3-12 (~~Current Declared Emergency~~), the Mayor of the City of Bloomington shall have the powers to act in conformity with and waive any and all procedures and formalities in accordance with Indiana Code Section 10-14-3-17(j), the Governor's executive orders, or any other applicable law, declaration, order, or decree.

SECTION 3. In accordance with the powers in the preceding Section 2 and the guidance from the State Board of Accounts, the Controller shall have the authority to approve payment of all necessary expenditures on behalf of the City of Bloomington for the duration of the ~~Current~~ ~~Declared~~ ~~Emergency~~, and any board or commission normally tasked with the approval of such expenditures shall review and approve the Controller's authorizations once the declared emergency has ended.

***** Amendment Form *****

Ordinance #: 20-09
Amendment #: Am 02
Submitted By: Cm. Flaherty, At-Large
Date: April 20, 2020

Proposed Amendment:

1. A new final Whereas clause shall be inserted and shall read as follows:

WHEREAS, as guidance for localities in this emergency, the State Board of Accounts provided memos which, in part:

- Urge “governing bodies (i.e. City Councils) to work with their attorneys to develop [policies] specific to this emerging situation” that, if possible, “incorporate those items that could be of concern in the coming months;”
- Stress the “urgency to both monitor and address situations as they arise” and for governing bodies to be “flexible in their approach;”
- “Advise that the [policies] have broad language that may reference more specific materials so that the policies do not need to be constantly updated and approved to address quickly changing real-time issues;”¹
- Advise that “policies/actions” should “maintain operations of government as normal or as near normal as possible while maintaining the wellbeing of governmental employees and the public;” and
- Advise that change in policies “should be adopted through normal processes as provided by statute, including public meetings” and where practicable, with written evidence that a governing body has appropriately approved the actions in appropriate forum;

2. Section 2 of Ordinance 20-09 shall be amended to add the following sentences at the end of that section:

These powers shall be exercised only after a determination by the Mayor or his designee that the regular practices are not practicable due to the Current Declared Emergency and, in that event, the Mayor or his designee, shall inform the Council in writing, of what was done and why it was necessary, within a reasonable period after the action is taken.

Synopsis

This amendment is sponsored by Cm. Flaherty. It adds a new, final Whereas clause, which summarizes guidance from the State Board of Accounts about how to proceed in this emergency, and adds a sentence at the end of Section 2. This sentence would require that the exercise of powers under IC 10-14-3-17(j) be done only after the Mayor or his designee has determined that the regular practices are not practicable due to the Current Declared Emergency and, in that event, the Mayor or his designee must inform the Council in writing, of what was done and why it was necessary, within a reasonable period after the action was taken.

4/15/20 Committee Action: None
4/22/20 Regular Session Action: *Pending*

(April 20, 2020)

See next page for strikeout version of affected provisions:

Amendment in Context of the Ordinance

LAST WHEREAS CLAUSE:

WHEREAS, as guidance for localities in this emergency, the State Board of Accounts provided memos which, in part:

- Urge “governing bodies (i.e. City Councils) to work with their attorneys to develop [policies] specific to this emerging situation” that, if possible, “incorporate those items that could be of concern in the coming months;”
- Stress that the “urgency to both monitor and address situations as they arise” and for governing bodies to be “flexible in their approach;”
- “Advise that the [policies] have broad language that may reference more specific materials so that the policies do not need to be constantly updated and approved to address quickly changing real-time issues;”²
- Advise that “policies/actions” should “maintain operations of government as normal or as near normal as possible while maintaining the wellbeing of governmental employees and the public;” and
- Advise that change in policies “should be adopted through normal processes as provided by statute, including public meetings” and where practicable, with written evidence that a governing body has appropriately approved the actions in appropriate forum;

SECTION 2. For the duration of the ~~declared~~ COVID-19 disaster emergency ~~declared by Governor Holcomb~~ under Indiana Code Section 10-14-3-12 (~~Current Declared Emergency~~) [Am 01], the Mayor of the City of Bloomington shall have the powers to act in conformity with and waive any and all procedures and formalities in accordance with Indiana Code Section 10-14-3-17(j), the Governor’s executive orders, or any other applicable law, declaration, order, or decree. ~~These powers shall be exercised only after a determination by the Mayor or his designee that the regular practices are not practicable due to the Current Declared Emergency and, in that event, the Mayor or his designee, shall inform the Council in writing, of what was done and why it was necessary, within a reasonable period after the action was taken.~~

***** Amendment Form *****

Ordinance #: 20-09
Amendment #: Am 03
Submitted By: Cm. Rosenbarger, At-Large
Date: April 21, 2020

Proposed Amendment:

1. A new final Whereas clause be inserted and shall read as follows:

WHEREAS, in 2018 the City adopted Ordinance 18-10, which provides additional fiscal oversight of the Executive branch by the Common Council and includes a provision regarding emergencies, which is available for use in the event it becomes necessary;

2. Section 3 of Ordinance 20-09 shall be amended to add the following sentence at the end of the initial paragraph and add the following paragraphs to the section:

These authorizations by the Controller shall be limited to expenditures which directly address the Current Declared Emergency and only when use of the regular process is not practicable due to the Current Declared Emergency.

In the event the authorization would normally require Common Council consideration of an appropriation ordinance, the Mayor or his designee, shall: 1) inform the Council in writing, of what was done and why it was necessary, no later than forty-eight (48) hours after the action was taken; and 2) submit an appropriation ordinance as soon as practicable thereafter in consultation with the Council President. In the event the authorization would require action of other boards and commissions, the Mayor or his designee, shall: 1) inform the Council and the applicable board or commission in writing, of what was done and why it was necessary; 2) do so, within a reasonable period after the action was taken.

The temporary waiver or relaxation of authorizations provided for in this ordinance do not replace and shall be read in concert with the Council fiscal oversight provisions set forth in BMC 2.26.200 through BMC 2.26.210. In that regard, the procedures for an emergency expenditure provided under BMC 2.26.200 (d) (Exceptions to Process of Review) are available in the event needed during the Current Declared Emergency.

Synopsis

This amendment is sponsored by Cms. Rosenbarger and Piedmont-Smith. It addresses Section 3 of the ordinance, which allows the Controller, in accordance with State guidance, to authorize expenditures in advance of the normal review and approval by the applicable board or commission. The amendment limits these authorizations to expenditures that directly address the Current Declared Emergency and only when the regular process is not practicable due to the Current Declared Emergency. The amendment also includes one reporting requirement for authorizations that would otherwise go to the Council and another reporting requirement for authorizations that would otherwise go to another board or commission. Lastly, it recognizes the Council fiscal oversight provisions set forth in BMC 2.26.200 through 210, and reminds all that the procedures for emergency expenditures provided under BMC 2.26.200 (d), (Exceptions to the Process for Review) are available if needed during the Current Declared Emergency.

4/15/20 Committee Action: None
4/22/20 Regular Session Action: *Pending*
(April 21, 2020)

See next page for strikeout version of affected provisions:

Amendment in Context of the Ordinance

(New, final Whereas clause)

WHEREAS, in 2018 the City adopted Ordinance 18-10, which provides additional fiscal oversight of the Executive branch by the Common Council and includes a provision regarding emergencies, which is available for use in the event it becomes necessary;

SECTION 2. For the duration of the ~~declared~~ COVID-19 disaster emergency ~~declared by Governor Holcomb~~ under Indiana Code Section 10-14-3-12 (~~Current Declared Emergency~~) [Am 01], the Mayor of the City of Bloomington shall have the powers to act in conformity with and waive any and all procedures and formalities in accordance with Indiana Code Section 10-14-3-17(j), the Governor's executive orders, or any other applicable law, declaration, order, or decree. [New Text to be Inserted with Adoption of Am 02]

SECTION 3. In accordance with the powers in the preceding Section 2 and the guidance from the State Board of Accounts, the Controller shall have the authority to approve payment of all necessary expenditures on behalf of the City of Bloomington for the duration of the ~~Current~~ ~~Declared~~ ~~Emergency~~ [Am 01], and any board or commission normally tasked with the approval of such expenditures shall review and approve the Controller's authorizations once the declared emergency has ended. ~~These authorizations by the Controller shall be limited to expenditures which directly address the Current Declared Emergency and only when use of the regular process is not practicable due to the Current Declared Emergency.~~

~~In the event the authorization would normally require Common Council consideration of an appropriation ordinance, the Mayor or his designee, shall: 1) inform the Council in writing, of what was done and why it was necessary, no later than forty-eight (48) hours after the action was taken; and 2) submit an appropriation ordinance as soon as practicable thereafter in consultation with the Council President. In the event the authorization would require action of other boards and commissions, the Mayor or his designee, shall: 1) inform the Council and the applicable board or commission in writing, of what was done and why it was necessary; 2) do so, within a reasonable period after the action was taken.~~

~~The temporary waiver or relaxation of authorizations provided for in this ordinance do not replace and shall be read in concert with the Council fiscal oversight provisions set forth in BMC 2.26.200 through BMC 2.26.210. In that regard, the procedures for an emergency expenditure provided under BMC 2.26.200 (d) (Exceptions to Process of Review) are available in the event needed during the Current Declared Emergency.~~