



# City of Bloomington Common Council

## Legislative Packet

**11 June 2014  
Special Session**

*For material regarding Ordinance 14-05, please consult the  
[28 May 2014 Legislative Packet](#)  
and the [04 June 2014 Legislative Packet](#).*

*All other material contained herein.*

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## **Packet Related Material**

**Memo**  
**Agenda**  
**Calendar**

**Notices and Agendas:**

- **Notice of Special Session** on Wednesday, June 11<sup>th</sup> at 7:30 p.m. in the Council Chambers (and Cancellation of Committee of the Whole scheduled for that evening)
- **Notice of Rescheduling of Staff-Council Internal Work Session** from Friday, June 6<sup>th</sup> to Friday, June 13<sup>th</sup> at Noon in the Council Library

**Resolutions and Legislation for Second Reading:**

- **Res 14-11** To Approve an Interlocal Cooperation Agreement Between the City of Bloomington and Monroe County, Indiana in Regard to 2014 Edward Byrne Memorial Justice Assistance Grant (JAG)
  - Memo to Council from Patty Mulvihill, Assistant City Attorney;
  - Interlocal Agreement;

*Contact: Patty Mulvihill at 349-3426, [mulvihill@bloomington.in.gov](mailto:mulvihill@bloomington.in.gov)*
- **Ord 14-05** To Amend Title 20 of the Bloomington Municipal Code Entitled “Unified Development Ordinance” (Defining “Standardized Restaurants” and Treating them as a Conditional Use in the Courthouse Square and University Village Overlay District of the Downtown)
  - **Am 01** (Sponsor, Neher [in collaboration with the Mayor]) – Narrows review criteria to “visually complementing” the immediate surroundings as well as the character of particular overlay district; and, broadens coverage to include “standardized businesses” – in packet and ready for formal action next Wednesday
  - **Am 02** (Sponsor, Neher [in collaboration with Mayor]) – Inserts whereas clauses which set forth history and rationale for legislation – in packet and ready for consideration next Wednesday

*Contact: Darryl Neher at 349-3409 or [neherd@bloomington.in.gov](mailto:neherd@bloomington.in.gov), or Dan Sherman at 349-3409 or [shermamd@bloomington.in.gov](mailto:shermamd@bloomington.in.gov)*

*For the summary and material related to Res 14-03, which initiated this proposal, please see the [Weekly Legislative Packet](#) prepared for the March 5, 2014 Regular Session.*

*For the summary and material related to Ord 14-05, please see the [Weekly Legislative Packet](#) prepared for the May 28<sup>th</sup>, 2014 Special Session.*

**Minutes from Special Session:**

- May 28, 2014

**Reminders of Additional Meetings or Changes in Council Schedule for Next Week:**

**Wednesday, June 11<sup>th</sup>**

Jack Hopkins Social Services  
Funding Committee – Review of  
2014 Process

5:30 pm in the  
Council Library

Special Session (Committee of  
the Whole has been cancelled)

7:30 pm in  
Council Chambers

**Friday, June 13<sup>th</sup>**

Staff-Council Internal Work  
Session

Noon in the  
Council Library

**Memo**

**Two Items for Action at Special Session on Wednesday, June 11<sup>th</sup>  
(Committee of the Whole for that Night was cancelled)**

The Council cancelled the Committee of the Whole scheduled for next Wednesday and will hold a Special Session instead. The change reflected comfort with Am 01 to Ord 14-05 expressed by the public and felt by the Council after the discussion and recommended approval last Wednesday. There is another amendment to Ord 14-05, which inserts whereas clauses setting forth its rationale and history and is included in this packet. In addition, there is a resolution which is also included in this material.

## Second Readings and Resolutions

### **Item One – Res 14-11 – Authorizing Execution of an Interlocal Cooperation Agreement with the County Regarding Disbursal of a 2014 Edward Byrne Memorial Justice Assistance Grant (JAG) to Purchase Equipment for the City Police Department and Monroe County Sheriff’s Department (Re: Digital Video/Audio Recording Equipment for BPD New Interviewing Rooms and In-Car Camera for Sheriff’s Department)**

The first item under Second Readings and Resolutions is Res 14-11. It authorizes the execution of an Interlocal Cooperation Agreement with the County regarding the disbursal of Edward Byrne Memorial Justice Assistance Grant (JAG) funds for 2014. According to the memo and material provided by Patty Mulvihill, Assistant City Attorney, the City and County are applying for a \$28,826 award from federal Office of Justice Program JAG funds. Under the terms of the award, the funds are to be divided based upon “violent crime statistics reported to the FBI through the Uniform Crime Report (UCR)” regarding these jurisdictions over a three-year period. This year, the City will receive \$23,637.32 (or 82%) and use it toward the purchase of digital interview recording equipment. The County will receive \$5,188.68 (or 18%) and use it toward outfitting one vehicle with an in-car camera system.

In the past, the Council has approved JAG monies that helped acquire emergency light-bars for patrol cars, a NC4 *Street Smart* computer program, eDesk kiosks, a telephone system, digital interviewing equipment, polygraph equipment (and train staff on its use), in-car cameras, vehicle locator equipment and software, and special vehicles for the Police and Sheriff’s departments.

#### Grant

The memo along communications from Mulvihill and Chief Diekhoff provided the following additional information about the use of funds:

- The Police Department will be remodeling the portion of its headquarters now occupied by Central Dispatch once they move to the Downtown Transit facility sometime this summer. Part of the renovation will include adding interviewing rooms. The BPD would use \$23,637.32 toward the purchase and installation of an iRecord Digital Video/Audio Recording System to accommodate as many as four new interviewing rooms and intends to contribute an additional \$11,397 to cover the estimated \$35,035 cost of this portion of the project. Among other things, this equipment would keep the department in compliance with a 2011

change in the Indiana Rules of Evidence that only allows admission of statements of defendants in felony prosecutions if they are digitally recorded.

- The County would use the \$5,188.68 toward the purchase and installation of an in-car camera system for one of their vehicles. The County intends to contribute an additional \$556.32 to cover the total \$5,475 cost of the system. These devices document the activities of the deputies, provide better evidence of crimes (particularly driving offenses), and offer means to improve performance through their potential as a training tool.

### Agreement

As a requirement for an award, the City and the County must enter into a “Memorandum of Understanding” (Agreement) which is attached to the resolution.

In brief, the Agreement:

- “reflects the commitments and understandings ... of the governmental entities in order to efficiently and effectively utilize proceeds” from this award;
- allocates the grant between the two entities to be used as stated above;
- makes each party solely responsible for their own actions in furnishing services under this agreement;
- requires each party to communicate and cooperate with each other and to make good-faith efforts to obtain all necessary funds and otherwise comply with the Agreement;
- conditions performance of the duties under the Agreement on the receipt of sufficient JAG funds; and
- is to be narrowly construed in regard to the obligations of the parties and does not create rights for persons who have not signed it.

### **Item Two – Ord 14-05**

**(Establishing “Standardized Businesses” as a Conditional Use in the Courthouse Square and University Village Overlay Districts in the Downtown [as Proposed with Recommended Adoption of Am 01 – in Packet]) – Am 02, which Inserts Whereas Clauses Setting Forth Rationale and History of Amended Ordinance is Also in Packet and Ready for Consideration**

The second item under Second Readings and Resolutions is **Ord 14-05**. It comes forward from the Plan Commission at the request of the Council and would introduce a new conditional use for the Courthouse Square and University Village Overlay districts in the City’s downtown. Am 01, which received a unanimous positive

recommendation last week, would expand the reach of the ordinance from “standardized restaurants” to “standardized businesses,” but narrow its focus to whether the project visually complements the immediate surroundings as well as the character of the particular overlay district. This change is intended to focus upon, and comprehensively protect, the unique and eclectic visual character of these two overlay districts.

There is also a second amendment which is sponsored by Council President Neher in collaboration with the Mayor. It inserts whereas clauses which are intended to set forth the history and rationale for the ordinance as amended by the Council.

Please note that, if amended, the ordinance would need to be returned to the Plan Commission with an accompanying explanation. The Plan Commission would then have 45 days to approve, reject, or fail to act on the changes. In the event the Plan Commission rejects the changes, Council would have 45 days to affirm its amendments.

**Happy Birthday Dave Rollo – June 11<sup>th</sup>**

**NOTICE AND AGENDA  
BLOOMINGTON COMMON COUNCIL  
SPECIAL SESSION  
7:30 P.M., WEDNESDAY, JUNE 11, 2014  
COUNCIL CHAMBERS SHOWERS BUILDING, 401 N. MORTON ST.**

**I. ROLL CALL**

**II. AGENDA SUMMATION**

**III. APPROVAL OF MINUTES FOR:**                      May 28, 2014                      Special Session

**IV. LEGISLATION FOR SECOND READING AND RESOLUTIONS**

1. Resolution 14-11 To Approve an Interlocal Cooperation Agreement Between the City of Bloomington and Monroe County, Indiana In Regard to 2014 Edward Byrne Memorial Justice Assistance Grant (JAG)

*Committee Recommendation:*                      None (not heard by Committee)

2. Ordinance 14-05 To Amend Title 20 of the Bloomington Municipal Code Entitled “Unified Development Ordinance” (Defining “Standardized Restaurants” and Treating Them as a Conditional Use in the Courthouse Square and University Village Overlay Districts of the Downtown)

*Committee Recommendation (as amended) (6/04):*      Do Pass                      4 – 0 – 2

**V. COUNCIL SCHEDULE**

**VI. ADJOURNMENT**



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

To Council Members  
From Council Office  
Re Weekly Calendar – 09-14 June 2014

**Monday, 09 June**

*No meetings are scheduled for this date.*

**Tuesday, 10 June**

4:00 pm Bloomington Community Farmers' Market – Madison St. between 6<sup>th</sup> and 7<sup>th</sup>  
4:30 pm Commission on Aging, Hooker Room  
6:00 pm Bloomington Commission on Sustainability, McCloskey  
6:30 pm Sister Cities International – CubAmistad, Dunlap  
6:30 pm Sister Cities International – Posoltega, Kelly  
7:30 pm Sister Cities International, Kelly

**Wednesday, 11 June**

2:00 pm Hearing Officer, Kelly  
4:30 pm Environmental Resources Advisory Council – Wapehani Park, 3401 W Wapehani Rd  
5:00 pm Bloomington Arts Commission, McCloskey  
5:30 pm Commission on the Status of Black Males, Hooker Room  
5:30 pm Jack Hopkins Social Service Funding Committee Program Evaluation, Council Library  
7:30 pm Common Council Special Session, Council Chambers

***Happy Birthday to Councilmember Dave Rollo!***

**Thursday, 12 June**

12:00 pm Housing Network, McCloskey  
4:00 pm Monroe County Solid Waste Management District – Courthouse, Judge Nat U. Hill III Room  
5:00 pm Bloomington Historic Preservation Commission, McCloskey

**Friday, 13 June**

12:00 pm Council-Staff Internal Work Session, Council Library  
1:30 pm Metropolitan Planning Organization Policy Committee, Council Chambers

**Saturday, 14 June**

8:00 am Bloomington Community Farmers' Market – Showers Common, 401 N Morton St.

*Posted and Distributed: Friday, 06 June 2014*





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

# **NOTICE**

## **Rescheduling of COUNCIL-STAFF INTERNAL WORK SESSION**

The Internal Work Session previously scheduled for  
**Friday, 06 June 2014 at 12:00p**  
has been rescheduled to  
**Friday, 13 June 2014 at 12:00p**  
and will be held in the Council Library  
Suite 110, City Hall

Posted: Friday, 06 June 2014



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

# **NOTICE**

## **CANCELLATION OF THE COMMITTEE OF THE WHOLE and SCHEDULING OF A SPECIAL SESSION**

The Committee of the Whole originally scheduled for  
**Wednesday, 11 June 2014**  
**7:30pm**  
has been cancelled, and a Special Session has been scheduled in  
its place.

The meeting will be held in the Council Chambers, Suite 115  
City Hall  
401 N. Morton

Posted: Friday, 06 June 2014

**RESOLUTION 14-11**

**TO APPROVE AN INTERLOCAL COOPERATION AGREEMENT  
BETWEEN THE CITY OF BLOOMINGTON AND  
MONROE COUNTY, INDIANA  
IN REGARD TO 2014 EDWARD BYRNE MEMORIAL  
JUSTICE ASSISTANCE GRANT (JAG)**

WHEREAS, the City of Bloomington and Monroe County are authorized by I.C. 36-1-7-1, *et seq.*, to enter into agreements for the joint exercise of their powers for the provision of services to the public; and

WHEREAS, this Interlocal Cooperation Agreement reflects the commitments and understandings agreed to by the governmental entities in order to efficiently and effectively utilize proceeds received from the 2014 Edward Byrne Memorial Justice Assistance Grant (JAG).

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

SECTION 1. The Interlocal Cooperation Agreement between the City of Bloomington and Monroe County, Indiana in regard to 2014 Edward Byrne Memorial Justice Assistance Grant, a copy of which is attached hereto and made a part hereof, is hereby approved.

SECTION 2. 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 3. This resolution 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 \_\_\_\_\_, 2014.

\_\_\_\_\_  
DARRYL NEHER, 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 \_\_\_\_\_, 2014.

ATTEST:

\_\_\_\_\_  
REGINA MOORE, Clerk  
City of Bloomington

SIGNED and APPROVED by me upon this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
MARK KRUZAN, Mayor  
City of Bloomington

## SYNOPSIS

This resolution approves the interlocal between the City and the County for how the 2014 JAG funds are to be utilized. The JAG funds are divided among the City and the County based on violent crime statistics reported to the FBI through the Uniform Crime Report. A three year review of violent crime statistics shows that the City is entitled to 82% of the grant funds, with the County retaining the remaining 18%. The overall JAG award for 2014 is \$28,826.00. The City shall retain \$23,637.32, with the County retaining \$5,188.68. The City shall use all of its award towards the purchase of an iRecord Digital Video/Audio Recording System to be installed in four interview rooms at the Police Department. The County shall use all of its award towards the purchase of in-car cameras.

INTERLOCAL COOPERATION AGREEMENT  
BETWEEN  
THE CITY OF BLOOMINGTON AND  
MONROE COUNTY, INDIANA  
IN REGARDS TO 2014 EDWARD BYRNE MEMORIAL  
JUSTICE ASSISTANCE GRANT (JAG)

- WHEREAS, Indiana Code § 36-1-7-1 *et seq.* permits governmental entities to jointly exercise powers through Interlocal Cooperation Agreements; and
- WHEREAS, each governmental entity, in performing their governmental functions or in paying for the performance of governmental functions hereunder, shall make that performance or those payments from current revenues legally available to that party; and
- WHEREAS, each governmental entity finds that the performance of this Interlocal Cooperation Agreement is in the best interests of both entities, that the undertaking will benefit the public, and that the division of costs fairly compensates the performing party for the services or functions under this Interlocal Cooperation Agreement; and
- WHEREAS, this Interlocal Cooperation Agreement reflects the commitments and understandings agreed to by the governmental entities in order to efficiently and effectively utilize proceeds received from the 2014 Edward Byrne Memorial Justice Assistance Grant (JAG); and
- WHEREAS, the funds from the JAG are to be divided between the two governmental entities based on violent crime statistics reported to the Federal Bureau of Investigation through the Uniform Crime Reports; and
- WHEREAS, a three (3) year review of the violent crime statistics for both governmental agencies indicates that the Bloomington Police Department is to receive eighty-two percent (82%) of the total JAG funds and that the Monroe County Sheriff's Department is to receive the remaining eighteen percent (18%) of the JAG funds.

NOW, THEREFORE, City of Bloomington and Monroe County, Indiana, hereby agree as follows:

Section 1. Payment

The City shall receipt in all of the \$28,826.00 associated with the 2014 JAG and thereafter disburse \$5,188.68 (18% of the total JAG funds) to the Monroe County Sheriff's Department, while retaining \$23,637.32 for use by the City of Bloomington Police Department.

Section 2. Use of Funds

The City shall use all of the \$23,637.32 it is allocated from the JAG funds towards the purchase of an iRecord Digital Video/Audio Recording System, with said system being installed in four (4) interview rooms at the Police Department during the summer or fall of 2014.

The County shall use all of the \$5,188.68 it is allocated from the JAG funds towards the purchase of in-car video systems for police vehicles.

Section 3. Liability

Nothing in the performance of this Interlocal Cooperation Agreement (hereinafter, "Agreement") shall impose any liability for claims against either governmental entity other than claims for which liability may be imposed by the Indiana Tort Claims Act.

Section 4. Responsibility

Each entity to this Agreement shall be responsible for its own actions in providing services under this Agreement and shall not be liable for any civil liability that may arise from the furnishing of the services by the other party.

Section 5. Commitment

The entities shall communicate and cooperate with one another to ensure that the purposes of this Agreement are achieved on behalf of and to the benefit of the publics they serve.

Section 6. Third Parties

The entities to this Agreement do not intend for any third party to obtain a right by virtue of this Agreement.

Section 7. Intent

By entering into this Agreement, the entities do not intend to create any obligations express or implied other than those set out herein. Further, this Agreement shall not create any rights in any party not a signatory hereto.

Section 8. Severability

If any provision of this Agreement is declared, by a court of competent jurisdiction, to be invalid, null, void or unenforceable, the remaining provisions shall not be affected and shall have full force and effect.

Section 9. Appropriation of Funds

The entities acknowledge and agree that the performance of this Agreement is subject to the appropriation of sufficient funds by JAG. The parties agree to make a good faith effort to obtain all necessary appropriations and to comply with all provisions of this Agreement to the extent feasible under current or future appropriations.

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2014, by the Monroe County, Indiana Commissioners:

MONROE COUNTY, INDIANA

ATTEST:

\_\_\_\_\_  
PATRICK STOFFERS, President  
Monroe County Commissioners

\_\_\_\_\_  
STEVE SAULTER, Auditor

\_\_\_\_\_  
IRIS F. KIESLING, Vice President  
Monroe County Commissioners

\_\_\_\_\_  
JULIE THOMAS, Commissioner  
Monroe County Commissioners

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2014, by the City of  
Bloomington Common Council.

\_\_\_\_\_  
DARRYL NEHER, President  
Bloomington Common Council

ATTEST:

\_\_\_\_\_  
REGINA MOORE, Clerk

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2014, by the City of  
Bloomington.

CITY OF BLOOMINGTON, INDIANA

ATTEST:

\_\_\_\_\_  
MARK KRUZAN, Mayor

\_\_\_\_\_  
REGINA MOORE, Clerk

# MEMO:

**To: Bloomington City Council**  
**CC: Mark Kruzan, Mayor**  
**John Whikehart, Deputy Mayor**  
**From: Patty Mulvihill, Assistant City Attorney**  
**Date: May 20, 2014**  
**Re: Resolution to Approve Interlocal for 2014 JAG**

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The Bloomington Police Department and the Monroe County Sheriff's Office will jointly be applying for federal grant funds from the Edward Byrne Memorial Justice Assistance Grant (FY 14 JAG Program) administered by the Bureau of Justice Assistance.

The amount of grant funds available to the Bloomington Police Department and the Monroe County Sheriff's Office is \$28,826.00. The grant allows for funds to be divided among agencies based on violent crime statistics reported to the FBI through the Uniform Crime Report (UCR). A three (3) year review of violent crime statistics for the respective agencies indicates that the Bloomington Police Department should receive 82% of the funds and that the Monroe County Sheriff's Office should receive the remaining 18% of the funds.

This results in a monetary division of:  
Bloomington Police Department-**\$23,637.32**  
Monroe County Sheriff's Office-**\$5,188.68**

The Bloomington Police Department intends to use grant funds toward the purchase of an iRecord Digital Video/Audio Recording System. This system will be installed in four (4) new Interview Rooms at the Department that will become available once a remodel of the building takes place through the summer and fall of 2014.

The Indiana Supreme Court amended Indiana Rule of Evidence 617, effective January 1, 2011, to require that statements made by a defendant in a felony criminal prosecution can only be admitted if there is an electronic recording of the statement. This requirement applies to a suspect in a custodial interrogation that occurs in a place of detention which would apply to the Bloomington Police Department.

The acquisition of the iRecord Digital Video/Audio Recording System would allow for the Department to remain in compliance with this requirement of the Indiana Supreme Court and, in general, can provide valuable evidence to assist the Prosecuting Attorney engaged in the prosecution of a crime. The system has other benefits such as negating allegations of police misconduct or violations of such rights as Miranda while a person is in police custody.

The Department has received a quote of \$35,035.00 as the minimum amount required to purchase this system. If awarded, this amount exceeds available grant funds to the Department by \$11,397.68. ( $\$35,035.00 - \$23,637.32 = \$11,397.68$ ) The Department is committed to completing the purchase of the iRecord system by using other available funding sources.



The Monroe County Sheriff's Office intends to apply available grant funds toward the purchase of in-car video for police vehicles. These in-car cameras allow us to capture a wide variety of video and audio evidence that ranges from on-scene interviews to actual crimes in progress. Once the audio and video evidence is captured, it wirelessly uploads to a secured server where it can be easily be made available to the Monroe County Prosecutor's Office for evidentiary purposes. Audio and video evidence is often times the most compelling type of evidence and is frequently expected by juries.

The in-car camera system that is utilized by the Monroe County Sheriff's Office is manufactured by COBAN Technologies and costs \$5,745 per unit. This amount is \$556.32 more than the \$5,188.68 (18%) that would be allocated if grants funds are awarded and the deficit would need to be supplemented by other funding within the Sheriff's Office to outfit one (1) patrol vehicle through the grant.

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

**Ordinance #:** 14-05  
**Amendment #:** Am 02  
**Submitted By:** Councilmember Neher  
**Date:** June 6, 2014

**Proposed Amendment:**

1. Ordinance 14-05, as amended, shall be revised to include the following “Whereas” clauses:

WHEREAS, the properties contained within the City’s Courthouse Square Overlay and University Village Overlay combine to create a very unique atmosphere in the heart of downtown Bloomington; and

WHEREAS, the May 15, 1991, Growth Policies Plan declared that central to the City’s character is the mix of uses, the architectural diversity, and the pedestrian scale of the downtown area (which includes portions now regulated by the Courthouse Square Overlay and University Village Overlay); and

WHEREAS, during calendar years 1999, 2000, and 2001 the City undertook a massive renovation project of Kirkwood Avenue, located in the University Village Overlay, known as the “Big Dig” which included extensive storm water renovations, street reconstruction, and the enhancement of the sidewalk areas along the street to be more pedestrian friendly for a cost of approximately \$3,000,000.00, in an effort to establish Kirkwood as one of the City’s signature streets; and

WHEREAS, during the end of calendar year 2000 and the beginning of calendar year 2001, the City invested approximately \$112,000.00 in improvements and the redesign of People’s Park, located in the University Village Overlay along Kirkwood Avenue; and

WHEREAS, the 2002 Growth Policies Plan for the City notes that Bloomington is often described as possessing “small town character” and identifies that the City’s community character is tied to the look and feel of Bloomington; and

WHEREAS, the Bloomington Historic Preservation Commission adopted the *City of Bloomington Interim Report of Indiana Historic Sites and Structures Inventory* on October 17, 2002, and in doing so specifically recognized three areas as having unique atmospheres worthy of protection: the Courthouse Square Historic District; the Old Library Historic District; and the Restaurant Row Study Area—each of these three areas is located, in whole or in part, within the Courthouse Square or University Village Overlays; and

WHEREAS, there are well over fifty (50) structures located within the Courthouse Square Overlay and University Village Overlay which have been specifically recognized on the City's Interim Report of Indiana Historic Sites and Structures; and

WHEREAS, there are six (6) structures located within the Courthouse Square and University Village Overlays which have been locally designated as historic by the City's Historic Preservation Commission; and

WHEREAS, the City engaged in a planning process to create and adopt the Downtown Vision and Infill Strategy Plan on November 2, 2005, and in that process identified six distinct character areas within the downtown – including the Courthouse Square Character Area and the University Village Character Area; and

WHEREAS, the City's Downtown Vision and Infill Strategy Plan adopted on November 2, 2005, notes that the Kirkwood Avenue Corridor (contained within the University Village Overlay) conveys the character of a small traditional main street, providing a strong pedestrian-friendly route between the Downtown and Indiana University, and further states that maintaining and reinforcing the character of this corridor should be a high priority of the City; and

WHEREAS, the City's Downtown Vision and Infill Strategy Plan notes that significant portions of the area included within the Courthouse Square Overlay were originally intended to provide a diverse mix of businesses which would capitalize on the pedestrian activity generated by the Courthouse; and

WHEREAS, the City's Downtown Vision and Infill Strategy Plan remarks that the area known as Restaurant Row, located within the University Village Overlay, is an important and distinct area of the City and that its character should be defined; and

WHEREAS, in 2006 the City designated a sixty (60) block area of the downtown as the Bloomington Entertainment and Arts District (BEAD)—an economic development district for the City to bring business and creative sectors together to advance commerce and culture, to build community and to spur economic development; and

WHEREAS, the areas of the City contained within the Courthouse Square Overlay and University Village Overlay draw many visitors each year and receive nationwide exposure for its Lotus Festival and Fourth Street Arts Festival—these festivals and the overall character of the geographic areas contained within the two Overlays are vital to the City's economic future; and

WHEREAS, the City specifically codified the Downtown Plan and created the City's Courthouse Square Overlay in 2007 with a District Intent to provide a “diverse mix of traditional commercial retail uses at the street level”; and

WHEREAS, the City specifically codified the Downtown Plan and created the City’s University Village Overlay in 2007, with a District Intent to “draw upon the variety of architectural styles combined with diverse land uses and site features to enhance the existing eclectic mix of developments that serves as a dynamic and key transitional activity center that connects the Courthouse Square with Indiana University”; and

WHEREAS, the City specifically codified the Downtown Plan and created the City’s University Village Overlay in 2007, with a District Intent to “protect and maintain the unique character of the converted residential structures along Restaurant Row”; and

WHEREAS, in 2007, the City created the position of Assistant Director of Economic & Sustainable Development for Small Business Relations in order to, in part, and as noted in the position’s job description, “support the growth and sustainability of small business” in the Bloomington community; and

WHEREAS, in 2007, the City created the position of Assistant Director of Economic & Sustainable Development for the Arts in order to pursue in part, and as noted in the position’s job description, “the development and implementation of the Bloomington Entertainment and Arts District (BEAD)”; and

WHEREAS, the unique character and environment created by the City’s Courthouse Square Overlay and University Village Overlay must be respected and protected so that the City can continue to thrive without experiencing inappropriate changes, which could jeopardize the environment; and

WHEREAS, the geographic area represented by the City’s Courthouse Square Overlay and University Village Overlay represent the central core of the City’s downtown area—an area which is one of a very precious few traditional downtowns still in existence in Indiana, in which its housing, shops, restaurants, work places, and civic facilities co-exist in harmony; and

WHEREAS, the City’s Courthouse Square Overlay and University Village Overlay represent an area of the City where a sense of timelessness has been sustained because of the pedestrian friendly atmosphere; which has created a strong “small town” sense of community; and

WHEREAS, on August 4, 2009, Mayor Mark Kruzan, via a Proclamation, recognized BEAD as a cultural district within the City and noted that it is an important part of the City’s overall economic efforts; and

WHEREAS, on January 5, 2010, the Indiana Arts Commission designated BEAD as one of the State’s three (3) Cultural Districts; and

WHEREAS, the Market District is part of BEAD and is located wholly in the Courthouse Overlay; and

WHEREAS the Market District is a district, as described by the BEAD Character Area Descriptions, “peppered with plenty of fine dining or café-style eateries to duck into for more fuel”; and

WHEREAS, the Kirkwood Avenue District is part of BEAD and is located wholly in the University Village Overlay; and

WHEREAS, the Kirkwood Avenue District is described by the BEAD Character Area Descriptions as: “Here, the spirit is eclectic, colorful and energetic. With history-making collegiate hangouts like Nick’s English Hut and the Runcible Spoon Café interspersed with local and regional magnets like the Monroe County Public Library, the Monroe County History Center and People’s Park, the Kirkwood Avenue district holds plenty of nooks and crannies for the exchange of ideas and cultures”; and

WHEREAS, the Restaurant Row District is part of BEAD and is located wholly in the University Village Overlay; and

WHEREAS, the Restaurant Row District is characterized by the BEAD Character Area Descriptions as: “the Section of East 4<sup>th</sup> Street easily identifiable by the wafting smells of the diverse and delicious fare of several ethnic restaurants that have transformed bungalow homes into destination eateries. Tibet, India, Thailand, France, Italy, Greece, Ethiopia—these are just a few of the world cuisines that can be sampled in Restaurant Row”; and

WHEREAS, the geographic area represented by the Courthouse Square and University Village Overlays is one (1) of only three (3) geographic areas in the State of Indiana that meet all of the following requirements: is listed on the National Register of Historic Places; has a county courthouse; and has a historic opera house; and

WHEREAS, the City recognizes that business uses are critical to the integrity of the commercial and cultural districts identified, at least in part, by the Courthouse Square and University Village Overlays; and

WHEREAS, the City reasonably believes additional standardized businesses could, in the foreseeable future, make their way to those areas contained within the Courthouse Square and University Village Overlays due to these areas popularity and vitality; and

WHEREAS, standardized businesses and standardized restaurants, in particular, with their standardized, menus, employee uniforms, trademarks, logos, signs, and exterior design, strive to make the experience in one outlet the same as any other; and

WHEREAS, the addition or expansion of standardized businesses, with this aspect of “sameness” within the boundaries of the Courthouse Square and University Village Overlays, if not monitored and regulated, will jeopardize the City’s goal of nurturing and protecting the unique, eclectic, historic and small town character of these areas and undermine a key strategy for the City’s economic development; and

WHEREAS, the Common Council values the importance of the connections between community character and commerce; and

WHEREAS, in light of the foregoing considerations, the City Council has determined that the public welfare of the City will best be served and advanced by monitoring and regulating the establishment of new and expanded standardized businesses in the Courthouse Square and University Village Overlays through the issuance of Conditional Use Permits by the City’s Board of Zoning Appeals, which shall require the amendment and supplementation of certain provisions of the City’s Unified Development Ordinance; and

WHEREAS, on March 10, 2014, the Plan Commission considered this case, ZO-7-14, and made a positive recommendation in favor of a package of amendments to the Unified Development Ordinance; and

WHEREAS, the Common Council has reviewed that package of amendments and proposes changes which, first narrow the special criteria to whether the petitioner’s project visually complements the immediate surroundings as well as the character of the particular overlay district and, second, broaden the regulated uses from standardized restaurants to standardized businesses; and

WHEREAS, this combination of broadening the reach but narrowing the focus of the regulation is intended to focus upon, and comprehensively protect, the unique and eclectic visual character of these two overlay districts;

### **Synopsis**

This amendment is sponsored by Councilmember Neher and revises the “Whereas” clauses of Ordinance 14-05, as amended, to reflect the procedural history and intent of the legislation.

**6/4/14 Committee Action:** None  
**6/11/14 Special Session Action:** Pending

(June 6, 2014)

In the Council Chambers of the Showers City Hall on Wednesday, May 28, 2014 at 7:30 pm with Council President Darryl Neher presiding over a Special Session of the Common Council.

COMMON COUNCIL  
SPECIAL SESSION  
May 28, 2014

Roll Call: Ruff, Sturbaum, Sandberg, Granger, Neher, Mayer, Rollo, Volan  
Absent: Spechler

ROLL CALL

Council President Neher gave the Agenda Summation

AGENDA SUMMATION

The minutes for the Regular Session of March 5, 2014 were approved by voice vote.

APPROVAL OF MINUTES

There was no legislation for second reading at this meeting.

LEGISLATION FOR SECOND  
READING AND RESOLUTIONS

It was moved and seconded that the council consider Ordinance 14-05 at the following meetings to be held in the Council Chambers at 7:30 pm:

MOTION for deliberation of  
Ordinance 14-05

- A Committee of the Whole on June 4<sup>th</sup> which, in fact, would reschedul the evening’s Committee of the Whole (following this session meeting) to June 4<sup>th</sup> and would also cancel the Regular Session that night.
- The Committee of the Whole currently scheduled for June 11<sup>th</sup>
- The Regular Session that was already scheduled for June 18<sup>th</sup>.

The motion received a roll call vote of Ayes: 7, Nays: 0, Abstain: 1 (Volan)

It was moved and seconded that the council authorize the Council President to cancel, schedule, and reschedule staff council internal work sessions from this meeting until June 18<sup>th</sup>.

Motion to Authorize the Council  
President to call sessions

The motion received a roll call vote of Ayes: 7, Nays: 0, Abstain: 1 (Volan)

LEGISLATION FOR FIRST  
READING

Ordinance 14-05 To Amend Title 20 of the Bloomington Municipal Code Entitled “Unified Development Ordinance” (Defining “Standardized Restaurants” and Treating Them as a Conditional Use in the Courthouse Square and University Village Overlay Districts of the Downtown)

Ordinance 14-05

Tim Mayer took a moment to announce his and Sue Mayer’s 52<sup>nd</sup> wedding anniversary. Congratulations were offered from all!

The meeting was adjourned at 7:38 pm.

ADJOURNMENT

APPROVE:

ATTEST:

Darryl Neher, PRESIDENT  
Bloomington Common Council

Regina Moore, CLERK  
City of Bloomington