

# Draft in Dec. 18, 2019 meeting packet

## ORDINANCE 2019-46

### AN ORDINANCE OF THE MONROE COUNTY BOARD OF COMMISSIONERS CREATING A CAPITAL IMPROVEMENT BOARD TO DIRECT CONVENTION CENTER SITE SELECTION, DESIGN, CONSTRUCTION, AND OPERATIONS

**WHEREAS**, Monroe County Government established, maintained, and has operated the Monroe Convention Center ("Convention Center") for more than thirty years, using innkeeper's Tax Funds provided for by Indiana Code 6-9-4 et seq. and appropriated by the Monroe County Council ("County Council"); and

**WHEREAS**, the Monroe County Board of Commissioners ("Commissioners") have purchased real property, funded through bonds and appropriations approved by the County Council, for the expansion of the Convention Center; and

**WHEREAS**, the Indiana General Assembly enabled the County Council to enact a County Food and Beverage Tax in 2009, with the passage of P.L. 176-2009, SEC. 21; and,

**WHEREAS**, the County Council, relying upon assurances of collaboration and partnership issued by the City of Bloomington Common Council and Mayor of Bloomington, the County Council adopted Ordinance 2017-51, which authorized the Monroe County Food and Beverage Tax ("Tax");

**WHEREAS**, local enabling Ordinance 2017-51 confirmed and affirmed the state-law provisions providing for a Food and Beverage Advisory Commission ("Commission") to *"coordinate and assist efforts of the County and City of Bloomington fiscal bodies"* and requiring legislative action to seek and receive the Commission's recommendations of all expenditures prior to the legislative approval of any expenditures of Tax proceeds; and

**WHEREAS**, the Commissioners wish to follow state law procedures and those procedures which are required by Ordinance 2017-51, including reliance upon Commission to coordinate and assist the City Council and the County Council regarding the utilization of Tax receipts and requiring legislative oversight and action, which may not be contradicted or delegated under the guise of Indiana's Home Rule authority; and

**WHEREAS**, the Commissioners, County Council, City Council, and Mayor ("Elected Officials") have met on three occasions in 2019 in order to resolve issues regarding construction and future operation and management of the Convention Center; and

**WHEREAS**, a Capital Improvement Board ("CIB"), discussed by the Elected Officials and authorized pursuant to Indiana Code 36-10-8 et seq., is a natural option to direct Convention Center site selection, design, construction, and operations, as it is a governmental entity created for this very purpose, protected by the Tort Claims Act, and completely transparent and publicly accountable; and

**WHEREAS**, the Commissioners do not support the creation of an independent 501c3 corporation, due to the lack of legally-required transparency, the lack of Tort Claim liability protection, and the inherent risks that are associated with the "flexibility" provided to a 501c3; and

**WHEREAS**, the Commissioners wish to see the Convention Center expansion and its ongoing operations advance and be directed by a non-political, neutral CIB, which is composed of appointments made by the legislative bodies, who are empowered under state law and Ordinance 2017-51; and

**WHEREAS**, the Commissioners look forward to working with their City colleagues to expeditiously move forward making appointments to a CIB so that the Convention Center expansion may proceed and the process no longer stalled.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF MONROE COUNTY, INDIANA.**

Section 1. A Capital Improvement Board ("CIB") is hereby created, pursuant to Indiana Code 36-10-8 et seq. to manage and direct the affairs of the Monroe County Convention Center ("Convention Center") and its expansion.

Section 2. The CIB shall be composed of seven (7) members, consistent with IC 36-10-8-4. The units of government which shall make appointments to the CIB are Monroe County and the City of Bloomington. Specifically, Monroe County ("County") shall appoint three (3) members and the City of Bloomington ("City Council") shall appoint three (3) members. Those six (6) members appointed shall recommend the seventh appointment, which must be confirmed and approved by joint resolution of the Commissioners and the City Council. No members may be elected officials of or employed by either Monroe County or the City of Bloomington. The staggering of membership terms shall be consistent with statutory requirements and set forth by further order of the Monroe County Board of Commissioners ("Commissioners"), as required by law.

Section 3. The CIB shall have all authority permitted by law; however, the CIB shall not be allowed to employ or have appointed to the Board of Directors any Monroe County or City of Bloomington elected officials or employees. It is the intent of the Commissioners, with this limiting provision, to avoid conflicts of interest and to ensure independent and fair decision making by the CIB.

Section 4. The CIB shall select the site for the expansion of the Convention Center, choosing between the north and the east options outlined by the formerly-created Steering Committee created by a (now-defunct) Memorandum of Understanding signed by the Mayor of Bloomington and the Commissioners.

Section 5. The Commissioners vow to work with their colleagues at the City to transfer the necessary real property, execute all agreements, and take any/all steps necessary in order to allow the CIB to fulfill the statutory duties contained in Indiana Code 36-10-8 et seq., including the financing, construction, equipping, operating, and maintaining of the capital improvements that are and will be a part of the Monroe County Convention Center.

Section 6. This Ordinance takes effect upon passage by the Commissioners. Any subsequent legal or administrative action which may be necessary for the furtherance of this Ordinance and to equip and organize a CIB is hereby authorized.

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by the Board of Commissioners of Monroe County, Indiana.

**MONROE COUNTY BOARD OF COMMISSIONERS**

"AYES"

"NAYS"

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Julie Thomas, President

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Julie Thomas, President

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Lee Jones, Vice President

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Lee Jones, Vice President

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Penny Githens, Member

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Penny Githens, Member

ATTEST:

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Catherine Smith, Auditor