

**COUNCIL PROCEEDINGS
PUBLISHED BY THE AUTHORITY OF THE CITY COUNCIL
OF BLOOMINGTON, ILLINOIS**

The Council convened in regular Session in the Council Chambers, City Hall Building, at 7:35 p.m., Monday, September 13, 2010.

The Meeting was opened by Pledging Allegiance to the Flag followed by moment of silence.

The Meeting was called to order by the Mayor who directed the City Clerk to call the roll and the following members answered present:

Aldermen: Judy Stearns, Kevin Huette, Bernie Anderson, David Sage, John Hanson, Jennifer McDade, Steven Purcell, Karen Schmidt, Jim Fruin and Mayor Stephen F. Stockton.

City Manager David Hales, City Clerk Tracey Covert, and Corporate Counsel Todd Greenburg were also present.

The following was presented:

SUBJECT: Council Proceedings of March 9, May 11 and June 8, 2009

RECOMMENDATION: That the reading of the minutes of the previous Council Proceedings of March 9, May 11 and June 8, 2009 be dispensed with and the minutes approved as printed.

BACKGROUND: The Council Proceedings of March 9, May 11 and June 8, 2009 have been reviewed and certified as correct and complete by the City Clerk.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Not applicable.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

Tracey Covert
City Clerk

David A. Hales
City Manager

Motion by Alderman McDade, seconded by Alderman Schmidt that the reading of the minutes of the previous Council Meeting of March 9, May 11, and June 8, 2009 be dispensed with and the minutes approved as printed.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Huette, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Bills and Payroll

RECOMMENDATION: That the bills and payroll be allowed and orders drawn on the Treasurer for the various amounts as funds are available.

BACKGROUND: The list of bills and payrolls will be furnished to you on Thursday, September 9, 2010 by posting via the City's web site.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Total disbursements to be approved \$5,544,512.85, (Payroll total \$2,900,529.09, and Accounts Payable total \$2,643,983.76).

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

Timothy Ervin
Director of Finance

David A. Hales
City Manager

(ON FILE IN CLERK'S OFFICE)

Ron Schultz, 1208 E. Oakland Ave, addressed the Council. He cited the landfill fee and questioned the time frame. David Hales, City Manager, addressed the Council. The tipping fee was monthly. Mr. Schultz encouraged the City to do more recycling. Mr. Hales stated the City and the Ecology Action Center (EAC) had been working on recycling efforts.

Motion by Alderman McDade, seconded by Alderman Schmidt that the bills and payroll be allowed and orders drawn on the Treasurer for the various amounts as funds are available.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Huette, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Payments from Various Municipal Departments

RECOMMENDATION: That the payments be approved.

BACKGROUND: All of the described payments are for planned and budgeted contracts previously approved by the City Council.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: As follows:

1. The first and final payment to Heritage Enterprises in the amount of \$8,950 on a contract amount of \$8,950 of which \$8,950 will have been paid to date for work certified as 100% complete for the Harriet Fuller Rust Façade Grant. Completion date – August 2010.
2. The first and final payment to Celeste Hochhalter in the amount of \$9,941 on a contract amount of \$9,941 of which \$9,941 will have been paid to date for work certified as 100% complete for the Harriet Fuller Rust Façade Grant. Completion date – August 2010.
3. The first and final payment to Parker McLean County Enterprises in the amount of \$19,382 on a contract amount of \$19,382 of which \$19,382 will have been paid to date for work certified as 100% complete for the Harriet Fuller Rust Façade Grant. Completion date – August 2010.
4. The seventh partial payment to Carl Walker, Inc. in the amount of \$3,283.60 on a contract amount of \$28,600 of which \$24,697.17 (\$835.17 in reimburseables) will have been paid to date for work certified as 83% complete for the Design for Market St. Garage Restoration. Completion date – December 2010.
5. The eighth partial payment to Carl Walker Inc. in the amount of \$781.58 on a contract amount of \$28,000 of which \$25,478.75 (\$998.75 in reimburseables) will have been paid to date for work certified as 86% complete for the Design for Market St. Garage Restoration. Completion date – December 2010.

6. The fifth partial payment to Planning Resources, Inc. in the amount of \$2,543.44 on a contract amount of \$49,915 of which \$12,046.50 will have been paid to date for work certified as 24% complete for the Gaelic Park Planning Development. Completion date – December 2010.
7. The sixth partial payment to Farnsworth Group in the amount of \$16,290 on a contract amount of \$108,600 of which \$103,093.50 (\$1,201.58 in reimburseables) will have been paid to date for work certified as 94% complete for the Kickapoo Restoration Project – Phase II. Completion date – May 2010.
8. The second and final payment to Freesen Inc. in the amount of \$31,110.04 on a contract amount of \$84,117.57 of which \$84,110.54 will have been paid to date for work certified as 100% complete for the Ireland Grove Roadside Safety Improvements. Completion date – August 2010.
9. The fifth partial payment to Rowe Construction in the amount of \$97,938.23 on a contract amount of \$576,549.79 of which \$519,258.34 will have been paid to date for work certified as 90% complete for the 2010-2011 General Street Resurfacing. Completion date – October 2010.
10. The fifth partial payment to Rowe Construction in the amount of \$15,140.13 on a contract amount of \$1,094,081.72 of which \$1,017,389.48 will have been paid to date for work certified as 93% complete for the 2010-2011 Street, Alley Repair and Resurfacing. Completion date – November 2010.
11. The third partial payment to JG Stewart in the amount of \$35,746.79 on a contract amount of \$180,528 of which \$96,336.48 will have been paid to date for work certified as 53% complete for the 2010-2011 Sidewalk Replacement and Handicap Ramp Program. Completion date – April 2011.
12. The tenth partial payment to Stark Excavating, Inc. in the amount of \$48,625.31 on a contract amount of \$929,561.50 of which \$792,866.16 will have been paid to date for work certified as 85% complete for the Division B - TIF District Streetscape Improvements. Completion date – November 2010.
13. The fifth partial payment to Consoer Townsend Envirodyne in the amount of \$7,755.05 on a contract amount of \$41,600 of which \$21,203.26 will have been paid to date for work certified as 51% complete for the Design of Dust Collection System for Lime Conveyance System at Lake Bloomington. Completion date – December 2010.
14. The fourth partial payment to Clark Deitz in the amount of \$1,048.50 on a contract amount of \$93,400 of which \$14,999 will have been paid to date for work certified as 16% complete for the Design Regency Sewer Pump Station Rehabilitation. Completion date – January 2011.

15. The fifth and final payment to Gildner Plumbing, Inc. in the amount of \$56,664.79 on a contract amount of \$282,865.74 of which \$282,731.74 will have been paid to date for work certified as 100% complete for the Water Main Replacement – Parkview Project Phase II – Miller, Wood, Pancake and Barker. Completion date – December 2010.
16. The first partial payment to Gildner Plumbing, Inc. in the amount of \$151,021.80 on a contract amount of \$233,597 of which \$151,021.80 will have been paid to date for work certified as 65% complete for the Graham St. Water Main Replacement from Hinshaw to O’Neil Park through O’Neil Park back to Hinshaw. Completion date – December 2010.
17. The thirtieth partial payment to Clark Dietz in the amount of \$13,480.21 on a contract amount of \$305,000 of which \$236,428.11 will have been paid to date for work certified as 78% complete for the Locust/Colton Street Sewer Separation and Water Main Replacement Design – CSO Elimination Phase I. Completion date – October 2010.
18. The sixteenth partial payment to Technical Design Services in the amount of \$1,087.06 on a contract amount of \$99,619 of which \$99,619 (\$6,290.06 in reimburseables) have been paid to date for work certified as ~~94%~~ 100% complete for the Enterprise Resource Planning Full System Selection Process – Phase 1. Completion date – October 2010.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Recommended by:

Tracey Covert
City Clerk

Timothy Ervin
Director of Finance

David A. Hales
City Manager

Alderman Anderson stated the small percentage of reimburseables added up to \$11,000 – \$12,000. He also questioned if the Council should allow change orders.

Motion by Alderman McDade, seconded by Alderman Schmidt that the payments be approved.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Huette, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT:Report

RECOMMENDATION: That the report be received and placed on file.

BACKGROUND: The following report should be received and placed on file with the City Clerk:

1. 2009 Audit of Motor Fuel Tax Funds (MFT).

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Not applicable.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Recommended by:

Tracey Covert
City Clerk

Timothy Ervin
Director of Finance

David A. Hales
City Manager

(ON FILE IN CLERK'S OFFICE)

Motion by Alderman McDade, seconded by Alderman Schmidt that the report be placed on file and made a matter of record.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Huette, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Analysis of Bids for Fire Station #2 Pavement Repair – General Obligation Bonds (Ward 4)

RECOMMENDATION: That bid for Fire Station #2 Pavement Repair be awarded to Mclean County Asphalt, Inc., in the amount of \$114,546.89, and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: On February 22, 2010, Council authorized staff to utilize surplus proceeds from the General Obligation Bond Series 2007 bond for projects located at City fire stations. This project includes the replacement of driveway pavement, parking lot repairs and overlaying the driveway and parking lot at Fire Station #2. Two (2) bids were received and opened at 11:00 am on August 13, 2010 in the City Council Chambers.

| <u>Bid Contractor</u> | <u>As Read</u> | <u>Corrected*</u> |
|-----------------------------|----------------|-------------------|
| McLean County Asphalt, Inc. | \$ 114,545.69 | \$ 114,546.89 |
| Rowe Construction Co. | \$ 136,749.41 | |
| Engineer's Estimate | \$ 99,157.00 | |
| Budget | \$ 100,000.00 | |

*A bid tabulation error was discovered during the bid analysis.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Public notice of the bid was placed in the Pantagraph and ten (10) bid packages were mailed to appropriate vendors. In addition a pre-bid conference was held on site on August 4, 2010 at 10:00 a.m.

FINANCIAL IMPACT: The low bid exceeds the Engineer's estimate and budget. The Engineer's Estimate was based on recent street pavement repair bids. The higher unit prices are most likely a result of smaller quantities and site constraints. Sufficient funds are available in the General Obligation Bond Series 2007 fund to cover the additional cost. Payment will be made from the General Obligation Bond Series 2007 fund (4017-40170-72540).

2007 Fire Station Bond Funds

| | |
|--|-----------------------|
| Fund Balance (remaining Bond Proceeds) | \$ 202,982.00 |
| Architectural Services for Roof | \$ (10,000.00) |
| Replacement of driveway pavement | <u>\$(114,546.89)</u> |
| Remaining Balance | \$ 78,435.11 |

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Recommended by:

Mike Kimmerling
Fire Chief

Tim Ervin
Director of Finance

David A. Hales
City Manager

AGREEMENT

THIS AGREEMENT, Made and entered into this 13th day of September, 2010, by and between McLean County Asphalt Co., Inc. first party, also hereinafter referred to as "Contractor", and the City of Bloomington, a municipal corporation, second party.

WITNESSETH:

THAT WHEREAS, the City of Bloomington, did on July 20, 2010, by advertisement, call for bids for furnishing all labor and material for the construction of Fire Station #2 Resurfacing (1911 E. Hamilton Rd) project for said City.

AND WHEREAS, in pursuance of said call for bids said first party, did on Friday, August 13, 2010, submit this bid to said City of Bloomington for furnishing all of the labor and materials for the construction of said Fire Station #2 Resurfacing (1911 E. Hamilton Rd), on file in the office of the City Engineer of said City. A copy of which specifications, plans and profiles of said improvement on file in the City Engineer's Office are hereby referred to and made a part hereof by reference, and said first party being the lowest responsible bidder was awarded the contract for the construction of the said improvement, which bid of said Contractor is hereto attached and made a part hereof.

THEREFORE, it is covenanted and agreed upon the part of said first party that in consideration of the amounts to be paid by said City, he will furnish all labor, tools, machinery and materials for the construction of said improvement complete, in accordance with the said plans, profiles and specifications, call for bids, and said contractor's bid, each herein set out and made a part hereof.

IT IS FURTHER AGREED that said Contractor will furnish a bond to the City of Bloomington in the penal sum of \$114,546.89 Dollars executed by said contractor and at least two responsible persons as sureties or by some surety company satisfactory to the said City of Bloomington and the City Council, as a guarantee that said Contractor faithfully will perform the work in accordance with this agreement.

Said bond shall be conditioned to save and keep harmless said City from any and all claims, demands, loss, suits, costs, expenses and damages which may be made, brought, sustained or recovered against said City by reason of any negligence, default or failure of the said contractor in building, constructing or completing said improvement and its appurtenances, or any part thereof, and keep the same backfilled for six months, and maintain the same in continuous good condition and repair for one year from the date of its completion and acceptance by the City of Bloomington, which bond is attached hereto and made a part hereof.

Said bond shall be conditioned to save and keep harmless said City from any and all claims, demands, loss, suits, costs, expenses and damages which may be brought, sustained or recovered against said City by reason of any negligence, default or failure of the said contractor in building, constructing or completing said improvement and its appurtenances, or any part thereof, and that said improvement when constructed shall be free from all defects and remain in good order and condition for one year from its completion and acceptance, ordinary wear and tear, and damage resulting from accident or willful destruction excepted; which bond is attached hereto and made a part hereof.

IT IS FURTHER AGREED that said Contractor shall complete all work by October 30, 2010, as specified under "Prosecution and Progress" in the Special Provisions included herein.

IT IS EXPRESSLY UNDERSTOOD AND AGREED that whenever the said City may deem necessary, additional or new bond shall be furnished by said Contractor with such sureties as will be satisfactory to the said City Council, as a guarantee that said Contractor will faithfully perform the work in accordance with the terms of this agreement.

IT IS FURTHER AGREED that should said Contractor fail to complete the work within the time herein specified for doing the same, then he shall pay the expense of the City Inspector or Inspectors from the date specified for completion until said work is completed. Or if the time for completion of the work under this contract is extended at the request of said Contractor, then he shall pay the expense of the Inspector during such extended time until completion, and shall pay to the City all other expenses created by reason of such failure to complete said work in the specified time or by reason of such time being extended.

This agreement shall not be assigned, nor any part of the work subcontracted without the written consent of the City of Bloomington endorsed hereon, and in no case shall such consent relieve the party of the first part from the obligations herein entered into by said party, or change the terms of this agreement.

IT IS FURTHER STIPULATED AND AGREED by and between the parties hereto that all ordinances now in force in the City of Bloomington respecting and regulating public improvement, not in conflict with the terms of this contract, shall be a part and parcel of this contract.

The number of inspectors to be placed on said work shall be determined by the City of Bloomington, but if at any time on account of a disregard of any of the provisions of this contract by the said first party, or on account of the failure of said first party to faithfully perform the work in accordance with this contract, additional inspectors shall be deemed necessary by said City, the pay of such additional inspectors shall be charged to said Contractor and be deducted from the amount due said Contractor on final settlement under this contract.

The Contractor and all persons employed on the work shall obey the instruction of the City Engineer or the inspector on said work. Any person who shall refuse or neglect to so obey, or who shall be deemed incompetent by said City Engineer or said Inspector shall at once be removed from the work by the Contractor when so required by said Engineer or Inspector.

The City of Bloomington hereby covenants and agrees, in consideration of the faithful performance of the covenants and agreements in this contract specified to be kept and performed by first party, to pay party of the first part, when this contract shall be wholly carried out and completed upon the part of the said Contractor, and when said work shall have been finally accepted by said City of Bloomington, the amounts set forth in first party's bid in manner as herein and in said call for bids provided.

IT IS FURTHER AGREED AND UNDERSTOOD that the work to be done pursuant to this contract shall be done under the direction and to the satisfaction of the City of Bloomington, and that, except as otherwise provided in the said ordinance or the judgment of the court, said

City, except as by law provided, or any officer thereof, shall not be liable for any portion of the expense of said work, nor for any delinquency or persons or property assessed.

This contract and the bond herein provided, shall be signed in triplicate and be subject to the approval of the City of Bloomington.

IN TESTIMONY WHEREOF the said first party has hereunto set his hand and seal, and the City of Bloomington has caused this agreement to be signed by its Mayor, its corporate seal to be attached, and said signing and sealing to be attested by its City Clerk on the day and year first above written.

ATTEST: (SEAL)

Tracey Covert
City Clerk

CITY OF BLOOMINGTON

By: Stephen F. Stockton
Mayor

WITNESS: (SEAL)

CONTRACTOR

Forrest G. Kaufmann, Jr.
McLean County Asphalt Co., Inc.

Motion by Alderman McDade, seconded by Alderman Schmidt that the bid for Fire Station #2 Pavement Repair be awarded to McLean County Asphalt, Inc., in the amount of \$114,546.89, and the Mayor and City Clerk be authorized to execute the necessary documents.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Huette, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Analysis of Request for Proposals (RFP) for Architectural/Engineering Services – General Obligation Funds - to Provide a Solution for the Water and Moisture Infiltration at Fire Station #2, 1911 E. Hamilton Rd.

RECOMMENDATION: That the RFP in the amount of \$10,000 be awarded to BLDD Architects Inc. and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: On February 22, 2010, Council authorized staff to utilize surplus proceeds from the General Obligation Bond Series 2007 bond for projects located at City fire stations. There has been an on-going problem with condensation and roof system leaks at Fire Station #2 for over five (5) years. Staff has worked with the general contractor to solve the problem but have not been able to obtain a permanent solution.

Staff believes the issue lies within the design of the building and possibly could be tied to the pitch of the roof. It is possible that the pitch was changed from the original design. The architectural firm that designed the building is no longer in business and the Architect responsible for the project is deceased. Since the company is no longer in business and the original architect is deceased, the possibility of recoupment through a lawsuit is minimal. In addition, the courts would require more than proof that the design of the roof, in retrospect, has proved to be a mistake. It is rare for courts to hold an architect strictly liable for defective designs; the general rule is that an architect may be held liable for negligence only in failing to exercise the ordinary skill of his or her profession in designing a building. At this time water and moisture are still entering the building. Staff believes that this problem should be resolved before any more damage is incurred. The Request for Proposal (RFP) included the following:

- Determining the scope of the problem,
- Developing plans and specification to correct the problem and,
- Administration of the construction process.

On March 18, 2010, proposals were opened and publicly read and the results are as follows:

| | |
|--|----------|
| APACE Design Peoria, IL | No Bid |
| BLDD Architects Bloomington, IL | \$10,000 |
| Farnsworth Group Bloomington, IL | \$44,750 |
| François and Associates Bloomington, IL | \$16,200 |
| Shive Hattery Engineers Bloomington, IL | \$29,500 |

BLDD Architects, Inc. has had success resolving the same issue at more than ten (10) facilities in the Central Illinois area and staff believes they are the lowest price, most qualified firm for this project.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Public notice of the bid was placed in the Pantagraph and fourteen (14) bid packages were mailed to appropriate vendors. In addition a pre-bid conference was held on site on March 10, 2010 at 10:00 a.m.

FINANCIAL IMPACT: The City Council approved on February 22, 2010 to utilize surplus bond funds from the General Obligation Bond Series 2007 bond for projects located at City fire stations. Funds are available in the General Obligation Bond Series 2007, account 4017-40170-72540.

2007 Fire Station Bond Funds

| | |
|--|------------------------|
| Fund Balance (remaining Bond Proceeds) | \$ 202,982.00 |
| Architectural Services for Roof | \$ (10,000.00) |
| Replacement of driveway pavement | <u>\$ (114,546.89)</u> |
| Remaining Balance | \$ 78,435.11 |

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Recommended by:

Bob Floyd
Facilities Management

Michael Kimmerling
Fire Chief

David A. Hales
City Manager

(CONTRACT ON FILE IN CLERK'S OFFICE)

Alderman Purcell questioned the problem with the roof and the end result. Mike Kimmerling, Fire Chief, addressed the Council. Bond money would be used to pay for the design and repair. Water was coming in from a number of places. Pictures had been provided to the Council. An architect would need to come in to provide a total look at the damages. The roof was a pitched metal roof. The original roof pitch had been changed. The original architect was deceased. Bob Floyd, Facilities Management, addressed the Council. Water was coming in on flashings and valleys. He believed there were also condensation issues. There were a number of issues to address and a variety of ways to address them.

Alderman Stearns stated this was a case of the vendor going out of business with no warranty provided. She cited Fire Station #5. She expressed concern about the warranty and the City's final acceptance. She believed this has been a health and safety issue for fire fighters.

Alderman Anderson stated if the designer was at fault, even though the architect was deceased, the City might be able to be compensated. Todd Greenburg, Corporate Counsel, addressed the Council. Illinois law states the City would need to prove the architect's design errors and that the design did not meet reasonable care standards. The standards were included in the American Institute of Architects (AIA) contract. The advantage of going with the AIA's standard form was every clause has been litigated nationwide. It is difficult to prove negligence in court.

Alderman Anderson stated as the Council moves forward the City should track contractors. The City needs to have a quality standard. If the contractors cannot meet the requirements, then they should be ineligible to bid.

Motion by Alderman McDade, seconded by Alderman Schmidt that the RFP in the amount of \$10,000 be awarded to BLDD Architects, Inc. and the Mayor and City Clerk be authorized to execute the necessary documents.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Huette, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Analysis of Bids – Printing Services for the Bloomington Center for the Performing Arts (BCPA)

RECOMMENDATION: That the bid for printing the 2010-2011 BCPA Season Playbills be awarded to Martin Graphics in the amount of \$18,461, and the Purchasing Agent be authorized to issue a Purchase Order for same.

BACKGROUND: The BCPA prints unique playbills for each of its mainstage events. The bid reflects the total cost for printing 15,000 program covers, an optional 5,000 additional program covers as needed, the printing of up to 1000 playbills for each of twenty-five (25) performances with a maximum of twenty-eight (28) pages, and any associated delivery costs. The BCPA has used Martin Graphics in the past and has been pleased with their quality of work on similar projects.

The bids were as follows:

| FIRM | Cover I | Cover II | Interior Pages | Delivery | Total |
|-------------------------|------------|------------|----------------|----------|-------------|
| AlphaGraphics | | | | | Incomplete |
| Heyworth Printing | \$2,285 | \$700 | \$31,600 | \$0 | \$34,585.00 |
| Martin Graphics | \$1,348 | \$738 | \$16,375 | \$0 | \$18,461.00 |
| Original Smith Printing | \$2,053.35 | \$1,144.52 | \$25,265.75 | \$0 | \$28,463.62 |
| Premier Print Group | \$1,040 | \$463 | \$22,000 | \$0 | \$23,503.00 |
| Protype Printing | \$2,949 | \$1,078 | \$29,275 | \$0 | \$33,302.00 |
| Ron Smith Printing | | | | | Incomplete |

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Public notice of the bid was placed in the Pantagraph and nineteen (19) bid packages were mailed to appropriate vendors.

FINANCIAL IMPACT: Total projected cost for this printing is not to exceed \$18,461. Funding for this printing is budgeted in account X21100-70740 for FY 2010-11. However, all costs will be offset by the sale of playbill advertising, reflected in account X21100-57390. Expected playbill ad revenue is \$35,000.

Our Marketing Manager is working with all divisions within the department to identify areas for possible sponsorships/advertising. Examples of areas where advertising has been sold include:

- inside cover of the Recreation Program Guides (three issues per year)
- dasher boards in the Pepsi Ice Center
- Global Positioning System computer screens on golf carts at The Den

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Recommended by:

John R. Kennedy, Director
Parks, Recreation & Cultural Arts

Barbara J. Adkins
Deputy City Manager

David A. Hales
City Manager

Motion by Alderman McDade, seconded by Alderman Schmidt that the bid for printing the 2010-2011 BCPA Season Playbills be awarded to Martin Graphics in the amount of \$18,461, and the Purchasing Agent be authorized to issue a Purchase Order for same.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Huette, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Amended Intergovernmental Agreement with Bloomington Township (Ward 2)

RECOMMENDATION: That the Amended Agreement be approved and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: On June 14, 2010, Council approved the General Resurfacing contract with Rowe Construction in the amount of \$576,549.79. On July 26, 2010, Council approved an Intergovernmental Agreement with Bloomington Township to resurface sections of Alexander Road outside the City limits under the General Resurfacing contract in an amount not to exceed \$72,000. The construction is now finished and the final cost was \$82,013.19. This is more than what was projected because of additional patching and leveling work that was needed before the final hot mix asphalt surface was placed. Staff contacted the Bloomington Township Road Commissioner as work was progressing to verify that they would cover the extra cost.

This cooperation allowed the entire road to be resurfaced in a timely manner minimizing disruption to traffic and the residents in the area.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Bloomington Township and Rowe Construction.

FINANCIAL IMPACT: The amount of \$82,013.19 will be paid by Bloomington Township. There is no financial impact to the City.

Respectfully submitted for Council consideration.

Prepared by:

Jim Karch
Director of Public Works

Reviewed as to legal sufficiency:

Todd Greenburg
Corporation Counsel

Reviewed by:

Tim Ervin
Director of Finance

Recommended by:

David A. Hales
City Manager

**Amended Intergovernmental Agreement between
the City of Bloomington, Illinois and
the Board of Trustees of Bloomington Township**

Whereas, the City of Bloomington, Illinois (hereafter “City”), a home rule municipality, currently has in effect a contract (hereafter, the “contract”) between the City and Rowe Construction (hereafter “Rowe”), approved by the Bloomington City Council on June 14, 2010, for the resurfacing of streets within the City of Bloomington, said contract let after a competitive bidding process; and

Whereas, Bloomington Township (hereafter “Township”), a unit of local government, has a need to resurface certain roads which it is legally authorized to maintain; and

Whereas, Rowe Construction has stated to representatives of both the City and the Township that it is willing to agree to a change order in its contract with the City to perform resurfacing work for the Township at the same unit prices as are in effect in the contract between the City and Rowe; and

Whereas, Bloomington Township requires contracts for resurfacing work to be let after a competitive bidding process, and it is the agreement of all parties that such a requirement would be satisfied by the competitive bidding process which was used by the City of Bloomington prior to the letting of the aforesaid contract between the City and Rowe; and

Whereas, the City and the Township are authorized to enter into intergovernmental agreements by Article VII, Section 10 of the 1970 Illinois Constitution and by the Intergovernmental Cooperation Act (5 ILCS 220/1 et seq.);

The undersigned parties agree as follows:

1. The City of Bloomington will execute a work order in its current road resurfacing contract with Rowe Construction which authorizes Rowe Construction to perform up to \$82,013.19 in resurfacing work on areas of Alexander Road which are under the road maintenance authority of Bloomington Township. In calculating the value of such work, Rowe Construction agrees that it will use the unit prices which are currently in effect in the aforesaid contract between the City and Rowe.
2. Bloomington Township agrees that it will reimburse the City of Bloomington amounts not to exceed \$82,013.19 in resurfacing work on areas of Alexander Road which are under the road maintenance authority of Bloomington Township. In calculating the value of such work, Rowe Construction agrees that it will use the unit prices which are currently in effect in the aforesaid contract between the City and Rowe.
3. The parties will work together in good faith to designate the areas of Alexander Road in Bloomington Township which will be resurfaced pursuant to this Agreement.

4. The persons signing this Agreement have been given full authority to do so by their Principals.

CITY OF BLOOMINGTON, ILLINOIS

By: Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

BLOOMINGTON TOWNSHIP

By: Charles A. Fitzgerald

ATTEST:

Gary G. Pearl
Township Clerk

ROWE CONSTRUCTION

By: Michael T. Goecken

Motion by Alderman McDade, seconded by Alderman Schmidt that the Amended Agreement be approved and the Mayor and City Clerk be authorized to execute the necessary documents.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Huette, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Illinois Route 66 Heritage Project – Wayside Exhibit Program Land Use Agreement

RECOMMENDATION: That the Land Use Agreement with the Bloomington-Normal Convention and Visitors Bureau (CVB) for placement of a Route 66 Wayside Exhibit on the southwest corner of Main and Jefferson Streets be approved and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: The Illinois Route 66 Heritage Project Wayside Exhibit Program exists to increase education and tourism to sites along Historic Route 66. Through a cooperative effort by the City, CVB, McLean County Museum of History, and the Town of Normal, the CVB was awarded two (2) wayside exhibits to install at selected locations in Bloomington and Normal.

The site chosen in Normal is Terri Ryburn’s Sprague Super Service and will be installed by Normal Parks & Recreation staff. The site chosen for Bloomington is in the City’s right of way outside the McLean County Museum of History at the southwest corner of Main and Jefferson streets. The location chosen has been approved by the Public Works Department staff and the exhibit would be installed by Parks Maintenance staff.

The CVB and the McLean County Museum of History believe this will be a positive, valuable, and worthwhile addition to the tourism industry of Bloomington and Normal.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: CVB and McLean County Museum of History.

FINANCIAL IMPACT: Cost for Parks Maintenance staff to install the wayside exhibit will be \$450, including labor and materials and is available within the current approved budget.

Respectfully submitted for Council consideration.

Prepared by:

John Kennedy, Director
Parks, Recreation and
Cultural Arts Department

Reviewed by:

Barbara J. Adkins
Deputy City Manager

Reviewed as to legal sufficiency by:

J. Todd Greenburg
Corporation Counsel

Recommended by:

David A. Hales
City Manager

**LAND USE AGREEMENT BETWEEN THE CITY OF BLOOMINGTON, ILLINOIS
AND THE BLOOMINGTON-NORMAL AREA CONVENTION & VISITORS BUREAU**

THIS AGREEMENT, is made and entered into this _____ day of _____, 2010, by and between the City of Bloomington, Illinois, a municipal corporation, hereinafter referred to as the “City”, and the Bloomington-Normal Area Convention & Visitors Bureau, hereinafter referred to as the “Bureau”, each party having been organized and now existing under the laws of the State of Illinois.

RECITALS

WHEREAS, the Bureau’s mission is to enhance the economy of McLean County through promotion, attraction and retention of events, conventions and tourism; and

WHEREAS, the Bureau has need for a location to construct a Route 66 wayside exhibit in the City; and

WHEREAS, Route 66, one of the original U.S. highways, is one of the most famous roads in America; and

WHEREAS, wayside exhibits (“outdoor interpretive panels”) are one of the most effective forms of media for a byway. They are always available, answer specific questions about a resource, and are low-tech, user-friendly communication tools easily accessed by visitors.

NOW, THEREFORE, in consideration of the above recitals, the mutual promises and covenants hereinafter given, and for other good and valuable consideration, the parties agree as follows:

1. The City shall determine, in coordination with the Bureau, the most desirable location for the wayside exhibit. The location shall have a connection to Illinois Route 66. If possible, the wayside exhibit shall be located on City property.
2. Prior to the effective date of this Agreement, the Bureau shall submit for approval to the City a plan describing the intended placement and construction of the wayside exhibit. No deviation from this plan shall be allowed, except with the approval of the City.
3. The Bureau shall be responsible for the purchase, maintenance and operation of the wayside exhibit and for all costs and expenses related thereto. The Bureau shall maintain the subject land under this Agreement in a safe condition at all times. The City shall be responsible for the construction/installation of the wayside exhibit and for all costs and expenses related thereto. The construction/installation shall be considered an in-kind donation and will be documented in the Illinois Route 66 Scenic Byway Wayside Exhibit application.

4. All equipment shall remain the property of the Bureau. Should the program be terminated at a particular location or for all locations, the City shall allow a member of or representative of the Bureau to remove the equipment.
5. This Agreement shall not be assigned, transferred, or sold, nor the subject land leased or sublet to any other party, agency, or corporation, in whole or part, except with the express written consent of the City. The use of the subject land for a wayside exhibit may not be changed in whole or in part, except with the express written consent of the City. All such consents must be obtained in the same manner as the approval of this Agreement.
6. The City shall contact the Bureau if it becomes aware of any damage to the wayside exhibit. In the event the wayside exhibit is partially or wholly damaged or destroyed, the Bureau may elect to rebuild the structure or terminate this Agreement by giving the City thirty (30) days written notice. In the event the Bureau terminates this Agreement, the City may cause the Bureau to remove the debris of the damaged exhibit from the subject land.
7. The Bureau agrees to protect, indemnify and save harmless the City, its agents and employees from and against any and all claims, demands, suits, liability and expenses, by reason of loss or damage to any property or bodily injury to any person whatsoever, that may arise from the construction and placement of objects on the subject land and from the maintenance or use of the subject land.
8. The City shall not be liable or obligated to the Bureau for damages incurred to the Bureau upon the subject land by reason of fire, theft, casualty, acts of God, civil disaster, and such other occurrences and events beyond the control of the City.
9. The Bureau shall not be liable or obligated to the City for any damages caused to the City's property by visitors to the wayside exhibit.
10. It is the intent of the parties in the preparation and execution of this Agreement to avoid a conflict with the applicable laws or regulations of the State of Illinois; and if any provision herein is found to be in conflict with any state law or regulation, it is the intent of the parties that such provision shall have no force and effect, and the remainder of the Agreement shall be valid as though such conflicting provision had not been written or made in part hereof.
11. It is understood and agreed that the written terms and provisions of this Agreement shall supersede all prior verbal statements of any and every official and/or other representative of the City, and such statements shall not be effective or be construed as entering into, or forming a part of, or altering in any way whatsoever, this written Agreement. This Agreement shall not be altered, amended, changed, or otherwise modified except in writing signed by all parties to this Agreement.
12. This Agreement shall be binding upon the undersigned and their heirs, executors, assigns and successors in interest.

13. This Agreement shall commence in September 2010 or on such date the wayside exhibit becomes available by the Illinois Route 66 Scenic Byway, and terminate fifteen years after the commencement date, with the option to extend the term of this Agreement for five (5) ten-year periods, which shall be automatically exercised unless the Bureau gives the City notice of its intent to terminate this Agreement in writing not less than ninety (90) days, no more than one-hundred eighty (180) days, prior to the end of the then current term. If the City determines that removal of the wayside exhibit is necessary at the termination of this Agreement, the Bureau shall be responsible for such removal.
14. Each party hereto shall receive a duly executed copy of this Agreement for its official records.

IN WITNESS WHEREOF, the parties have executed this above and foregoing Agreement on

City of Bloomington, Illinois,
A Municipal Corporation

Bloomington-Normal Area Convention &
Visitors Bureau

By: Stephen F. Stockton
Mayor

By: Crystal Howard
Director

Motion by Alderman McDade, seconded by Alderman Schmidt that the Land Use Agreement with the Bloomington-Normal Convention and Visitors Bureau (CVB) for placement of a Route 66 Wayside Exhibit on the southwest corner of Main and Jefferson Streets be approved and the Mayor and City Clerk be authorized to execute the necessary documents.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Huette, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Professional Services Contract for the Bloomington Center for Performing Arts (BCPA)

RECOMMENDATION: That the contract be approved and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: Staff respectfully requests approval of contract to engage persons and/or groups represented by William Morris Endeavor Entertainment, LLC to perform services in the BCPA on dates agreed by staff. Contract expenses for the contracts will be \$39,000. As is standard industry practice, some artist contracts require some additional expenses for items such as travel, meals and lodging that vary from artist to artist. Travel expenses and local lodging fees occur less often, however virtually all artists are provided with meals and non-alcoholic beverages.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: The selection of these artists was coordinated with the Cultural Commission and the BCPA's Programming Advisory Committee. Staff and community advisors agree that the visiting professionals would attract broad, positive community involvement and contribute to the public service mission of the BCPA.

FINANCIAL IMPACT: Funding for these contracts will come from account X21100-70220 of the BCPA's 2010-11 budget, to be offset by future revenues from ticket sales, grants, playbills, concessions, advertising and sponsorships. These revenues are also targeted to offset the additional artist expenses for travel, meals and lodging.

Respectfully submitted for Council consideration.

Prepared by:

John Kennedy, Director
Parks, Recreation & Cultural Arts

Reviewed by:

Barbara J. Adkins
Deputy City Manager

Reviewed as to legal sufficiency:

J. Todd Greenburg
Corporation Counsel

Recommended by:

David A. Hales
City Manager

(CONTRACT ON FILE IN CLERK'S OFFICE)

Motion by Alderman McDade, seconded by Alderman Schmidt that the contract be approved and the Mayor and City Clerk be authorized to execute the necessary documents.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Huette, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Application of Aldi, Inc., d/b/a Aldi Foods #54, located at 1025 Wylie Dr., currently holding a PB liquor license which allows the sale of packaged beer and wine for consumption off the premises six (6) days a week, requesting the addition of an S, Sunday, liquor license classification to allow liquor sales seven (7) days a week

RECOMMENDATION: Based upon the report from the Liquor Hearing, the Liquor Commission recommends to the City Council that an S, Sunday, liquor license for Aldi, Inc., d/b/a Aldi Foods #54, located at 1025 Wylie Dr., be created, contingent upon compliance with all applicable health and safety codes.

BACKGROUND: The Bloomington Liquor Commissioner Richard Buchanan called the Liquor Hearing to order to hear the request of Aldi, Inc., d/b/a Aldi Foods #54, located at 1025 Wylie Dr., currently holding a PB liquor license which allows the sale of packaged beer and wine for consumption off the premises six (6) days a week, requesting the addition of an S, Sunday, liquor license classification to allow liquor sales seven (7) days a week. Present at the hearing were Liquor Commissioners Richard Buchanan, Marabeth Clapp, Steve Petersen, Mark Gibson, and Geoffrey Tompkins, George Boyle, Asst. Corporation Counsel, and Tracey Covert, City Clerk, and Josh Methe, District Manager and License holder's representative.

Commissioner Buchanan opened the liquor hearing and requested that the license holder explain this request. Josh Methe, District Manager and License holder's representative, addressed the Commission. Aldi was open on Sunday and wanted to expand liquor sales to include Sunday.

Commissioner Buchanan opened the hearing to public comment. No one came forward to address the Commission.

Commissioner Petersen questioned the store's business hours. Mr. Methe provided the following information: Monday through Saturday - 9:00 a.m. until 8:00 p.m.; and Sunday from 9:00 a.m. until 6:00 p.m.

Commissioner Gibson arrived at 4:19 p.m.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Public notice is not published for a change of license classification. Therefore, courtesy copies of the Public Notice were not mailed. In addition, the Agenda for the August 10, 2010 Meeting of the Liquor Commission was placed on the City's web site. There also is a list serve feature for the Liquor Commission.

FINANCIAL IMPACT: Annual revenue from a Sunday license is \$450.

Respectfully,

Reviewed and concur:

Stephen F. Stockton
Chairman of Liquor Commission

Randall D. McKinley
Police Chief

Motion by Alderman McDade, seconded by Alderman Schmidt that an S, Sunday, liquor license be created, contingent upon compliance with all applicable health and safety codes.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Huette, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Application of Ma Veharai, Inc., d/b/a Buddy's Liquors, currently located at 2303 E. Washington St., holding a PAS liquor license which allows the sale of all types of packaged alcohol for consumption off the premises seven (7) days a week, to relocate to 806 S. Eldorado Rd.

RECOMMENDATION: Based upon the report from the Liquor Hearing, the Liquor Commission recommends to the City Council that a PAS liquor license for Ma Veharai, Inc., d/b/a Buddy's Liquors, currently located at 2303 E. Washington St., holding a PAS liquor license which allows the sale of all types of packaged alcohol for consumption off the premises seven (7) days a week, to relocate to 806 S. Eldorado Rd., be approved with the following condition 1.) that the City Clerk affirm that the Church is no longer a tenant.

BACKGROUND: The Bloomington Liquor Commissioner Richard Buchanan called the Liquor Hearing to order to hear the application of Ma Veharai, Inc., d/b/a Buddy's Liquors, located at 2303 E. Washington St., currently holding a PAS liquor license which allows the sale of all types of alcohol for consumption off the premises seven (7) days a week, requesting a change of location to 806 S. Eldorado Rd. Present at the hearing were Liquor Commissioners Steve Stockton, Richard Buchanan, Marabeth Clapp, Steve Petersen, Mark Gibson, and Geoffrey Tompkins, George Boyle, Asst. Corporation Counsel, and Tracey Covert, City Clerk, and Dilip Patel, owner/operator and License holder.

Commissioner Buchanan opened the liquor hearing and requested that the license holder explain this request. Dilip Patel, owner/operator and License holder, addressed the Commission. He planned to relocate his business. The plan would allow him to expand his business. He would

be able to address parking issues. He would go from a tenant to a property owner. The building would also be used for storage.

Commissioner Buchanan stated his intention to allow the public to address this application.

Matt Parson, First State Bank, addressed the Commission. The building currently had two (2) tenants. Each was on a month to month lease. The Bank had a Letter of Intent with Mr. Patel. There were two (2) contingencies: 1.) liquor license approval and 2.) parking lot issues. Mr. Parson was aware of the objections by a current tenant. The Bank has held this property for several years. The Bank has marketed same. Mr. Patel planned to improve the structure. The closing would be held sixty (60) days after license approval.

Commissioner Buchanan questioned the parking lot issues. Mr. Parson stated the condition of the parking lot was an issue. The Bank was taking bids on same. He believed the parking lot was a minor issue. The Bank was the current landlord.

Commissioner Tompkins questioned the current tenants. Mr. Parson noted that the leases were month to month. Termination of the lease requires thirty (30) days notice. The Bank has held discussion with Pastor Perry.

Commissioner Buchanan noted that the Nazarene Church was currently a tenant. This was a unique position before the Commission.

Commissioner Stockton arrived at 4:30 p.m.

Commissioner Buchanan noted that if the license is created and the building sold, then the church would vacate the structure. A recommendation to deny would prevent the sale of the property.

George Boyle, Asst. Corporation Counsel addressed the Commission. He noted that both the Bank and the Commission had discretion. There was no prohibition upon the Commission.

Commissioner Buchanan stated that the Commission could not recommend denial due to the proximity to a church.

Commissioner Petersen noted that this was a business area. He questioned the planned improvements. Mr. Parson cited the building's exterior, (parking lot), and interior, (retail store and storage area). Mr. Patel presented a rough layout of the store to the Commission.

Commissioner Clapp noted Mr. Patel's intention to purchase the property. She questioned the proximity to church. Mr. Parson cited the economic risk. The Bank would provide significant notice to the church.

Commissioner Buchanan opened the hearing to public input. Pastor Kay Lynn Perry, Sanctuary International, (affiliated with the Nazarene Church), 806 S. Eldorado Rd., addressed the Commission. The Church had been a tenant since 2007. She was familiar with the

neighborhood. She cited the adjacent apartment buildings. There were small children in the neighborhood. She noted an incident that occurred two (2) years ago during a church sponsored outdoor movie that involved an intoxicated person. She expressed her concern for the neighborhood. The Church was prepared to move.

Commissioner Tompkins noted the Church's length as a tenant. He hoped that the Church did not view this building as a permanent home. Pastor Perry noted that the Church had been a tenant since 2007. She had hoped to be able to acquire the property.

Derrick Williams addressed the Commission. He expressed his respect for religion. He cited the economy. He did not believe that Buddy's would bring additional issues to the neighborhood. Mr. Patel was a business man who was trying to expand his business. Mr. Patel would not hurt the community. He expressed his support for this application.

Commissioner Stockton questioned the Bank's plan to terminate the current leases. Commissioner Buchanan noted that the current tenants held month to month leases. The Bank wanted to sell the structure. The sale of the property was contingent upon the creation of the liquor license.

Mr. Boyle noted a factor at issue was the proximity to a church, Section 4B(5)(c) Creation of New License. He also addressed location and its impact, Section 4B(5). Mr. Boyle read from the Alcoholic Beverage code.

Commissioners Buchanan and Tompkins had visited the site. He noted that there were "R", Restaurant liquor licenses in the area. He believed that there would be limited interaction with adjacent apartment buildings. He did not perceive a conflict.

Commissioner Stockton noted that once the structure was purchased by Mr. Patel, the church would vacate the structure. He recommended that a condition be placed on the liquor license regarding same. He acknowledge that a liquor license would not be issued until after the remodeling project was completed.

Commissioner Buchanan clarified that a liquor license would not be issued until after the church has vacated the structure. He believed that clarity was essential. A condition which stated that a liquor license would not be issued until the premise was in compliance with Section 4c.

Commissioner Tompkins stated his intention to support approval of this application.

Mr. Parson noted that the church would no longer be a tenant of the property.

Commissioner Buchanan noted that the sale of the property was contingent upon liquor license approval.

Commissioner Gibson questioned church notification after the sale. Mr. Parson stated that the Bank would notify the tenants prior to the sale. The property sale would occur sixty (60) days later.

Commissioner Petersen noted the limited number of “P”, Packaged liquor license. He recommended that Mr. Patel consider additional lighting and video surveillance. He expressed his concern regarding the proposed location. Mr. Patel acknowledged the need for additional lighting and video surveillance.

Commissioner Gibson supported adequate safety and security. He noted the adjacent multi family housing and the store’s impact upon the neighborhood.

Commissioner Buchanan questioned Mr. Patel’s ideas for the store. Mr. Patel anticipated an increase in night business. The location would require additional lighting to the building’s front, side, and rear. There would be sixteen (16) parking spaces. Commissioner Buchanan encouraged Mr. Patel to acquire the necessary permits. He questioned rear lighting. Mr. Patel added that surveillance would provide safety for his customers and himself.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Public notice was published in the Pantagraph in accordance with City Code. In accordance with City Code, approximately 256 courtesy copies of the Public Notice were mailed. In addition, the Agenda for the August 10, 2010 Meeting of the Liquor Commission was placed on the City’s web site. There also is a list serve feature for the Liquor Commission.

FINANCIAL IMPACT: Negligible as license holder is relocating an existing business. Annual fee for a PAS liquor license is \$1,410.

Respectfully,

Reviewed and concur:

Stephen F. Stockton
Chairman of Liquor Commission

Randall D. McKinley
Police Chief

Motion by Alderman McDade, seconded by Alderman Schmidt that Ma Veharai, Inc., d/b/a Buddy’s Liquors, currently located at 2303 E. Washington St., holding a PAS liquor license be allowed to relocate to 806 S. Eldorado Rd., with the following condition: 1.) that the City Clerk affirm that the Church is no longer a tenant.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Huette, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Suspension of Chapter 6 Section 26(d) to Allow Possession of Open Alcohol on Public Property for the Bloomington-Normal Sunrise Rotary Club – Brats and Bags event, located on Jefferson Street between Main and Center and Main Street between Jefferson and Washington on October 1, 2010

RECOMMENDATION: That the Ordinance be passed.

BACKGROUND: The Bloomington-Normal Sunrise Rotary Club is hosting its 2nd annual Brats and Bags Tournament located on Jefferson Street between Main and Center and Main Street between Jefferson and Washington on October 1, 2010. Last year’s event was successful but held in a different location. They will be securing the area and will have a brats lunch and a bags tournament in that area. The event organizers want to allow people to walk on the public streets with their drinks to enjoy the brats lunch and participate in the bags tournament. They have requested that Chapter 6 Section 26(d) of the City Code, which prohibits having open containers of alcohol on public right of way, be suspended for the date, time and location of the event. A DJ or live band will be performing, and all alcoholic beverages will be sold inside the premise. Outdoor consumption would be allowed between the hours of 11:30 a.m. and 10:00 p.m.

This has been done for other organizations. Most recently, Council suspended the Ordinance to allow consumption of alcohol on a public alley for the 107.7 The Bull 3rd annual birthday party at Six Stings, located at 525 N. Center St. on August 13, 2010. Staff reviewed plans for the event with the organizers. Given the nature of this event, the type of crowd it attracts, and the high degree of involvement by event staff, all concerned believe that there would be no issues with suspending the ordinance as requested.

Staff prepared the necessary Ordinance suspending the code as needed for this event and respectfully requests Council approval.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: None.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed and concur:

Recommended by:

Tracey Covert
City Clerk

Randall D. McKinley
Police Chief

David A. Hales
City Manager

ORDINANCE NO. 2010 - 38

AN ORDINANCE SUSPENDING PORTIONS OF SECTION 26(d) OF CHAPTER 6 OF THE BLOOMINGTON CITY CODE TO ALLOW POSSESSION OF OPEN ALCOHOL ON PUBLIC PROPERTY DURING THE BLOOMINGTON-NORMAL SUNRISE ROTARY CLUB – BRATS AND BAGS EVENT, LOCATED ON JEFFERSON STREET BETWEEN MAIN AND CENTER AND MAIN STREET BETWEEN JEFFERSON AND WASHINGTON ON OCTOBER 1, 2010

WHEREAS, Bloomington-Normal Sunrise Rotary Club will hold their 2nd annual Brats and Bags event, located on Jefferson Street between Main and Center and Main Street between Jefferson and Washington on October 1, 2010; and

WHEREAS, Bloomington-Normal Sunrise Rotary Club plans to have a brats lunch and bags tournament and has requested permission to allow the consumption of alcohol in the public street during the event; and

WHEREAS, to allow possession of an open container of alcohol on public right of way, Section 26(d) of Chapter 6 of the Bloomington City Code, which prohibits the possession of open containers of alcohol on public right of way, must be suspended.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BLOOMINGTON, ILLINOIS;

Section 1: That Section 26(d) of Chapter 6 of the Bloomington City Code, 1960, as amended, is suspended on the following dates during the following hours: October 1, 2010 between 11:30 o'clock a.m. and 10:00 o'clock p.m. in the public street. This suspension shall be effective only as to persons inside the designated area and for alcohol provided by the Bloomington-Normal Sunrise Rotary Club.

Section 2: Except for the dates, times and location set forth in Section 1 of this Ordinance, Section 26(d) of Chapter 6 of the Bloomington City Code, 1969, as amended, shall remain in full force and effect. Nothing in this ordinance shall be interpreted as repealing said Section 26(d).

Section 3: This Ordinance shall be effective on the date of its passage and approval.

Section 4: This Ordinance is adopted pursuant to the home rule authority granted the City of Bloomington by Article VII, Section 6 of the 1960 Illinois Constitution.

PASSED this 13th day of September, 2010.

APPROVED this 14th day of September, 2010.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Motion by Alderman McDade, seconded by Alderman Schmidt that the Ordinance be passed.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Huette, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Lake Bloomington Lease Transfer Petition for Lot 3, Block 27 of Camp Potawatomie from Shannon and Steven Patterson to Sona M. Chalian

RECOMMENDATION: That the Lake Lease be approved and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: Staff has reviewed the Lake Bloomington Lease Transfer Petition for Lot 3, Block 27 of Camp Potawatomie from Shannon and Steven Patterson to Sona M. Chalian. The sewage disposal system was inspected when a closing on this house took place in late April, 2010. Since this inspection was in order a few months ago, another inspection is not required. The required paperwork has been completed as well. This petition is in order and staff respectfully recommends that this transfer be approved.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: This petition will have a neutral financial impact in that the lease uses the current formula, (\$0.40 per \$100 of Equalized Assessed Value) for determining the Lake Lease Fee. The current annual lease rate is \$255.63 and it is expected that next year's rate will

be about the same. This lake lease income will be posted to Lake Lease revenue account 5010-50100-50110-57590.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Craig M. Cummings
Director of Water

Tim Ervin
Director of Finance

Reviewed as to legal sufficiency:

Recommended by:

J. Todd Greenburg
Corporation Counsel

David A. Hales
City Manager

Motion by Alderman McDade, seconded by Alderman Schmidt that the Lake Lease be approved and the Mayor and City Clerk be authorized to execute the necessary documents.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Huette, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Lake Bloomington Lease Transfer Petition for Lot 18, Block 5 of Camp Kickapoo from Gordon and Carol Schroeder currently holding a ¼ interest to Trust Agreement dated January 21, 2002 known as the Joan Brown 2002 Declaration of Trust, Joan Brown, Trustee, ¼ interest

RECOMMENDATION: That the Lake Lease be approved and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: Staff has reviewed the Lake Bloomington Lease Transfer Petition for Lot 18, Block 5 of Camp Kickapoo from Gordon and Carol Schroeder currently holding a ¼ interest, to Trust Agreement dated January 21, 2002 known as the Joan Brown 2002 Declaration of Trust, Joan Brown, Trustee, ¼ interest. Staff has reviewed the septic system inspection report as well as the deficiency letter from the McLean County Health Department. This system is an older

system serving a small home at Lake Bloomington and is currently operating correctly. The septic tank is two hundred (200) gallons too small according to the current code sizing requirements. This can be mitigated by pumping the system more frequently. The system is a subsurface discharging system which means the effluent from the system does not discharge directly into the Lake Bloomington reservoir and thus poses little threat to water quality. The undersized septic tank will be allowed to remain until such time as the system needs repair or replacement. When inspected, solids were noted on the inlet and outlet baffles of the septic tank. However, during the inspection, it was discovered that the line from the septic tank to the seepage field was broken. This was most likely the reason for the back up in the septic tank. This has been repaired.

Since this septic system is a subsurface discharging system which the City prefers as they do not discharge directly into the drinking water reservoir, staff would recommend the approval of this transfer.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: This petition will have a neutral financial impact in that the lease is currently at the existing formula of \$0.40 per \$100 of Equalized Assessed Value for determining the Lake Lease Fee. The current lease fee amount is \$314.66. It is expected that this lake lease fee will stay about the same next year. This lake lease income will be posted to Lake Lease revenue account 5010-50100-50110-57590.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Craig M. Cummings
Director of Water

Tim Ervin
Director of Finance

Reviewed as to legal sufficiency:

Recommended by:

J. Todd Greenburg
Corporation Counsel

David A. Hales
City Manager

Alderman Purcell questioned the size of the septic tank. Craig Cummings, Director of Water, addressed the Council. The septic tank was 200 gallons short from current code. Older tanks were examined for failures.

Alderman Purcell questioned full time use of the property. Mr. Cummings stated that the majority of sand filters system issues back up into the house. If a seepage field was created, it would back up into the yard. He cited the cost of a new system at \$10,000.

Alderman Purcell questioned the process for new homes. Mr. Cummings stated the McLean County Health Department (MCHD) addressed new homes. They complied with State's Department of Public Health requirements. Alderman Purcell expressed concern for contaminants in the lake water.

Motion by Alderman McDade, seconded by Alderman Schmidt that the Lake Lease be approved and the Mayor and City Clerk be authorized to execute the necessary documents.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Huette, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Ordinance establishing Water Rates for the Parkway Project Planned Unit Development (PUD)

RECOMMENDATION: That the Ordinance be passed.

BACKGROUND: On September 8, 2008, Council approved a Preliminary Plan for the Parkway Project PUD. The developer and staff were in the process of negotiating a Redevelopment Agreement regarding the PUD which was to have been submitted to Council on December 22, 2008. It was removed from the agenda due to disagreement between the parties. The developer proposed reimbursement for the cost of improving adjacent streets from a portion of sales tax revenues received from the development. Staff was unwilling to support to this proposal. One of the portions in which the parties had reached agreement was that the City would assume ownership of the water system within the PUD. The developer and the developer's successors in interest would be responsible to pay for future maintenance of the water system (although the City would perform the actual maintenance). The justification for the developer being responsible for the future maintenance of the PUD water system is that it offered no benefits to the City's water system beyond supplying water to the PUD.

The City remains willing to accept ownership of the PUD water system; the only practical means for providing revenue for future maintenance of the PUD water system is to have the customers within the PUD pay "Outside City" water rates.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Unknown at this time.

Respectfully submitted for Council consideration.

Prepared by:

J. Todd Greenburg
Corporation Counsel

Reviewed by:

Craig Cummings
Director of Water

Recommended by:

David A. Hales
City Manager

ORDINANCE NUMBER 2010 - 39

**AN ORDINANCE ESTABLISHING WATER RATES FOR
THE PARKWAY PROJECT PLANNED UNIT DEVELOPMENT,
AMENDING SECTION 27 OF CHAPTER 27 OF THE CITY CODE**

WHEREAS, on September 8, 2008 the City of Bloomington approved a preliminary plan for the Parkway Project Planned Unit Development (“the PUD”) and

WHEREAS, the developer of the PUD and the City staff were in the process of negotiating a redevelopment agreement regarding the PUD which was to have been submitted to the City Council on September 8, 2008, but was pulled from the agenda because the parties could not agree on all details of the redevelopment agreement; and

WHEREAS, one of the portions of the redevelopment agreement in which the parties had reached agreement was that the City would assume ownership of the water system within the PUD but the developer and the developer’s successors in interest would be responsible to pay for future maintenance of the water system (although the City would perform the actual maintenance), the justification for the developer being responsible for future maintenance being that the PUD water system offered no benefits to the City’s water system beyond supplying water to the PUD; and

WHEREAS, the City has fully performed its portion of the agreement regarding taking ownership of the PUD water system; and

WHEREAS, the only practical means for providing revenue for future maintenance of the PUD water system is to have the customers within the PUD pay “Outside City” water rates;

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BLOOMINGTON, ILLINOIS:

Section One: That the preamble to this Ordinance is hereby incorporated by reference and the recitals of such preamble are explicitly adopted as a part of this Ordinance.

Section Two: That Section 27 of Chapter 27 of the Bloomington City Code, 1960, as amended, is further amended by adding the following language at an appropriate place in said Section 27:

All water customers within the boundaries of the Parkway Project Planned Unit Development, as such boundaries were established pursuant to the legal description approved by the City Council in its September 8, 2008 approval of the Preliminary Plan for said planned unit development, shall pay “Outside City” rates in accordance with the rates in effect at the time of water usage by such customers.

Section Three: Except as provided for herein, the Bloomington City Code, 1960, as amended, shall remain in full force and effect.

Section Four: The City Clerk is authorized to publish this ordinance in pamphlet form as provided by law.

Section Five: This ordinance shall be effective ten days after the date of its publication.

Section Six: This ordinance is passed and approved pursuant to the home rule authority granted pursuant to Article VII, Section 6 of the 1970 Illinois Constitution.

PASSED this 13th day of September, 2010.

APPROVED this 14th day of September, 2010.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Alderman Schmidt questioned if the cash flow was earmarked for maintenance. She believed this ordinance represented a new way of conducting business. David Hales, City Manager, addressed the Council. All water bill collections went to the Water Fund. Increased costs from an operational standpoint were overseen. Craig Cummings, Director of Water, addressed the Council. There was no specific earmark or dollar for dollar match. Excess funds were rolled over into maintenance. In the future, input costs and “out of town/private development” rates would be examined.

Motion by Alderman McDade, seconded by Alderman Schmidt that the Ordinance be passed.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Huette, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Petition from Parkway Partners – One, Inc., Requesting approval of a Final Plat for the Second Phase of Parkway Village commonly located at the southeast corner of Veterans Parkway and Mercer Avenue (Ward 8)

RECOMMENDATION: That the Final Plat be approved and the Ordinance passed.

BACKGROUND: There is not a development agreement for this Planned Unit Development (PUD). All construction is funded by the developer. Sanitary sewers and water mains will be publicly owned and maintained. Internal streets, storm sewers and detention facilities are privately owned and maintained. The final plat is in conformance with the preliminary plan approved by Council on September 8, 2008, and shall be approved by Council within thirty (30) days from the date of its review (Section 24-3.5.4).

Staff respectfully recommends that Council accept the Petition and pass an Ordinance approving the Final Plat for the Second Phase of Parkway Village subject to the Petitioner paying the required tap on fees. No public improvements are required for this phase of the development.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: All public improvement costs are the responsibility of the developer.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed as to legal sufficiency:

Jim Karch
Director of Public Works

J. Todd Greenburg
Corporation Counsel

Recommended by:

David A. Hales
City Manager

PETITION FOR APPROVAL OF FINAL PLAT

State of Illinois)
) ss.
County of McLean)

TO: THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF BLOOMINGTON, MCLEAN COUNTY, ILLINOIS

Now comes Parkway Partners-One, Inc., an Illinois Corporation hereinafter referred to as your petitioner, respectfully representing and requesting as follows:

1. That your petitioner is the owner of the freehold or lesser estate therein of the premises hereinafter legally described in Exhibit a which is attached hereto and made a part hereof by this reference, is a mortgagee or vendee in possession, assignee of rents, receiver, executor (executrix), trustee, lessee or other person, firm or corporation or the duly authorized agents of any of the above persons having proprietary interest in said premises;
2. That your petitioner seeks approval of the Final Plat for the subdivision of said premises to be known and described as Parkway Village – Phase 2;
3. That your petitioner also seeks approval of the following exemptions or variations from the provisions of Chapter 24 of the Bloomington City Code, 1960: all those listed on any approved Preliminary Plan, PUD plan or other agreement with the City of Bloomington.

WHEREFORE, your petitioner respectfully prays that said Final Plat for the Parkway Village Phase 2 Subdivision submitted herewith be approved with the exemptions or variations as requested herein.

Respectfully submitted,

Parkway Partners - One, Inc.

By: James L. Mann, V.P.

ORDINANCE NO. 2010 - 40

**AN ORDINANCE APPROVING THE FINAL PLAT OF THE
PARKWAY VILLAGE PHASE 2
SUBDIVISION**

WHEREAS, there was heretofore filed with the City Clerk of the City of Bloomington, McLean County, Illinois, a Petition for approval of the Final Plat of the Parkway Village Phase 2 Subdivision, legally described in Exhibit a attached hereto and made a part hereof by this reference; and

WHEREAS, said Petition requests the following exemptions or variations from the provisions of the Bloomington City Code-1960, as amended: all those listed on any approved Preliminary Plan, PUD plan or other agreement with the City of Bloomington; and

WHEREAS, said Petition is valid and sufficient and conforms to the requirements of the statutes in such cases made and provided and the Final Plat attached to said Petition was prepared in compliance with requirements of the Bloomington City Code except for said requested exemptions and/or variations; and

WHEREFORE, said exemptions and/or variations are reasonable and in keeping with the intent of the Land Subdivision Code, Chapter 24 of the Bloomington City Code-1960, as amended.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BLOOMINGTON, MCLEAN COUNTY, ILLINOIS:

1. That the Final Plat of the Parkway Village Phase 2 Subdivision and any and all requested exemptions and/or variations be, and the same is hereby approved.
2. That this Ordinance shall be in full force and effective as of the time of its passage this 13th day of September, 2010.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

EXHIBIT A

Parkway Village Phase 2 (Lots 201, 202, & Outlot 200)

Commencing at the Southwest Corner of Section 11, T. 23 N., R. 2 E. of the 3rd P.M. and Southwest Corner of Parkway Village Phase 1 - Parkway Village Planned Unit Development; thence along the West Line and North Line of said Parkway Village Phase 1 for Seven Course and Bearing Calls, the First Being N. 02°-13'-33" W., along the West Line of said Section 11, 30.22 feet to the Occupied North Line of Ireland Grove Road; thence S. 85°-06'-12" E., along said Occupied North Line, 17.23 Feet to the East Right of Way Line of Mercer avenue; thence N. 45°-00'-19" W., along said East Right of Way Line, 25.17 Feet to a Point Lying 46.56 Feet North of the aforesaid Southwest Corner of Section 11; thence N. 02°-13'-33" W., along the East Right of Way Line of Mercer avenue and West Line of Section 11, 494.93 Feet to the Southeasterly Right of Way Line of Veteran's Parkway; (U.S. Route 66) (F.A. Route 5); thence N. 88°-13'-06" E., along said Right of Way Line, 7.66 Feet; thence N. 01°-46'-36" W., along said Right of Way Line, 21.23 Feet to a Point Lying 75.00 Feet Normal Distance Southeasterly of the Surveyed Centerline of said Veteran's Parkway; thence Northeasterly, along the Southeasterly Right of Way Line of said Veteran's Parkway, a Curve to the Left, Convex to the Southeast, with a Radius of 4985.61 Feet and an initial Tangent Bearing N. 63°-27'-23" E., a Distance of 351.77 Feet to the Northeast Corner of Lot 103 of the aforesaid Parkway Village Phase 1; thence S. 31°-08'-07" E., along the East Line of said Lot 103, 210.70 Feet to the Southeast Corner thereof; thence N. 87°-56'-42" E., 95.01 Feet to a Point of Curvature; thence Easterly, along a Curve to the Left, Convex to the South with a Radius of 250.00 Feet, a Distance of 11.95 to the True Point of Beginning for this Tract; thence Continuing along said Curve to the Left, a Distance of 114.94 Feet to a Point of Tangency; thence N. 58°-51'-53" E., 93.06 Feet to a Point of Curvature; thence Northeasterly, along a Curve to the Right, Convex to the North, with a Radius of 55.00 Feet, a Distance of 86.39 Feet to a Point of Tangency; thence S. 31°-08'-07" E., 31.60 Feet; thence N. 58°-51'-53" E., 176.55 Feet; thence N. 87°-49'-27" E., 35.97 Feet to a Point on the West Line of State Farm South Subdivision First addition Recorded on October 24, 2000 as Document No. 200026512 in the Mclean County Recorder's office; thence S. 02°-10'-33" E., along the West Line of said addition, 711.22 Feet To the South Line of Section 11, T.23n., R.2e. of the 3rd P.M.; thence N. 88°-31'-00" W., along said South Line, 295.25 Feet; thence N. 01°-29'-00" E., 76.01 Feet To a Point of Curvature; thence Northerly, along a Curve To the Left, Convex To the East With a Radius of 250.00 Feet, a Distance of 15.97 Feet To a Point of Tangency; thence N. 02°-10'-32" W., 206.83 Feet To a Point of Curvature; thence Northerly, along a Curve To the Left, Convex To the East With a Radius of 150.00 Feet, a Distance of 48.37 Feet To a Point of Tangency; thence N. 20°-39'-08" W., 25.93 Feet To a Point On Curve; thence Westerly, along a Curve To the Right, Convex To the South With a Radius of 150.00 Feet and an initial Tangent Bearing S. 69°-51'-03" W., a Distance of 47.05 Feet To a Point of Tangency; thence S. 87°-49'-27" W., 77.31 Feet; thence N. 13°-20'-14" W., 220.69 Feet To the Point of Beginning, Containing 232,533 Square Feet (5.338 acres), More Or Less, all Situated in the City of Bloomington, Mclean County, Illinois.

P.I.N.: Part of 21-11-351-006 and 21-11-351-007

Motion by Alderman McDade, seconded by Alderman Schmidt that the Final Plat be approved and the Ordinance passed.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Huette, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Petition from Larry Bielfeldt Requesting Approval of an Ordinance Dedicating an East/West Utility and Drainage Easement located north of Lot 18 Hawthorne Commercial Subdivision 7th Addition, east of Leslie Drive and West of Towanda Barnes Road

RECOMMENDATION: That the Dedication be approved and the Ordinance passed.

BACKGROUND: On March 23, 2009, Council approved a twenty foot (20') easement located to the north of Lot 18. This petition dedicates an additional ten foot (10') easement north of the existing easement. This easement is needed for a drainage swale to convey storm water when there is heavy rainfall. The additional width is necessary to allow for the development of a gas station/car wash facility on Lot 18.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: The cost of all platting will be borne by the developer.

Respectfully submitted for Council consideration.

Prepared by:

Jim Karch
Director of Public Works

Reviewed as to legal sufficiency:

J. Todd Greenburg
Corporation Counsel

Recommended by:

David A. Hales
City Manager

**PETITION FOR DEDICATION OF
EAST/WEST UTILITY AND DRAINAGE EASEMENT LOCATED NORTH OF
LOT 18 HAWTHORNE COMMERCIAL SUBDIVISION, 7TH ADDITION,
EAST OF LESLIE DRIVE AND WEST OF TOWANDA BARNES ROAD**

STATE OF ILLINOIS)
) SS.
COUNTY OF MCLEAN)

TO: THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF
BLOOMINGTON, MCLEAN COUNTY, ILLINOIS

Now comes Larry Bielfeldt, hereinafter referred to as your Petitioner, respectfully representing and requesting as follows:

1. That your Petitioner is interested as owner in the premises hereinafter described in Exhibit A attached hereto and made a part hereof by this reference;
2. That your Petitioner seeks approval of the dedication of an east/west Utility and Drainage Easement located north of Lot 18 Hawthorne Commercial Subdivision, 7th Addition;

WHEREFORE, your Petitioner prays that Utility and Drainage Easement be dedicated with such reservation of utility easements as may seem proper.

Respectfully submitted,

By: Larry Bielfeldt

ORDINANCE NO. 2010 - 41

**AN ORDINANCE PROVIDING FOR THE DEDICATION OF
AN EAST/WEST UTILITY AND DRAINAGE EASEMENT
LOCATED NORTH OF LOT 18 HAWTHORNE COMMERCIAL SUBDIVISION 7TH
ADDITION**

WHEREAS, there was heretofore filed with the City Clerk of the City of Bloomington, McLean County, Illinois, a petition requesting the dedication of an East/West Utility and Drainage Easement located north of Lot 18 Hawthorne Commercial Subdivision, 7th Addition; and

WHEREAS, said petition complies in all respects with the ordinances of said City and the statutes of the State of Illinois in such case made and provided; and

WHEREAS, the City Council of said City has the power to pass this Ordinance and grant said dedication; and

WHEREAS, it is reasonable and proper to dedicate said Utility and Drainage Easement as requested in this case.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BLOOMINGTON, MCLEAN COUNTY, ILLINOIS:

1. That said East/West Utility and Drainage Easement is hereby dedicated.
2. That this ordinance shall be in full force and effective as of the time of its passage and approval.

PASSED this 13th day of September, 2010.

APPROVED this 14th day of September, 2010.

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

EXHIBIT A

EASEMENT DESCRIPTION

An easement for drainage and public utility being 10 feet in width, located in the Northeast Quarter of Section 31, Township 24 North, Range 3 East of the Third Principal Meridian, Bloomington, McLean County, Illinois being more particularly described as follows:

Beginning at the Northwest corner of Lot 18 of "Seventh Addition to Hawthorne Commercial Subdivision" recorded as document 2008-00030218 in the McLean County Recorder's office, said Northwest corner being a point on the East right-of-way line of Leslie Drive; proceed North along the said East right-of-way line 20.00 feet to the True Point of Beginning; thence continue North 10.00 feet along the said East right-of-way line; thence East 362.17 feet on a line parallel to the North line of said Lot 18 to the West right-of-way line of Towanda Barnes Road; thence South 10.00 feet along the said West right-of-way line; thence West 362.16 feet on a line parallel to the North line of said Lot 18 to the True Point of Beginning encompassing 0.083 acres more or less.

Motion by Alderman McDade, seconded by Alderman Schmidt that the Dedication be approved and the Ordinance passed.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Huette, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Suspension of Ordinances to Allow Consumption of Alcohol at Lake Bloomington's Davis Lodge on September 18, 2010

RECOMMENDATION: That the Ordinance suspending Section 26(d) of Chapter 6 and Section 701 of Chapter 31 to allow the possession and consumption of alcohol at the Lake Bloomington Davis Lodge on September 18, 2010 be passed.

BACKGROUND: The Bloomington Liquor Commissioner Stephen Stockton called the Liquor Hearing to order to hear the request of Melissa Anderson to allow moderate consumption of alcohol at her September 18, 2010 wedding reception to be held at Davis Lodge at Lake Bloomington from 5:00 - 10:00 p.m. Present at the hearing were Liquor Commissioners Stephen Stockton and Tracey Covert, City Clerk; and Melissa Anderson, the bride and requester.

Commissioner Stockton opened the liquor hearing. The Commission had agreed to allow moderate consumption of alcohol at the Davis Lodge on a trial basis. Melissa Anderson, bride, addressed the Commission. She anticipated 120 persons would attend the wedding reception. She acknowledged that there would be underage persons present at the wedding reception.

She had spoken with CJ's Restaurant & Catering located at 2901 E. Empire. Tracey Covert, City Clerk, informed those present that Scott Tuggle, owner/operator of Ride the Nine located at 503 N. Prospect, Ste. 304, had been in with questions regarding a catering license. She added that CJ's had been invited to attend the liquor hearing. Ms. Anderson noted that CJ's would be providing the food service.

Commissioner Stockton stated that a City license holder is preferred and license holder staff must be present to pour and serve. Cash bar was not permitted. The Davis Lodge was a City facility which was located in McLean County. A catering license meant that the alcohol was purchased in advance of the event and merely poured and served the day of the event.

Commissioner Stockton stated that he would be comfortable recommending the suspension of City ordinance for a wedding reception to be held at Davis Lodge on September 18, 2010.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: The Agenda for the September 8, 2010 Meeting of the Liquor Commission was placed on the City's web site. There also is a list serve feature for the Liquor Commission.

FINANCIAL IMPACT: None.

Respectfully,

Reviewed and concur:

Stephen F. Stockton
Chairman of Liquor Commission

Randall D. McKinley
Police Chief

ORDINANCE NO. 2010 - 42

AN ORDINANCE SUSPENDING PORTIONS OF SECTION 701 OF CHAPTER 31 AND SECTION 26(d) OF CHAPTER 6 OF THE BLOOMINGTON CITY CODE FOR A WEDDING RECEPTION AT THE LAKE BLOOMINGTON DAVIS LODGE

WHEREAS, Melissa Anderson is planning to hold a wedding reception at the Lake Bloomington Davis Lodge from 5:00 p.m. to 10:00 p.m. on September 18, 2010; and

WHEREAS, Melissa Anderson has requested permission from the City to serve beer and wine during this event; and

WHEREAS, in order to legally possess alcohol in a City Park, Section 701(a), (b) and (c) of Chapter 31 of the Bloomington City Code, which prohibits the drinking, selling and possessing alcohol beverages with the City parks and Section 26(d) of Chapter 6 of the Bloomington City Code, which prohibits possession of open alcohol on public property must be suspended;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BLOOMINGTON, ILLINOIS;

Section 1: That Sections 701(a), (b) and (c) of Chapter 31 and Section 26(d) of Chapter 6 of the Bloomington City Code, 1960, as amended, are suspended for the duration of the wedding reception at the Lake Bloomington Davis Lodge on September 18, 2010 under the conditions set forth in the rental agreement.

Section 2: Except for the date of date set forth in Section 1 of this Ordinance, Sections 701(a), (b) and (c) of Chapter 31 and Section 26(d) of Chapter 6 of the Bloomington City Code, 1960, shall remain in full force and effect. Nothing in this Ordinance shall be interpreted as repealing said Sections 701(a), (b) and (c) of Chapter 31 and Section 26(d) of Chapter 6.

Section 3: This Ordinance shall be effective on the date of its passage and approval.

Section 4: This Ordinance is adopted pursuant to the home rule authority granted the City of Bloomington by Article VII, Section 6 of the 1960 Illinois Constitution.

PASSED this 13th day of September, 2010.

APPROVED this 14th day of September, 2010.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Motion by Alderman McDade, seconded by Alderman Schmidt that the Ordinance be passed.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Huette, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Application from J. Huber for Community Development Block Grant (CDBG) Housing Rehabilitation Assistance

RECOMMENDATION: That Amanda J. Huber's application for assistance be submitted to Housing and Urban Development (HUD) for their review and consideration.

BACKGROUND: Amanda J. Huber has applied for HUD, CDBG Housing Rehabilitation Assistance. Ms. Huber is the daughter of Mark Huber, Director of the Planning and Code Enforcement Department (PACE). The Code Enforcement Division of PACE oversees the CDBG program.

Ms. Huber recently purchased and is residing in 104 S. McLean Street. The home is approximately ninety (90) years old and has little to no insulation. She meets all of the program requirements, including income eligibility. The property is generally in good condition and is structurally sound, but needs energy efficiency improvements.

Housing Rehabilitation Program Guidelines include:

- *Applicant must be the owner and occupy the property;
- *Property must be within the City's Corporate Limits; and
- *Applicant must meet HUD's household income guidelines.

Program applicants are served on a first come, first serve or on an emergency basis. Currently, Ms. Huber is one of nineteen (19) applicants waiting for assistance. Advertisement of the CDBG Housing Rehabilitation program is by publication of the annual proposed budget and year end

accomplishments. These publications are posted in the Pantagraph, the City’s web site, City Clerk’s Office, the Public Library, and the Government Center. The majority of applications come from word of mouth referrals from previous participants or local agency referrals.

All applicant processing and housing rehabilitation oversight would be completed with Code Enforcement staff. To prevent any perceived conflict of interest, staff contacted HUD for guidance. HUD has requested the following:

1. Public disclosure of the conflict and a description of how the public disclosure was made; and
2. An opinion of the recipient’s attorney that the interest for which the exception is sought would not violate state or local law.

This staff report to Council, serves as the public disclosure requirement. The opinion of Corporation Counsel is included.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: None at this time but is approved from CDBG funds, x22430-79130.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Recommended by:

Sharon Walker
Planning and Code Enforcement

Barbara J. Adkins
Deputy City Manager

David A. Hales
City Manager

Alderman McDade noted that Ms. Huber’s application would undergo HUD’s (Housing and Urban Development), review process. Barb Adkins, Deputy City Manager, addressed the Council. She responded affirmatively. Ms. Huber has met the City’s requirements. Final approval would be granted by HUD. The conflict of interest cited was the fact that the applicant was Mark Huber’s, (Director – PACE), daughter.

Alderman Stearns stated her understanding of the answer. She questioned if the application would be submitted to HUD without comment. Ms. Adkins stated that each application must meet the City’s criteria. The second review is performed by HUD. This item was before the Council tonight due to the conflict, (the applicant was related to the department head). Alderman Stearns questioned PACE’s role and if the review had been objective. Ms. Adkins noted that the City had some subjectivity as to where these dollars were spent.

Alderman Stearns expressed her opinion of the Council memorandum. She expressed her belief that HUD requested public disclosure. She questioned the term “recipient’s attorney”. Todd Greenburg, Corporation Counsel, addressed the Council. The recipient was the City. The Corporation Counsel Office had been requested to express

an opinion a limited number of times. The City's legal staff was familiar with public conflict of interest. He noted that based upon the income requirements, CDBG applicants would be unable to retain a private attorney.

Alderman Stearns stated that there was a conflict of interest. She restated her request for a definition of the term "recipient". David Hales, City Manager, noted that the City's legal staff had determined that there was no violation of state and/or local law. He restated that the City's Corporation Counsel has an understanding of the issue at hand.

Alderman McDade expressed her opinion that there might be a greater conflict of interest in hiring an attorney to draft a letter stating that there was not one.

Alderman Stearns saw both sides of this issue. CDBG funds could be used to demolish blighted properties. Ms. Adkins responded affirmatively. CDBG funds had been used for a variety of projects: 1.) rehabilitation of housing stock; 2.) housing grants; and 3.) demolition of homes/garages. Every application was not forwarded to HUD. Currently, there were nineteen (19) applications. Ms. Huber's application would be sent to HUD due to the conflict. HUD also audits the City's CDBG fund.

Mr. Hales reminded the Council that they approved the FY 34 Action Plan for CDBG-R Funded Activities on June 8, 2009.

Sharon Walker, Code Enforcement Divisional Manager, addressed the Council. She noted the demolition budget - \$150,000. Three (3) structures had been demolished this year. In addition, she noted the rehabilitation budget - \$362,000. Alderman Stearns restated that there were nineteen (19) applications. Ms. Walker noted that there was no official closing date for accepting applications. Individuals are placed on a waiting list if funds were exhausted. Applications were processed on a first come/first served basis. Alderman Stearns questioned emergencies and subjectivity. Ms. Walker noted that the CDBG program was actively linked to other social service providers in the community. There were priority issues. She cited sewer back ups and water services which were out as examples.

Alderman Stearns questioned the time involved to contact HUD. She did not believe that this application met a true hardship. It did not meet a criteria of need. She cited the current recession. She needed to learn more about the CDBG program. She questioned the first come/first served policy. She believed that she understood the process. There were a number of issues involved. She did not believe that this application was the best use of these funds. She restated that there was a conflict. PACE staff was making a judgment call. She expressed deep concern. She questioned if this action was legal. The spirit of the application process was called into question.

Alderman Stearns cited the history of the property. She read from the real estate listing. The applicant was a member of the department head's immediate family. She would not support this item.

Mr. Hales noted that HUD did not categorically eliminate staff's family members. There was no City policy to restrict access to participation in this program. He acknowledged that there was statement in the City's employment practices. Ms. Huber had the right to make an application.

Alderman Sage noted that there had been no preferential treatment given to the applicant. Ms. Walker responded affirmatively. Ms. Huber's application was at the bottom of the stack. This was a recent application and also was not an emergency one.

Alderman Stearns expressed her confusion. She cited the unknown needs that might occur during the winter season. She believed that the City could exhaust its CDBG funds. She questioned what would happen then.

Alderman Schmidt noted that City staff worked with other local social service agencies. There were a number of ways to access funds. She cited the continuum of care concept. The City partnered with others. Ms. Walker noted that there were a large number of referrals made. She cited the power of word of mouth communication.

Alderman Purcell expressed his opinion that the issue was not legality. It was appearance of same. He added that the point was not whether the application allowable but whether it advisable.

Alderman Sage summarized Alderman Stearns' scenario. The fiscal year had a beginning. During the year, emergency situations arise. Inadequate funding to meet needs was an annual possibility.

Alderman Stearns questioned the way information was communicated to other agencies. Individuals may not be plugged into this communication. The public does not understand how to qualify for assistance. These dollars should be saved for someone in need.

Alderman Anderson noted that CDBG funds were federal dollars. He did not believe that the City had the authority to tell its employees' family members that they could not apply for federal assistance. He believed that the City would be beyond its authority. If an individual was eligible, then he/she has the right to apply. The Council should have no part in the application process.

Alderman Huette questioned the intent of these dollars. Ms. Walker noted that there were gray areas. The City's guidelines were simple, (qualifying income, home located in the City, and owner occupied). She believed that the process was open and fair. She noted that during the last two (2) years, the City had received more applications from the east side. The City did not advertise as each year there were too many applications. The program served low to moderate income individuals/families.

Alderman Fruin appreciated the conversation. He noted that adult children were out in the world on their own. The City had taken action in the area of employment for immediate family members. The City did not discriminate.

Alderman McDade noted that the Council did not review HUD's processes. The application would be reviewed as it involved the department head's family member. The City had performed due diligence and had behaved in an ethical manner. The Council had been informed. The department head was not involved in the process.

Motion by Alderman McDade, seconded by Alderman Anderson that Amanda J. Huber's application for assistance be submitted to Housing and Urban Development (HUD) for their review and consideration.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Huette, Schmidt, McDade, Anderson, Hanson, Sage, and Fruin.

Nays: Aldermen Stearns and Purcell.

Motion carried.

Mayor Stockton stated that the Council had requested that the word "recipient" be defined. He requested that HUD's guidelines be provided to the Council. He cited the upcoming Council retreat. The Council could discuss disallowing qualified individuals due to their relationship/friendship with City staff and/or Council members. CDBG funds could be processed on a one (1) time annual award instead of the current practice of processing applications as received.

The following was presented:

SUBJECT: Application of Fred Wehrenberg Circuit of Theatres, Inc., d/b/a Bloomington Galaxy 14 Cine, located at 1111 Wylie Dr., for an RBS liquor license, which will allow the sale of beer and wine only by the glass for consumption on the premises seven (7) days a week

RECOMMENDATION: Based upon the report from the Liquor Hearing, the Liquor Commission recommends to the City Council that an RBS liquor license for Fred Wehrenberg Circuit of Theatres, Inc., d/b/a Bloomington Galaxy 14 Cine, located at 1111 Wylie Dr., be created, contingent upon compliance with all applicable health and safety codes with the following conditions 1.) that the sale size be limited to nothing in excess of twenty-four ounces, (24 oz.); 2.) that last call shall be set at ninety (90) minutes prior to the no sale hour; and 3.) that there be no alcohol sales to ticket holders of G and PG movies.

BACKGROUND: The Bloomington Liquor Commissioner Stephen Stockton called the Liquor Hearing to order to hear the application of Fred Wehrenberg Circuit of Theatres, Inc., d/b/a

Bloomington Galaxy 14 Cine, located at 1111 Wylie Dr., requesting an RBS liquor license which would allow the sale of beer and wine only by the glass for consumption on the premises seven (7) days a week. Present at the hearing were Liquor Commissioners Steve Stockton, Richard Buchanan, Marabeth Clapp, Steve Petersen, Mark Gibson, and Geoffrey Tompkins, George Boyle, Asst. Corporation Counsel, and Tracey Covert, City Clerk, and Jim Hoffmeister, President/Treasurer and co-CEO, and Brett Havlik, Director of Concessions, and Applicant representatives.

Commissioner Stockton opened the liquor hearing. He noted that Wehrenberg has last appeared before the Commission in September 2007. The Council voted to deny that application. He requested that the Applicant address changes since that time. Jim Hoffmeister, President/Treasurer and co-CEO and Applicant representative, addressed the Commission. In 2007, there was a different person in his position. Wehrenberg owned fifteen (15) movie theaters. Eleven (11) of them have liquor licenses. Wehrenberg used TIPS, (Training for Intervention Procedures by Servers of Alcohol) for its employees. The company had adopted a train the trainer approach. He noted that a liquor license would result in additional revenue and taxes. Liquor service at movie theaters was an industry trend. An individual must show identification to purchase an alcoholic beverage. One (1) drink may be purchased at a time. Wehrenberg set the sale price high. He noted that less than two percent (2%) of its customers purchase alcohol. Mr. Hoffmeister recognized that a liquor license was a privilege.

Commissioner Stockton noted that at the original liquor hearing it was stated that liquor sales would occur at Fred's Drive In. Mr. Hoffmeister noted that Fred's was still there. Alcohol sales would occur at the concession counter. Customers would have the choice to sit at Fred's or take their beverage to the theater.

Commissioners Buchanan and Tompkins informed the Commission that they had visited the establishment. Alcohol sales would be handled at one end of the concession counter. Mr. Hoffmeister informed the Commission that there would be individuals dedicated to handle liquor sales.

Commissioner Stockton noted that in 2007 a figure of \$8 for a thirty-two ounce, (32 oz.), beer was cited. Mr. Hoffmeister provided the following information regarding beer sales: \$8.50 for thirty-two ounce, (32 oz.); \$7 for twenty-four ounce, (24 oz.); and \$6.50 for sixteen ounce, (16 oz.). He noted that the larger container is offered as the beverage is consumed during the movie. He offered to initially start with packaged alcohol which comes in smaller containers. Draft beer would not be offered for sale.

Commissioner Stockton reviewed the historical issues. There was some concern that the movies were the last bastion of family entertainment. There were individuals opposed to beer service where children were present. Intoxicated persons would interfere with movie viewing. Mr. Hoffmeister expressed his preference that liquor sales be allowed at any movie. He noted that parents often accompany their children to the movies. He expressed his willingness to be flexible. Wehrenberg was trying to serve its customers. He noted that Wehrenberg chose higher prices to control consumption.

Commissioner Stockton questioned alternative programs. Mr. Hoffmeister noted that special programs were currently limited to an opera series. He noted that at Wehrenberg theaters with liquor licenses Cosmopolitans were offered during the Sex and the City movie showings. This cocktail was associated with this movie.

Commissioner Stockton noted that the City owned and operated the Bloomington Center for the Performing Arts and US Cellular Coliseum, (USCC). These two (2) facilities offered alcohol sales. Commissioner Gibson noted that the USCC offered a thirty-two ounce, (32 oz.) beer at this public venue. Commissioner Stockton noted that Chuck E. Cheese located at 1701 E. Empire St., currently holds an RBS liquor license.

Commissioner Clapp questioned how alcohol consumption would be monitored. Mr. Hoffmeister cited the theater's ushers who check the theater periodically. He noted that cell phones have become a big issue during movie showings.

Commissioner Clapp restated that liquor sales would be limited to one (1) at a time. Mr. Hoffmeister responded affirmatively.

Commissioner Stockton addressed another issue. He cited enforcement in the case of beverage sharing. He noted that under City ordinance the licensee would be responsible for any infractions. Mr. Hoffmeister acknowledged that control was a challenge. Theater personnel could not watch everyone. If discovered, the beverage is taken, the individuals are made aware, requested to leave the premise, and the parents are informed.

Commissioner Gibson noted that a patron purchases an alcoholic beverage and enters a theater. He questioned if the theater had a method to identify who purchased alcohol. He questioned the number of liquor licenses held by Wehrenberg and any violations. Mr. Hoffmeister restated that Wehrenberg owned fifteen (15) theaters. Eleven (11) theaters hold liquor licenses. Wehrenberg planned to pursue other licenses. There had been no violations.

Commissioner Buchanan noted that the Wehrenberg hired back City police officers. He questioned the rationale for same. He also questioned if Wehrenberg had faced any encounters with alcohol sales. Mr. Hoffmeister informed the Commission that almost all locations hired back police officers. Officers provided good security. If a liquor violation were to occur, theater staff is happy to turn the individual over to a police officer. Commissioner Buchanan questioned when police officers were present. Mr. Hoffmeister stated on weekends and at holiday times.

Commissioner Petersen questioned if Wehrenberg had theaters in other college towns. Mr. Hoffmeister cited Springfield and St. Louis, MO, and Cedar Rapids, IA. Commissioner Petersen questioned a party bus with twenty-five (25) college students. Mr. Hoffmeister noted that theater staff had the right to refuse service. Wehrenberg staff would be courteous and polite. If individuals in the party were over twenty-one (21), they might be served.

Commissioner Petersen noted industry competition. Wehrenberg needed to be aware of customers' interests. He added that movies were popular with young adults. Mr. Hoffmeister

noted that theater staff was trained to identify if individuals have already been drinking. He restated TIPS training. Theater staff has the right to deny service.

Commissioner Petersen questioned if the theater would be flexible enough to consider liquor service for some but not all movies. Mr. Hoffmeister noted that there were times when a movie theater might become an auditorium with servers. In those instances, individuals must be twenty-one (21) to enter. He restated that liquor sales equaled two percent (2%) of total sales. He noted that typical liquor sales were to older couples. He cited the purchase price for an alcoholic beverage. For these customers, liquor sales represented a percentage of the purchase price.

Commissioner Tompkins had toured the premise. Clear cups would be used for alcohol beverages. He believed that these cups would be easy to identify during theater checks. Mr. Hoffmeister informed the Commission that there were two to three (2 - 3) theater checks per showing. Commissioner Tompkins questioned if a movie ticket was required for alcoholic beverage sales. Mr. Hoffmeister responded affirmatively.

Commissioner Gibson questioned movie showing times. Mr. Hoffmeister informed the Commission that the last showing was usually 11:00 p.m. He noted that sometimes there were midnight showings on Thursdays. Commissioner Gibson questioned the curtain time for the last movie and the cut off time for liquor sales. He also questioned if Wehrenberg would limit the number of thirty-two ounce (32 oz.) beers sold during a movie showing. Mr. Hoffmeister responded affirmatively. He restated TIPS training.

Commissioner Gibson suggested that the Commission set the time for liquor sales and the number of beverages. Mr. Hoffmeister informed the Commission that first movie showings occurred at 11:00 a.m. Wehrenberg would not be opposed to conditions. He restated his belief that the theater could handle liquor sales. Limiting liquor sales per person was a part of TIPS training. Commissioner Gibson questioned if Wehrenberg would sell two (2) thirty-two ounce (32 oz.) beverages during a moving showing. Mr. Hoffmeister responded affirmatively.

Commissioner Buchanan restated that Wehrenberg had had no issues or violations. Mr. Hoffmeister responded affirmatively.

Commissioner Tompkins questioned if the Applicant was familiar with the City's Alcoholic Beverage Code. Commissioners had the right to inspect the premise. Mr. Hoffmeister stated that the Commissioners would be welcome. Commissioners should ask for the General Manager.

Commissioner Buchanan questioned if City police officers would perform theater walk through. Mr. Hoffmeister noted that generally the police officers were located in the parking lot and theater lobby. Police officers have assisted during theater disturbances.

Commissioner Stockton informed the Applicant that the Commission could not go back to the Council with the same proposal as 2007. Wehrenberg operated a good business. The City would try to work with the theater. The Commission should place several conditions upon this

Application. The conditions might be altered by the Council after a time. He suggested the following conditions: 1.) no thirty-two ounce (32 oz.) sales; 2.) no liquor sales ninety (90) minutes prior to no sale hour and no consumption after 1:00 a.m. on week nights; and 3.) restrict alcohol consumption at any “G”, General and “PG”, Parental Guidance, during certain hours.

Mr. Hoffmeister cited his preference for flexibility. Wehrenberg would agree to no liquor sales during “G” movies. Wehrenberg wanted to be a good citizen and would agree to the conditions. He hoped to request additional flexibility after one (1) year.

Commissioner Clapp expressed support for conditions. Conditions were a starting point to a compromise.

Commissioner Gibson expressed support for the time restrictions. He expressed his interest in limiting the number of sales during a movie showing. He cited his concern regarding consistency. He cited Chuck E. Cheese as an example. He believed that thirty-two ounces (32 oz.) of beer was a large amount. This sales volume is allowed at the USCC. The same standard should be applied to all. He would support some conditions. These conditions should be applied broadly.

Commissioner Stockton noted that the conditions must address the Council’s concerns. The USCC has a family section where alcohol sales were not allowed.

Commissioner Gibson expressed his opinion that the conditions be applied universally. He acknowledged that restricting the size might encourage more consumption.

Commissioner Stockton questioned limiting the number of sales. He added the effort to track and enforce same. Mr. Hoffmeister stated that this was part of TIPS training. The servers were supposed to remember who had been served. The seller should also note the condition of the patron and the volume of the sale.

Commissioner Buchanan concluded that the Applicant had given assurances. The Commission needed to draft a motion which the Council would view favorably. “G” rated movies would be excluded. He was not concern about consistency. Consumption on week days would end at 1:00 a.m. by City Code. Commissioner Buchanan questioned the rating system. Mr. Hoffmeister provided the following information: G, PG, PG - 13, and R, (age 17 and over). Wehrenberg requested identification for R rated movies.

Commissioner Tompkins stated that Chuck E Cheese was different environment. Theaters were dark. He would support the restriction on G movies.

Commissioner Stockton noted that parents drop their children off at the theater. Chuck E Cheese also catered to children.

Commissioner Petersen noted that the Applicant was willing to be flexible. The Commission was willing to provide the Applicant with an opportunity. He expressed his willingness to support conditions.

Commissioner Stockton questioned if liquor sales should be allowed at PG during certain hours. Mr. Hoffmeister was comfortable with the time limitation and twenty-four ounce (24 oz.) sale limit. He expressed concern regarding a sales restriction for G and PG movies. He noted the broader audience.

Commissioner Buchanan understood the Applicant's rationale.

Commissioner Stockton questioned the starting time for PG movies.

Commissioner Petersen requested additional information about PG movies. Mr. Hoffmeister informed the Commission that he was new to the industry. He had been employed with Wehrenberg for two (2) years.

Brett Havlik, Director of Concessions, addressed the Commission. He provided the following information: PG - Parental Guidance; PG - 13 - no one under thirteen (13) without a parent/guardian, parental guidance recommended.

Commissioner Tompkins stated that Star Wars was rated PG. Mr. Havlik informed the Commission that PG and PG - 13 were the highest attended movies.

Commissioner Clapp expressed her preference that the limit only apply to G movies.

Commissioner Gibson noted that after the Commission's recommendation and Council's approval, other theaters may apply. He would support the motion. He believed that the Commission's action was arbitrary as these conditions would not be applied to other license holders. The Commission needed to look at the individual situation but apply a global perspective.

Mr. Hoffmeister stated that Wehrenberg would return before the Commission in a year or two to address any conditions. Commissioner Stockton acknowledged that conditions can be modified. The Commission was being cognizant of the Council's objections to this Application.

Commissioner Gibson made a point of clarification. Wehrenberg would use a different cup for alcoholic beverage sales. Beer would be sold in clear cups and wine would be sold in white paper cups. Mr. Hoffmeister added the nonalcoholic beverages were sold in Pepsi cups.

Motion by Commissioner Buchanan, seconded by Commissioner Petersen that the application of Fred Wehrenberg Circuit of Theatres, Inc. d/b/a Bloomington Galaxy 14 Cine, located at 1111 Wylie Dr., requesting an RBS liquor license which allows the sale of beer and wine only by the glass for consumption on the premises seven (7) days a week, be approved with the following conditions 1.) that the sale size be limited to nothing in excess of twenty-four ounces, (24 oz.); 2.) that last call shall be set at ninety (90) minutes prior to the no sale hour; and 3.) that there be no alcohol sales to ticket holders of G and PG movies.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Public notice was published in the Pantagraph in accordance with City Code. In accordance with City Code,

approximately three (3) courtesy copies of the Public Notice were mailed. In addition, the Agenda for the August 10, 2010 Meeting of the Liquor Commission was placed on the City's web site. There also is a list serve feature for the Liquor Commission.

FINANCIAL IMPACT: This would be a new RBS liquor license with an annual fee of \$1,110.

Respectfully,

Reviewed and concur:

Stephen F. Stockton
Chairman of Liquor Commission

Randall D. McKinley
Police Chief

Mayor Stockton reported on this item on behalf of the Liquor Commission. A discussion had occurred when the theatre first opened. The theatre had become an established business. The applicant cited a number of liquor licenses held by similar establishments. The US Cellular Coliseum (USCC) and the Bloomington Center for Performing Arts (BCPA) held liquor licenses. The application was brought to the Council because past concerns had been addressed. The theatre acknowledged the risk of underage drinking. The establishment was responsible for any of those occurrences. There would be usher checks throughout a movie showing and different glasses would be used for alcohol. The size of the glass was also limited to no more than twenty-four (24) ounces. There would be no sales or consumption of alcohol for G and PG rated movies. The closing sale hour would be ninety (90) minutes prior to closing hour. The required background had been provided and discussion could begin.

Alderman Hanson stated his concern last time was that alcohol would be consumed in a dark theatre where underage drinking was likely. He questioned if the Council was promoting an individual consuming a drink or two before going into the theater. He also questioned the applicant's position on only allowing consumption in a food court area.

Alderman Sage expressed concern for enforcement. Alcohol could still be poured into a Pepsi glass. He believed usher checks do not pass the test and it was not plausible to restrict alcohol in certain movies.

Alderman Fruin believed the designated area for consumption was key to the discussion. There has been success at other locations with liquor sales limited to a specific area.

Alderman Anderson expressed several concerns. He did not see a difference in the movie rating restrictions. There was no way to manage alcohol consumption in the dark. There were a limited number of places for families to go where no alcohol is served. Alcohol can create problems. He encouraged Wehrenberg to withdraw their application.

Alderman Purcell believed that if one theater was given permission to sell alcohol then all of them would want to do the same. It would be hard to manage alcohol

consumption at the movies. He was not against alcohol itself. He believed alcohol did not belong in a movie theater.

Alderman Stearns questioned if the Town of Normal allowed liquor sales at movie theaters. David Hales, City Manager, addressed the Council. He responded negatively. The Town had not been presented with an application. Mayor Stockton stated there was no prohibition in the Town. They had not been asked yet.

Alderman Stearns had received feedback from her constituents and they had not been in support of liquor sales at the movie theaters.

Alderman Hanson expressed his willingness to make a motion if there was no further discussion.

Motion by Alderman Fruin, seconded by Alderman Stearns to suspend the rules to allow someone to speak.

Motion carried.

Jim Hoffmeister, President and CEO of Wehrenberg Circuit of Theatres, Inc., addressed the Council. Wehrenberg has fifteen (15) theaters and most of them sell alcohol. The company has a clean record with no violations. Staff checks tickets prior to sale of alcohol. He believed the firm could stand on its clean record. The request was for an opportunity. He acknowledged the challenge of policing liquor sales. He was flexible with the Commission's previous requests. He believed the company was responsible. Two (2) usher checks were performed per showing. There had not been issues in the past. He was here due to customer requests for liquor sales.

Alderman Schmidt believed Mr. Hoffmeister ran a good business. If anybody could do it, Wehrenberg could. She believed people were not interested in the annoyance of alcohol in addition to talking and cell phone use during a movie. She believed alcohol should be consumed in the light and not in a dark theater. Mr. Hoffmeister stated the City had other auditoriums, such as Chuck E. Cheese, who sold alcohol. The City was being inconsistent.

Alderman Schmidt had heard from other bigger venues that they wished they did not have liquor sales. The question was the City's benchmark.

Alderman Sage referred to the staff report. He questioned if the Commission members visited the Theatre. Mr. Hoffmeister had addressed the Commission. He responded affirmatively.

Jeff Ready, 916 W. Front St., addressed the Council. He wanted to speak on behalf of the applicant as a regular patron. There was a police officer on duty at all times. He questioned what was currently restricting underage drinking in the theater. Allowing liquor sales would help regulate this issue and make ushers aware of any problems. It was

an opportunity for the Theater's staff to address underage drinking. There were other theaters in the City without alcohol where families could go. He had a right as an adult voter to have a beer with his popcorn at the movies. The Castle Theater used to have a liquor license. The citizens had a choice. There were a number of citizens in favor of liquor sales at the Theatre. There could be issues within any business. Wehrenberg should be provided an opportunity.

Alton Franklin, 5 Andy Court, Unit 1, addressed the Council. The City was inconsistent due to the difference in establishments. The other establishments allowed drinking in the light. He enjoyed taking his kids to the movies because there was no alcohol. A separate theater could be built for individuals twenty-one (21) and over where alcohol could be served.

Motion by Alderman Fruin, seconded by Alderman Schmidt to return to order.

Motion carried.

Alderman Fruin stated a small percentage of individuals cause problems that become a disturbance for everyone. Alcohol service was a privilege.

Alderman Hanson believed there might be a change in the vote if Wehrenberg's proposal would limit alcohol service to the food court area. He was prepared to entertain this option. He believed the current proposal was similar to the proposal submitted three (3) years ago. Mayor Stockton stated the current proposal was not the same as the previous proposal.

Alderman Purcell did not support regulation government. He believed there was a reason the City regulated alcohol. There were too many underage drinkers. He believed it would be abused in the dark. Mayor Stockton stated Wehrenberg had been a good business. They had made a large investment in the community. If Wehrenberg confined area for alcohol service, the vote might change.

Alderman Fruin questioned how to provide Wehrenberg with further direction on how to proceed regarding the Council's decision to potentially allow alcohol service in a lighted environment. If Council was totally opposed to alcohol service at the theater then the applicant needed to know that as well. Mayor Stockton informed the Council that the Commission had reviewed the Council Proceedings from September 24, 2007. The Commission had tried to create some changes that Wehrenberg agreed to. There was no enthusiasm from Wehrenberg for the food court only option. The City was not ready for liquor sales in movie theaters.

Motion by Alderman Hanson, seconded by Alderman Anderson that the application of Fred Wehrenberg Circuit of Theatres, Inc., d/b/a Bloomington Galaxy 14 Cine, located at 1111 Wylie Dr., for an RBS liquor license, which will allow the sale of beer and wine only by the glass for consumption on the premises seven (7) days a week be denied.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Huette, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Purchase of Starcom21 Radio Equipment for the Police Department

RECOMMENDATION: That a contract with Motorola for the Purchase of Equipment and Services to Migrate the Police Department Radio Communications to the Statewide Starcom21 System in the amount of \$885,149.30 be approved and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: Over the last several years the Police Department has identified a need to increase the capability of the radio communications system. This system is an older analog system that is not compatible with other new digital systems such as those used by the Normal Police Department and McLean County Sheriff's Department. This lack of interoperability has become apparent on several instances. One of the most notable being an incident at State Farm Corporate Headquarters where it was believed an armed subject had entered the building.

Staff researched the available options for improvements and the possibility of building a new digital system. After careful evaluation staff determined that the best course of action was to join the Starcom21 system that is operated by the State of Illinois. All state agencies are currently using this system along with others such as the Town, County, City of Springfield, City of Decatur and Macon County. This system was the topic of a report that was given to Council on May 10, 2010 which detailed the testing, and the pros and cons of choosing this system over other options that are available. This system allows for total communications interoperability between all of these agencies and will allow for communications on an as needed basis for day to day operations between local agencies. This system was tested by various members of the Police Department and was found to be acceptable for use in the City.

On May 10, 2010, Council approved the application for grant funding that would allow the purchase of radio equipment for migration of radio communications to the Starcom21 statewide radio system. The City was awarded \$133,276 from the Illinois Criminal Justice Information Agency. This grant allows for the purchase of fifty-two (52) portable radios and chargers only.

The terms of this grant dictate that if funding was received, the equipment must be purchased by September 24, 2010. The City was also awarded a \$200,000 Public Safety Interoperability Communications grant from the state. This funding reduces the amount the City would have to commit to this purchase. The total amount required to move to the Starcom21 system is

\$885,149.30. The grant funding, in the amount of \$333,276 reduces the City's funding to \$551,873.30. This equipment will be purchased using the state's Joint Purchasing agreement with Motorola. Motorola is a sole source provider for this system as they are under state contract.

The estimated time to complete this project will be one hundred twenty (120) days from the signature date on the contract.

This purchase would consist of the following items:

Cost for Starcom21 Radio Equipment

| Item | Price Each | Quantity | Total Cost |
|--|------------|----------|---------------------|
| XTL 2500 Mobile Radios | \$3,015.75 | 40 | \$120,630.00 |
| XTS 2500 Portable Radio | \$2,439.00 | 135 | \$329,265.00 |
| Impres Battery Charger | \$123.75 | 135 | \$16,706.25 |
| Impres MiMH Battery | \$75.90 | 135 | \$10,246.50 |
| Remote Speaker Microphone | \$66.93 | 135 | \$9,035.55 |
| Console Upgrade | | | \$265,426.00 |
| In Building Antennas | | | \$45,690.00 |
| Programming | | | \$16,150.00 |
| Mobile Radio Installation | | | \$9,000.00 |
| User fees for one year | | | \$63,000.00 |
| Grand Total for Equipment and infrastructure | | | <u>\$885,149.30</u> |
| PSIC Grant | | | \$200,000.00 |
| ICJIA Grant | | | \$133,276.00 |
| Total Cost To City | | | <u>\$551,873.30</u> |

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Representative Dan Brady was contacted to help facilitate this grant and has provided invaluable assistance in the preparation and acquisition of letters of support from other elected officials.

FINANCIAL IMPACT: The funds for this project were not budgeted in the FY 2011 budget. Staff has examined multiple options to finance the purchase of this equipment, including a direct purchase of the equipment as well as enactment of a lease, not only with the selected vendor, but also with local financial institutions.

Staff recommends the direct purchase of the radio equipment. This decision is based upon the following three (3) factors:

1. The City can absorb the net expense of the radios by transferring budget appropriations from other divisions within the General Fund to absorb the cost of the radios.
2. The City's cash flow has the ability to absorb the short-term cash outlay for the gross cost of the equipment while the City waits for the reimbursement through grant funds.
3. City will not incur interest expense related to the financing of this equipment. Funds for this project will be reallocated from line items within the non-departmental and contingency budgets to the Police administration line item G15110-72140.

To fund the \$551,873.30 portion of radio system purchase, staff recommends that Council authorize the reallocation of funds from two (2) line items within the Police and non-departmental budget. The salary savings in the full time salary budget within the Police budget is due to open positions and retirements within the department. The cost savings occurred within the non-departmental fund due to lower citywide retirements where the City was not required to payout retiree's vacation or sick leave time. To complete the purchase, staff recommends the City allocate \$100,000 from the Contingency Fund.

- | | |
|------------------------|----------------------------------|
| 1. \$250,000.00 | Police Budget Full time salaries |
| 2. \$201,873.30 | Non-Departmental Fund |
| 3. <u>\$100,000.00</u> | Contingency Fund |
| \$551,873.30 | |

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Recommended by:

Randall D. McKinley
Police Chief

Tim Ervin
Director of Finance

David A. Hales
City Manager

(CONTRACT ON FILE IN CLERK'S OFFICE)

David Hales, City Manager, addressed the Council. He referenced a report from May 2010. It took a while to determine the best direction for the City. The City sought out grants to assist with the purchase of Starcom 21 radios. The City received some funding but there was still a funding gap. The City was pursuing additional grant dollars with State Representative Dan Brady. The financial impact of the purchase would not increase the budget. The City would utilize savings within the Police Department's budget. Staff was recommending a transfer of some money from the non-departmental category. Projected savings were anticipated. Staff was recommending use of the Contingency Fund to fill the funding gap. Staff had looked into other options such as lease to purchase. He believed the pay as you go philosophy was the best option for the City. The Police Department would absorb the monthly maintenance fees. The City could lose grant money if a decision was not made. He thanked Representative Brady and Motorola's staff for their time and efforts.

Randy McKinley, Police Chief, addressed the Council. He recognized Representative Dan Brady, Dave Landers, Motorola's representative, Bob Siron, Asst. Police Chief, and Darren Wolf, Communications Manager, for their efforts. He had not brought this issue to Mr. Hale's attention until the current equipment had been tested. He clarified that the current system had not failed at State Farm last year. The problem had been communicating with the number of other police agencies that used Starcom21 radios. The age of the current system infrastructure was at least thirty-two (32) years. It was an analogue system and the world was going digital. The main issues with the current system were repair parts and compatibility. The portables currently used were purchased nine (9) years ago. They should have been replaced at seven (7) years. This was an opportunity to attain a system with interoperability. He understood it was an expensive recommendation.

Alderman Purcell questioned the cost to replace the current system. Chief McKinley stated the current system still worked. The issue was interoperability and communication with other agencies. The research had been completed and grants were available. The current equipment was being rebuilt. The system was an outdated analogue system.

Alderman Purcell questioned Chief McKinley's comfort level with the funding plan and training involved with the new system. Chief McKinley had received a time line from Motorola. The goal was to be operational in four to six (4 – 6) months. He clarified that officer hiring was not delayed to help pay for the new system. The Police Department had developed a new hiring process.

Alderman Purcell stated research and testing had been completed. This system would provide officers the ability to do their jobs. Chief McKinley had been authorized to have 123 uniformed officers. Not all vacancies would be filled.

Alderman Purcell questioned a return to Met Comm. Chief McKinley stated these were two (2) separate issues.

Alderman Anderson questioned if all other agencies in McLean County used Starcom21 radios. Chief McKinley stated the Fire Department used the same dispatch center. There would be no problems communicating with the Fire Department. Mike Kimmerling, Fire Chief, addressed the Council. The Fire Department works on VHF established by MABAS, (Mutual Aid Box Alarm System), a statewide group. The Town of Normal uses Starcom for dispatch only.

Alderman Stearns stated public safety was a priority. She expressed appreciation for the Police Department and Representative Brady's efforts. She believed this could have been 100% paid for a few years ago. The Town and McLean County received the system at no cost. This was the third opportunity for the City. Chief McKinley stated the City was in a different place nine (9) years ago. All the equipment was new. Mayor Stockton stated there were still monthly charges. Timing was important. Chief McKinley noted the monthly fee was \$30 per radio. Operating a Police Department was expensive.

Mayor Stockton questioned if there were additional grants. Chief McKinley referred to Representative Brady for the answer.

Motion by Alderman Schmidt, seconded by Alderman Anderson to suspend the rules to allow someone to speak.

Motion carried.

Dan Brady, State Representative, 202 N Prospect Rd., addressed the Council. He reminded Council that their constituents were his constituents. There had been missed opportunities. He cited the 2009 grant dollars. There was federal pass through money that the City needed to act on. There was a potential, if the City worked with Motorola, regarding possible future funding. The funding the City currently secured was all that was available.

Motion by Alderman Hanson, seconded by Alderman Schmidt to return to order.

Motion carried.

Mayor Stockton noted this was not an easy decision to make and thanked all involved in the process.

Motion by Alderman Hanson, seconded by Alderman McDade that a contract with Motorola for the purchase of equipment and services to migrate the Police Department radio communications to the statewide Starcom21 System in the amount of \$885,149.30 be approved and the Mayor and City Clerk be authorized to execute the necessary documents.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Huette, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Analysis of Request for Proposals (RFP) for Tax Consultant Services

RECOMMENDATION: That the RFP be awarded to Pritchard Osborn LLC in an amount not to exceed \$20,000, and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: Currently, the City employs approximately six hundred and one (601) full time employees. This number can fluctuate as the City supplements its full time work force with part-time or seasonal employees. A statutory function of the City is to accurately compensate these employees in accordance with federal and state law in addition to clauses within a combination of collective bargaining agreements. A key component for the recommendation of an internal auditor position in the FY 2011 budget was the ability of the internal audit position to independently monitor from a compliance viewpoint the City's payroll function. Examples of responsibilities assigned to this position consisted of performing test of controls to determine whether the City applied all relevant tax withholdings, review whether the City remitted tax payments on a timely basis, and perform an annual tax review on City benefits. Although, the internal auditor position was not included within the final budget, staff remains concerned about the level of oversight of the payroll function.

With the approval of the FY 2011 budget, staff sought to develop an alternative service delivery arrangement in regard to this issue. Staff came to a conclusion to outsource this particular task through a creative partnership between public and private entities. This conclusion was based upon the following reasons:

- Maintain the current staff levels of classified personnel within the Finance Department. The retention of employees with the education and skills needed for this position could significantly increase the salary and benefit (health insurance, pension, etc.) expenditures within the Finance Department.
- Maintain a focus on core business processes. The oversight function of taxable benefits requires specialized expertise. Although the Finance Director and Chief Accountant have the in-house expertise to accomplish this function, these individuals' efforts are dedicated to time intensive core function which include; compilation of financial statements, generation of ad hoc business analysis, and oversight of the City's procurement policies.

On June 3, 2010, the City issued a payroll tax Request for Proposal (RFP) to twenty (20) local accounting and bookkeeping firms in addition to public notification of the RFP within the Pantagraph. The list of local firms was compiled from firms listed in the telephone book. The City received seven (7) responses by the June 30, 2010 submittal deadline. The responses were from a variety of firms, ranging from small local accounting firms to regional accounting firms which operate throughout Central Illinois.

| Company Name |
|---------------------------------|
| Pritchard Osborn, LLC |
| Benjamin Pettie, CPA |
| Packard & Associates CPA's |
| Sikich, LLP |
| Clifton Gunderson, LLP |
| BKD CPA's & Advisors |
| Automated Data Processing, Inc. |

Staff narrowed down the list of bidders to three (3) accounting firms with the primary emphasis on cost. Interviews were conducted with these three (3) firms Pritchard Osborn, LLC, Benjamin Pettie, CPA, and Packard & Associates, CPA's. The interview team consisted of the Finance Director, Chief Accountant, Purchasing Agent, and Payroll Clerk. Each firm was asked to respond to the same set of questions and the responses were documented. Staff examined and analyzed the three (3) proposals in combination with the supplemental answers provided within the interview. The following factors were used in the analysis of the proposals:

- Offeror's ability to provide such services
- Qualification to provide such services
- Qualifications of the individuals identified to perform the services to be provided
- Amount of proposed fees

Based upon a point system developed to analyze this proposal the final three (3) firms were awarded the following points. The technical point system was based upon a fifty-five (55) point grading scale, while the proposed fee section was calculated based upon recommendations prepared by the National Institute of Government Purchasing. This phase of the analysis allowed staff to evaluate firms on the basis of skills, experience, and other intangible factors.

| | Pritchard Osborn LLC | Benjamin Pettie, CPA | Packard & Associates, LLC |
|------------------|----------------------|----------------------|---------------------------|
| Technical Points | 47 | 33 | 39 |
| Proposed Fees | 98 | 100 | 81 |
| Total | 145 | 133 | 120 |

Staff recommends Pritchard Osborn, LLC be awarded the RFP. Pritchard Osborn, LLC operates from regional offices located within Litchfield, Illinois and St. Louis, Missouri. The firm serves more than six hundred (600) businesses, not-for-profit corporations, local governments, and individual clients. Business clients range in size from start-up organizations, to small and large local governments. They have personnel who specialize in the area of taxation and goes to great lengths to maintain their knowledge of taxation issues. They will assist the City in the preparation of tax documents and assist with any correspondence received from the Internal Revenue Service or State's Department of Revenue.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: The cost of these services will be paid for on an hourly basis from account 1001-10010-70090. The Council allocated the salary (approximately \$80,000) of the proposed internal auditor position within this account during the FY 2011 budget process. Council directed staff to use the dollars to fund innovative solutions to address multiple functions an internal auditor position would undertake if hired by the City. Payroll compliance is one of several functions that were anticipated to be delegated to the position. Staff respectfully recommends that Council award the RFP to Pritchard Osborn, LLC for payroll compliance services in an amount not to exceed \$20,000.

Respectfully submitted for Council consideration.

Prepared by:

Concurred with:

Reviewed by:

Timothy L. Ervin
Director of Finance

Pamela Reel
Chief Accountant

Barbara J. Adkins
Deputy City Manager

Reviewed as to legal sufficiency:

Recommended by:

J. Todd Greenburg
Corporation Counsel

David A. Hales
City Manager

David Hales, City Manager, addressed the Council. Staff had recommended retaining the expertise of an internal auditor. He believed the City should be in full compliance with payroll practices. This agreement would allow outside assistance to perform key functions. The City needed additional resources. Tim Ervin, Finance Director, addressed the Council. He cited the budget review. There had been concerns regarding compliance issues specifically with payroll. A Request for Proposal (RFP) was issued in lieu of hiring additional staff.

Alderman Purcell believed this was a good idea, (hiring a consultant to work on specific projects). It was less costly. Mr. Ervin acknowledged that laws were constantly changing.

Alderman Stearns questioned if a full-time accountant was on staff. Mr. Ervin responded affirmatively.

Motion by Alderman Schmidt, seconded by Alderman McDade that the RFP be awarded to Pritchard Osborn LLC in an amount not to exceed \$20,000, and the Mayor and City Clerk be authorized to execute the necessary documents.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Huette, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: An Ordinance Amending Section 83.5 of Chapter 38 of the City Code, Damage or Destruction of Mailboxes

RECOMMENDATION: That the Ordinance be passed.

BACKGROUND: In 1989, the City was notified that the U.S. Postal Service no longer delivered mail to mailboxes on or in new homes. Delivery depended upon the installation of mailboxes constructed on public right of way. Since the City controls its right of way, and regulates its use, ensuring that construction does not contain materials (such as non-breakaway poles) which would constitute an unreasonable danger to the public (including City employees plowing snow), it requires that structures placed on the public right of way be issued a permit from the City. As a condition of that permit, a provision limiting the City's liability is included in the event the mailbox and/or post is damaged in the course of City operations.

Recently, staff has received requests to review the current policy, which caps City liability for replacement of mailboxes at \$50. This provision was last changed in 2006. The proposed Ordinance would cap the cost of replacing a mailbox at \$50, but would allow persons to be reimbursed up to \$150 for the cost of replacing a combination mailbox and post if they are damaged beyond repair. It also contains a new provision which would require the City to inspect a mailbox which has been reported as damaged within five (5) business days from the time of the report and require the City to place a temporary mailbox at the same time if necessary. At the request of the owner, the City would install a mailbox (with a post if necessary) of materials of the City's choosing. The Ordinance also requires damage to be reported within five (5) business days and reimbursement or replacement to not occur more than once per fiscal year.

City staff is making additional effort before the snow season begins to provide a written notice to citizens with non-compliant mailboxes. In order for residents to be eligible for reimbursement for a damaged mailbox, they must bring non-compliant mailboxes into compliance. It is anticipated that this pro-active effort will reduce mailboxes affected by City snow operations.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: AFSCME Local 699.

FINANCIAL IMPACT: The amount budgeted for mailbox reimbursements in FY 2010-2011 is \$500 (Item 1001-16124-70590). Last year, forty-nine (49) mailboxes were replaced for a total amount of \$2,450 (\$50.00 per mailbox). Every damaged mailbox will not total \$150 however, there is the possibility that this line item could increase to over \$5,000.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Reviewed by:

J. Todd Greenburg
Corporation Counsel

Jim Karch
Director of Public Works

Emily Bell, IPMA - CP
Director of Human Resources

Recommended by:

David A. Hales
City Manager

Mayor Stockton introduced this item. David Hales, City Manager, addressed the Council. The Council had been provided the text amendment. He cited the amount of damage that has occurred. The City needed to minimize same. He cited the staff involved.

Jim Karch, Director of Public Works, addressed the Council. Public Works performed a survey and responses regarding mailbox damage were across the board. Some communities pay nothing and others would replace the mailbox. The damage to mailboxes in the City has varied from year to year. It was common to see mailboxes damaged when snow is heavy as damage can occur.

Alderman Fruin had sent out a response this afternoon. This was a great example and it affects many neighborhoods. Routes had not been monitored in the last twenty (20) years. There was no control over developers. He believed the City wanted to change the landscape. The City needed to be more user friendly to residents. There were a number of issues with regards to time, service and cost. Many mailboxes match the home as designed by the developers. He cited the cost of hundreds of dollars. He was concerned with the City's reimbursement level. He cited subdivision covenants for mailboxes. He suggested a sliding scale as a good solution. He cited his personal experience. He spent \$1000 to replace his mailbox, which was noncompliant. He provided an outline of his thoughts. The City damages hundreds of mailboxes per snow season. Drivers work long hours in difficult conditions. One replacement per winter was not fair to the residents. This item was not user friendly to residents especially when it was the City's negligence. Mr. Karch stated there were hundreds of noncompliant mailboxes. Light duty staff had inventoried same. Public Works was trying to be proactive and inform residents about the changes needed. They had discussed limits and best practices. A higher limit was discussed and how much should be paid. The starting point was higher than other cities. He cited issues with receipts. This practice could be problematic from a staffing perspective.

Alderman Fruin requested a response from the Council to the sliding scale concept. Mr. Karch stated there was an issue with the funding level and receipts.

Alderman Anderson expressed concern with the City paying for nonconforming mailboxes. It was not fair to citizens who had complied. He questioned if mailboxes were

reviewed at time of construction. Mr. Karch stated mailboxes were not reviewed. Some cities pay nothing for nonconforming mailboxes.

Alderman Anderson was in support of the \$150 amount with no receipt. Mayor Stockton stated there was a difference between nonconforming mailboxes and a mailbox protruding into the street.

Alderman Huetten stated the receipt idea had been turned down. He was in support of a capped amount. There should be a set fee for the post and box. He requested that employees not reinstall replaced mailboxes. Mr. Karch stated that had been a long-standing past practice. Public Works would recommend that employees did not reinstall mailboxes.

Alderman Huetten questioned if paying for the mailbox would address the installation issue. Mr. Karch stated Public Works was obligated by thirty (30) days to set a temporary mailbox. The City had to work with unions as well.

Alderman Hanson suggested offering a temporary mailbox until the mailbox can be replaced. The ice and snow can last for quite some time. He cited major streets like Hershey Rd. as problematic. Mr. Karch stated the current proposal included temporary mailboxes. He added that Hershey Rd. was a challenge.

Alderman Anderson believed the thirty (30) day limit was weather dependant due to frozen ground.

Alderman Sage questioned if a citizen was out of town when their mailbox was destroyed. Mr. Karch stated usually someone checks a home during a long absence who could report the incident. A time limit provided some structure.

Alderman Sage requested that residents have more than five (5) days to report a damaged mailbox. He questioned the number of times during a fiscal year that a mailbox is replaced. Mr. Karch stated the current practice was one (1) time. There was some concern that the dollar amount was higher then other cities.

Alderman Sage stated if a resident was compliant and a mailbox was damaged more than once he would expect the City to pay for it.

Alderman Hanson cited Hershey Rd. He suggested the City not replace the mailbox until the snow season was over. The City should develop a system for temporary mailboxes.

Alderman Purcell questioned covenants' legal rights to evoke fines. Todd Greenburg, Corporation Counsel, addressed the Council. It depended on the homeowners association. He was not sure if covenants were violating City ordinance.

Alderman Purcell stated some subdivisions place a lien against a home for violations. Mr. Greenberg was not familiar with those.

Alderman Fruin noted the sliding scale solution included a reimbursement cap of \$500. Developers and builders have been installing non-compliant mailboxes for over twenty (20) years. The rules had suddenly been changed. He was willing to meet with Mr. Karch to refine the proposal. He suggested laying this item over to the September 27, 2010 Council meeting. Mr. Hales questioned the majority of Council's position. They were looking at increasing the City's liability.

Mayor Stockton had tracked the discussion. He heard consensus regarding a temporary mailbox provision. There should also be a simple reimbursement system or a sliding scale. A majority of the Council would like to see a reimbursement cap. There was a question if the City would pay to replace a compliant mailbox more than once in a season.

Alderman McDade was in support of laying the item over. It was a ward specific issue. She acknowledged that Alderman Fruin had been out of town.

Alderman Sage was in support of a cap. He did not want a sliding scale. He believed compliant mailboxes should be replaced if knocked down by the City and the reporting period should be extended to ten (10) days. Mayor Stockton added there could be a provision for extenuating circumstances that a resident would have to prove.

Alderman Hanson was in support of laying the item over. Postal regulations had changed and now the City had to deal with those changes.

Alderman Huette was in support of Alderman Sage's suggestions. Mayor Stockton stated Alderman Sage had articulated some general guidelines. The item could be laid over until the September 27, 2010 Council meeting.

Alderman Purcell cited the potential \$30,000 cost (\$150 times 200 mailboxes).

Alderman Fruin appreciated the Council's attempt at consensus. He requested suggestions be sent to Mr. Hales. The item would be ready in two (2) weeks.

Motion by Alderman Fruin, seconded by Alderman Hanson that this item be laid over until the Council's September 27, 2010 meeting.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Huette, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried, (viva voce).

The following was presented:

SUBJECT: Change Order 1 for Street and Alley Repair (Citywide)

RECOMMENDATION: That the Change Order in the amount of \$110,000 be approved and the Resolution adopted.

BACKGROUND: On June 14, 2010, Council approved the Street and Alley Repair contract with Rowe Construction in the amount of \$1,094,081.72. Currently all the streets included in the original contract have been patched or resurfaced except for:

- O’Connell St. - Croxton to Maizefield (Ward 4, Pavement Rating 2)
- Maysel St. - Four Seasons westward to dead end (Ward 8, Pavement Rating 2)
- Richard Rd. - Carl Dr to Evergreen Ln. (Ward 9, Pavement Rating 1)
- 2100 East Rd. - 400 feet north of bridge to 500 ft south of bridge (City limits) (Ward 8, Pavement Rating 1)

Completion of the work at any of these four (4) locations will exceed the current contract limit. An additional \$110,000 is needed.

| | |
|------------------------|----------------------|
| Rowe Construction | \$1,094,081.72 |
| Change Order 1 | <u>\$ 110,000.00</u> |
| Revised Contract Total | \$1,204,081.72 |

Elm Street and Western Avenue needed additional work that was not anticipated. When the old asphalt surface was removed it was discovered the remaining pavement was in such poor condition that it needed to be repaired prior to the new hot mix asphalt surface placement. This additional base course repair prevented all of the streets in the contract from being completed within the contract price. It was not feasible to anticipate the need for additional work on these streets because the condition of the existing base course was unknown.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: The General Fund transfers funds to the Capital Fund to support the road resurfacing operations and other capital projects. In the FY 2011 budget, the total transfer was \$1,700,000. Furthermore, the General Fund transfers funds to debt services funds (\$2,450,000) and the Solid Waste Enterprise Fund (\$1,768,575). To offset the additional cost for this project, staff recommends that \$110,000 of the transfer allocated to the Solid Waste Enterprise Fund be reallocated to the Capital Improvement Fund. This reallocation is recommended because the 1st quarter revenue for the Solid Waste Enterprise Fund collections is higher (11.1%) than anticipated. The amended transfer from the General Fund to the Capital Improvement Fund will be \$1,810,000, while the amended transfer to the Solid Waste Enterprise Fund will be \$1,658,575.

Respectfully submitted for Council consideration.

Prepared by:

Jim Karch, P.E. CFM
Director of Public Works

Recommended by:

David A. Hales
City Manager

Reviewed by:

Tim Ervin
Director of Finance

Reviewed as to legal sufficiency:

Todd Greenburg
Corporation Counsel

RESOLUTION NO. 2010 - 30

**A RESOLUTION AUTHORIZING A CHANGE ORDER IN THE
AMOUNT OF \$110,000 IN THE CONTRACT BETWEEN THE CITY
OF BLOOMINGTON AND ROWE CONSTRUCTION FOR CITYWIDE STREET AND
ALLEY REPAIR**

WHEREAS, the City of Bloomington has previously entered into a contract with Rowe Construction for Citywide Street and Alley Repair; and

WHEREAS, for the reasons set forth in a staff report dated September 13, 2010 it was necessary to perform additional resurfacing; and

WHEREAS, it is the finding of the City Council that the decision to perform the work described in the September 13, 2010 memo was in the best interest of the citizens of the City of Bloomington.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BLOOMINGTON, ILLINOIS:

That a change order in the amount of \$110,000 in the contract between the City of Bloomington and Rowe Construction for Citywide Street and Alley Repair be approved.

ADOPTED this 13th day of September, 2010.

APPROVED this 14th day of September, 2010.

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

David Hales, City Manager, addressed the Council. Staff was recommending the Change Order be approved. It would allow the City to complete four (4) streets. The streets were designed but could not be resurfaced. Jim Karch, Director of Public Works, addressed the Council. Funding came from the Solid Waste Program's budget.

Alderman Purcell questioned pay back. Mr. Hales stated it was a one-time transfer of funds.

Motion by Alderman Huette, seconded by Alderman Stearns that the Change Order in the amount of \$110,000 be approved and the Resolution adopted.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Huette, Schmidt, McDade, Hanson, Sage, Fruin and Purcell.

Nays: Alderman Anderson.

Motion carried.

MAYOR'S DISCUSSION: Mayor Stockton mentioned the Special Service Area (SSA) proposal. The City had been watching Downtown Bloomington Association's (DBA) efforts. Council would have a public hearing in October 2010 to receive input. He had received input and there were still issues to be addressed. Property owners had some concern regarding the SSA's assessment process and governance issues. There was a general support for the SSA but concern regarding details.

CITY MANAGER'S DISCUSSION: David Hales, City Manager, addressed the Council. He commented on the City's Cash Balance hitting a significant high. He applauded staff and the Council for their efforts. He believed this was a significant number. He reviewed the calendar and upcoming events. The first quarter financial report would be issued/released soon. Over the next four (4) months, there would be a lot of discussion and planning regarding financial measures. The Council was given a memorandum from Tim Ervin, Finance Director, on payment methods. There was another memorandum regarding the Illinois Municipal Retirement Fund (IMRF) addressing salary spiking.

The United Way Picnic would be held on Friday September 17, 2010 from 11:00 a.m. – 1:00 p.m. He invited the Council to attend. In two (2) weeks, the Council would

discuss Enterprise Resource Planning (ERP) software contract, which would allow the City to purchase the MUNIS system. He noted the Village of Glenview was on the same system.

ALDERMEN'S DISCUSSION: Alderman Purcell had vacationed in Tucson, AZ. He met with the Mayor's staff. Tucson was having budget issues. They have managed competition. He spoke with the Community Outreach Director. Tucson was a college town and ideas were shared regarding college students. Neighborhood outreach and in-fill housing were also discussed. Mayor Stockton requested that Alderman Purcell send ideas from his visit to Tucson to the Council.

Alderman Purcell cited the Enbridge leak in Romeoville. He expressed concern with Enbridge's pipelines. Mayor Stockton stated the City had intervened on pipeline changes in the past. They had enhanced the pipe near major roads and creeks. The City did not regulate Enbridge. Issues were addressed at a state level.

Alderman Schmidt sent an invitation to the Harvest Garden Festival on September 25, 2010.

Alderman Fruin appreciated the Mayor's comments on the SSA. He hoped the City would work with the Town of Normal regarding Main St. He would like to see the Town and City work together. Mayor Stockton stated the Task Force called for consistency in many areas. Staff had to coordinate with the Planning Commission. There were different zones based on uses.

Alderman Sage echoed concerns regarding Enbridge. Mr. Hales had sent his June - August update. He expressed appreciation for Mr. Hale's priorities and his ability to accomplish many tasks. He was happy with the collaboration between the Town and City regarding the northeast quadrant.

Alderman Hanson noted that there had been three (3) unanimous votes this evening. It was good to see.

Motion by Alderman Anderson, seconded by Alderman Purcell, that the meeting be adjourned. Time: 10:32 p.m.

Motion carried.

Tracey Covert
City Clerk

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