

**RECORD OF MOTIONS AND VOTES
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 7:30 p.m., Monday, August 10, 2009.

The Meeting was opened by Pledging Allegiance to the Flag followed by Silent Prayer.

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:

Oath of Office – Mike Kimmerling, Fire Chief.

David Hales, City Manager, introduced Mike Kimmerling, newly appointed Fire Chief. Chief Kimmerling commenced employment with the Fire Department many years ago working in operations and administration. Mr. Hales noted that for the past three (3) months Chief Kimmerling had performed as Interim Fire Chief. He was impressed with Chief Kimmerling's fresh approach to the serious issues regarding public safety. Chief Kimmerling provided high quality service and quick response times. He initiated cost effective measures and established goals to examine performance measures. He examined all options with a creative approach. He was the best candidate to fill the role of Fire Chief and would help the Fire Department move forward in the right direction.

Chief Kimmerling introduced his wife and two (2) daughters. He recognized the Fire Department members present and extended appreciation for their presence.

Tracey Covert, City Clerk, performed the Oath of Office.

Chief Kimmerling appreciated the love and support of his family. He worked better as a team member and was thankful to the Fire Department for the opportunity to be a part of their team. Mayor Stockton expressed his pleasure to have Chief Kimmerling's family in attendance. He complimented the Fire Department members for their show of support.

The following was presented:

SUBJECT: Council Proceedings of May 26, 2009

RECOMMENDATION: That the reading of the minutes of the previous Council Proceedings of May 26, 2009 be dispensed with and the minutes approved as printed.

BACKGROUND: The Council Proceedings of 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 Anderson, seconded by Alderman Purcell that the reading of the minutes of the previous Council Meeting of May 26, 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 Friday, August 7, 2009 by posting via the City's web site. After examination, I will notify the Council of any items which may need to be addressed.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT:

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

Barbara J. Adkins
Deputy City Manager

David A. Hales
City Manager

Motion by Alderman Anderson, seconded by Alderman Purcell 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 twenty-second partial payment to Town of Normal in the amount of \$265,836.76 on a percentage basis contract of which \$4,605,224.88 will have been paid to date for work certified as ongoing for the Metro Zone Sales Tax Rebate. Completion date – Ongoing.

2. The eighteenth partial payment to Interchange City West in the amount of \$151,934.41 on a contract amount of \$3,700,487.08 of which \$2,231,393.89 (\$11,254.99 in reimburseables) will have been paid to date for work certified as 60% complete for the Metro Zone Tax Rebate. Completion date – November 2010.
3. The twenty-third partial payment to McLean County in the amount of \$1,864.07 on a contract amount of \$100,000 of which \$75,089.52 will have been paid to date for work certified as 75% complete for the East Side Corridor. Completion date – November 2009.
4. The thirty-seventh partial payment to APACE Architects & Design in the amount of \$1,999.50 on a contract amount of \$349,800 of which \$335,126.50 will have been paid to date for work certified as 96% complete for the Design of Fire Station #5. Completion date – August 2009.
5. The tenth partial payment to 3 D Design Studio in the amount of \$2,791.45 on a contract amount of \$39,625 of which \$43,477.28 (\$4,202.28 in reimburseables) will have been paid to date for work certified as 99% complete for the Comprehensive Park and Recreation Plan. Completion date – December 2009.
6. The eleventh partial payment to Stark Excavating, Inc. in the amount of \$254,898.87 on a contract amount of \$2,589,000 of which \$1,611,269.75 will have been paid to date for work certified as 60% complete for the McGraw Park – Phase II – General Construction. Completion date – September 2009.
7. The eighth partial payment to Johnston Contractors, Inc. in the amount of \$17,743.50 on a contract amount of \$371,899 of which \$280,966.54 will have been paid to date for work certified as 76% complete for the McGraw Park – Phase II – Restroom Facilities. Completion date – September 2009.
8. The eighth partial payment to Main & Veterans General Partnership in the amount of \$55,000 on a contract amount of \$550,000 of which \$440,000 will have been paid to date for work certified as 80% complete for the infrastructure. Completion date – June 2011.
9. The twelfth partial payment to Testing Services Corporation in the amount of \$3,418.75 on a per ton and hour contract of which \$26,976.38 will have been paid to date for work certified as ongoing for the 2008-2009 Asphalt & Portland Concrete Plant Inspection & Laboratory Testing. Completion date – July 2009.
10. The first partial payment to Rowe Construction Co. in the amount of \$33,890.70 on a contract amount of \$746,708.79 of which \$33,890.70 will have been paid to date for work certified as 5% complete for the 2009-2010 General Resurfacing. Completion date – April 2010.

11. The tenth partial payment to Consoer Townsend & Associates in the amount of \$710.22 on a contract amount of \$43,400 of which \$41,784.70 will have been paid to date for work certified as 96% complete for the Water Department Metering Needs at the Water Treatment Plant. Completion date – December 2009.
12. The thirtieth partial payment to Consoer Townsend & Associates in the amount of \$623.08 on a contract amount of \$185,000 of which \$151,425 will have been paid to date for work certified as 82% complete for the Electrical Improvements at Lake Bloomington. Completion date – December 2009.
13. The eighteenth partial payment to Whittman Hydro Planning Associates, Inc. in the amount of \$41,666.52 on a contract amount of \$868,846 of which \$475,811.70 will have been paid to date for work certified as 55% complete for the Strategic Source Water Study. Completion date – September 2010.
14. The thirteenth partial payment to Clark Dietz in the amount of \$2,297.50 on a contract amount of \$50,000 of which \$29,659.77 will have been paid to date for work certified as 59% complete for the Water Mapping Services. Completion date – December 2009.
15. The eighth partial payment to Clark Dietz in the amount of \$323 on a contract amount of \$22,000 of which \$19,165.53 will have been paid to date for work certified as 87% complete for the Water Main Inspection – Graham Street through O’Neil Park. Completion date – October 2009.
16. The third partial payment to Gildner Plumbing in the amount of \$45,202.34 on a contract amount of \$1,186,825 of which \$523,933.29 will have been paid to date for work certified as 44% complete for the Division D Pipeline Road 36 Inch Transmission Water Main. Completion date – August 2010.
17. The seventh partial payment to Clark Dietz, Inc. in the amount of \$315 on a contract amount of \$21,700 of which \$13,157.86 will have been paid to date for work certified as 61% complete for the Lincoln Street – Bunn to Morrissey Drive Observation. Completion date – July 2009.
18. The seventeenth partial payment to Clark Dietz in the amount of \$70 on a contract amount of \$60,000 of which \$54,346.17 will have been paid to date for work certified as 90% complete for the Observation/Inspection of Parkview Water Main Replacement Phase I. Completion date – January 2010.
19. The nineteenth partial payment to Clark Dietz in the amount of \$685 on a contract amount of \$84,600 of which \$72,216.88 will have been paid to date for work certified as 85% complete for the Parmon Road Water Main Replacement. Completion date – December 2009.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

Tracey Covert
City Clerk

David A. Hales
City Manager

Motion by Alderman Anderson, seconded by Alderman Purcell 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: Partial Payment to the Grove on Kickapoo Creek, LLC for Ireland Grove Road Trunk Sewer – East Branch Oversizing

RECOMMENDATION: That the payment be approved.

BACKGROUND: On September 26, 2005, Council approved an Annexation Agreement with the Grove on Kickapoo Creek, LLC. The Annexation Agreement requires the City to pay for over sizing the sanitary trunk sewers in the Grove Subdivision. Construction of the east branch trunk sewer is nearing completion and a second partial payment invoice and supporting documentation from the developer has been received. The invoice for this portion of the east branch sewer is \$92,480.90. The original invoice is dated April 6, 2009. Staff was not furnished with a partial waiver of lien for the work performed until July 17, 2009. The Annexation Agreement requires the City to pay the over sizing invoices within thirty (30) days of receipt of all documentation.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: The Grove on Kickapoo Creek, LLC.

FINANCIAL IMPACT: Partial payment of \$92,480.90 to be made from Sewer Depreciation Funds (X52200-72550). The Capital Improvement Budget for Fiscal Year 2009-2010 includes \$376,755 for this project.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

Jim Karch
Director of Public Works

David A. Hales
City Manager

Motion by Alderman Anderson, seconded by Alderman Purcell that the payment 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: Analysis of Bids – Printing Services for the Bloomington Center for the Performing Arts (BCPA)

RECOMMENDATION: That the bid for printing the 2009-10 season playbills be awarded to Martin Graphics in the amount of \$21,736, and the Purchasing Agent authorized to issue a Purchase Order for same.

BACKGROUND: The BCPA prints unique playbills for each of its main stage events. The bid analysis reflects the total cost for printing 15,000 program covers, an optional 5,000 additional program covers as needed, the printing of up to 1,000 playbills for each of 30 performances with a maximum of 28 pages, and any associated delivery costs.

The bids were as follows:

FIRM	Cover I	Cover II	Interior Pages	Delivery	Total
AlphaGraphics	\$2,422	\$1,274	\$36,420	\$0	\$40,116
Illinois Graphics	\$1681.43	\$1,133.70	\$48,672.60	\$1,500	\$52,987.73
Martin Graphics *	\$1,348	\$738	\$19,650	\$0	\$21,736
Original Smith Printing	\$2,119	\$1,259	\$34,110	\$0	\$37,488
Premier Print Group	\$984	\$541	\$29,340	\$0	\$30,865
Ron Smith Printing	\$2,250	\$725	\$36,000	\$0	\$38,975

*Low Bidder

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Total projected cost for printing is not to exceed \$21,736. Funding for this printing is budgeted in account X21100-70740 for FY 2009-10. However, all costs will be offset by the sale of playbill advertising, reflected in account X21100-57390. Expected playbill advertising revenue is \$35,000.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

John Kennedy
Director Parks, Recreation, and Cultural Arts

David A. Hales
City Manager

Motion by Alderman Anderson, seconded by Alderman Purcell that the bid for printing the 2009-2010 season playbills be awarded to Martin Graphics in the amount of \$21,736, 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: Change Order to the Contract with Innotech Communications for the Communication Tower for Fire Station #5 at 2602 Six Points Rd.

RECOMMENDATION: That the Change Order in the amount of \$851.25 be approved.

BACKGROUND: On April 27, 2009, Council approved the Request for Proposal (RFP) for a Communication Tower at Fire Station #5. The RFP included a standard foundation designed for use in standard soil. During construction, the soil borings taken from the site were reviewed by Sabre Site Solutions. This firm recommended that the size of the pad be increased from 6.5' x 6.5' to 8' x 8'. The thickness of the pad remained the same. The additional cost was only for this work. Staff contacted the Corporation Counsel Office regarding the City's obligation to pay for the extra work done. It is this office's opinion that the City is obligated to pay for this work.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: This project was subject to an RFP. Innotech Communications was recommended and approved in part due to the fact that it submitted the lowest cost proposal. This firm would still have had the lowest total project cost including this Change Order. A cost breakdown has been prepared:

Innotech Communications		\$15, 221.12	(RFP)
Innotech Communications	\$851.25	\$16, 072.37	(Change Order)
Hill Radio		\$18, 450.00	(RFP – next lowest submission)

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

Michael Kimmerling
Interim Fire Chief

David A. Hales
City Manager

Motion by Alderman Anderson, seconded by Alderman Purcell that the Change Order in the amount of \$851.25 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: Resolution Authorizing the Execution of Memorandum of Understanding with the Bloomington-Normal Public Transit System (BNPTS) Regarding the Sale and Distribution of Bus Passes in City Facilities

RECOMMENDATION: That Mayor and City Clerk be authorized to execute the necessary documents and the Resolution be adopted.

BACKGROUND: The City was recently contacted by representatives of BNPTS inquiring about the City's interest in serving as a distribution site for the sale of monthly bus passes. BNPTS is attempting to make monthly passes more accessible to the general public. Currently, bus passes can be purchased at the BNPTS office, located at 104 East Oakland Avenue; all three (3) Bloomington-Normal Jewel/Osco Stores; Meijer's Store, and Cub Foods.

On July 31, 2009, the Town of Normal adopted such a Resolution to be a distribution site for the sale of monthly passes. The Transit System is currently working with all three (3) of the Bloomington/Normal Kroger Stores to serve as distribution sites as well.

Staff recently received a Memorandum of Understanding which outlines the various responsibilities and obligations associated with the sale of monthly bus passes. The City's Corporation Council has reviewed this document and finds it to be acceptable. Under the proposed agreement, the City would agree to make monthly bus passes available for sale at the City Hall Cashier's counter and at the Bloomington Public Library.

Georgia Bouda, Library Director is supportive of the sale of these monthly bus passes at the Library. The proposal would require some work on the part of the Finance Department and Library staffs to handle cash associated with the sale of the passes and to undertake the necessary bookkeeping as requested by BNPTS to reconcile the sales with the cash received. As drafted, the Memorandum of Understanding can be terminated by either party with thirty (30) days written notice.

If the two (2) proposed City facilities prove to be good distribution sites, staff will consider additional City facilities as possible distribution sites as well. Staff respectfully recommends that the Council adopt a Resolution that would authorize the execution of the Memorandum of Understanding with the Bloomington-Normal Public Transit System.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Not applicable.

Respectfully submitted for Council consideration.

Prepared by:

Barbara J. Adkins
Deputy City Manager

Reviewed as to legal sufficiency:

J. Todd Greenburg
Corporation Counsel

Reviewed by:

Tim Ervin
Supervisor of Financial Services

Recommended by:

David A. Hales
City Manager

RESOLUTION NO. 2009 - 39

A RESOLUTION AUTHORIZING EXECUTION OF A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF BLOOMINGTON AND THE BLOOMINGTON-NORMAL PUBLIC TRANSIT SYSTEM (MONTHLY BUS PASS DISTRIBUTION)

WHEREAS, the City of Bloomington is a Home Rule Unit of local government with authority to legislate in matters concerning its local government and affairs; and

WHEREAS, the Bloomington-Normal Public Transit System at 104 E. Oakland Avenue, Bloomington, IL, 61701 has determined a need for distribution of B-NPTS monthly bus passes through the City of Bloomington, and

WHEREAS, the City of Bloomington at 109 E. Olive Street, Bloomington, Illinois, 61701 has determined a capability and desire to distribute B-NPTS monthly bus passes; and

WHEREAS, it is in the best interest of the health, safety and welfare of the citizens of Bloomington to enter into a Memorandum of Understanding with Bloomington-Normal Public Transit System setting forth the general understandings of the parties thereto and identifying certain agreements to be negotiated implementing those understandings.

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

SECTION ONE: That the City of Bloomington hereby authorizes the Mayor of the City of Bloomington to enter into a Memorandum of Understanding with Bloomington-Normal Public Transit System. A copy of said Memorandum of Understanding is attached hereto as Exhibit "A" and incorporated herein by reference.

SECTION TWO: That the City Clerk be, and she is hereby authorized and directed to attest to the signature of the Mayor of the City of Bloomington on said contract and to retain a fully executed original of said contract in her office for public inspection.

ADOPTED this 10th day of August, 2009.

APPROVED:

Stephen F. Stockton
Mayor of the City of Bloomington

ATTEST:

Tracey Covert
City Clerk

MEMORANUDM OF UNDERSTANDING

Whereas, Bloomington-Normal Public Transit System (hereinafter “B-NPTS”) at 104 E. Oakland Ave., Bloomington, Illinois 61701 has determined a need for distribution of B-NPTS monthly bus passes through the City of Bloomington and City of Bloomington Library offices and

Whereas, City of Bloomington (hereinafter “City”) at 109 E. Olive St., Bloomington, Illinois 61701 has determined a capability and desire to distribute B-NPTS monthly bus passes.

Now therefore, B-NPTS and City agree as follows:

1. City agrees to make B-NPTS monthly bus passes available for sale to the general public at its offices and at the City of Bloomington Library.
2. City shall reimburse B-NPTS for each distributed bus pass at the current price of a B-NPTS monthly bus pass sold to the general public. At the time of this Memorandum of Understanding, the current price of a B-NPTS monthly bus pass sold to the general public is \$29.00 (each). Through the term of this Memorandum of Understanding, B-NPTS reserves the right to change the price of a B-NPTS monthly bus pass sold to the general public. In the event B-NPTS intends to change the price of a monthly bus pass, B-NPTS shall provide City notice of such intend change not less than 30 days prior to the date of the intended change.
3. Upon receipt of bus passes valid in the next subsequent month, on or about the 15th of the month, City will be responsible for inventory paperwork showing all sold bus passes. On or about the 1st of the month, paperwork showing the bus passes sold in the prior bi-weekly period will be provided to B-NPTS from City.
4. City will receive an initial minimum quantity of bus passes as agreed to by City and B-NPTS. Subsequent deliveries of bus passes to the City may be increased or reduced based on the history of City sales.
5. On or about the 1st of each month and again on or about the 15th of each month, City agrees to pay B-NPTS an amount equal to the sum of the face value of the bus passes sold by the City in the prior bi-weekly period.

Termination

This Memorandum of Understanding will continue between City and B-NPTS unless terminated, upon thirty (30) days written notice, by City or B-NPTS. Within thirty (30) days of termination,

City will return to B-NPTS any remaining bus pass inventory along with payment for any bus pass inventory sold since the last bi-weekly payment made to B-NPTS.

Agreement

The following signatures verify that City and B-NPTS are agreeable to the terms of this Memorandum of Understanding as set out above.

For: City of Bloomington

Stephen F. Stockton
Authorized Signatory

City Contact Person

Tim Ervin
Phone: 434 - 2509

For: Bloomington-Normal Public Transit System

Mary L. Caisley, Chairman
Authorized Signatory

B-NPTS Contact Person:

Melanie Overend
Phone: 828 - 9190

Dated: July 16, 2010

Alderman Fruin questioned the reason bus drivers were not selling bus passes. David Hales, City Manager, stated there would be issues with control. The bus drivers would not have a place to keep money and it could potentially slow down rounds.

Alderman Fruin stated the expansion of distribution brought a greater need for control. He suggested that buying passes from bus drivers would provide easy access for patrons.

Motion by Alderman Anderson, seconded by Alderman Purcell that the Mayor and City Clerk be authorized to execute the necessary documents and the Resolution adopted.

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 Highland Park CVS, LLC, d/b/a CVS Pharmacy #7017, located at 1130 Veterans Pkwy., for a PAS liquor license, which will allow the sale of all types of packaged alcohol for consumption off the premises seven (7) days a week

RECOMMENDATION: Based on the above, the Liquor Commission recommends to the City Council that a PAS liquor license for Highland Park CVS, LLC, d/b/a CVS Pharmacy #7017, located at 1130 Veterans Pkwy., be created, contingent upon compliance with all applicable health and safety codes.

BACKGROUND: The Bloomington Liquor Commissioner Rich Buchanan called the Liquor Hearing to hear the application of Highland Park CVS, LLC, d/b/a CVS Pharmacy #7017, located at 1130 Veterans Pkwy., requesting a PAS liquor license which allows the sale of all types of packaged alcohol for consumption off the premises seven (7) days a week. Present at the hearing were Liquor Commissioners Steve Stockton, Rich Buchanan, Marabeth Clapp, and Steve Petersen; George Boyle, Asst. Corporation Counsel; Tracey Covert, City Clerk; Kevin Frost, Store Manager, and Jim Malone, District Manager, and Applicant representatives.

Commissioner Buchanan opened the liquor hearing. He requested that the Applicant present the business plan. Kevin Frost, Store Manager and Applicant representative, addressed the Commission. He was employed at the CVS store located at 210 N. Center St. Jim Malone, CVS District Manager and Applicant representative, addressed the Commission. CVS had requested a "P", Packaged, liquor license for a retail pharmacy. He brought a weekly circular which included liquor sale items. Liquor is offered for sale as a customer convenience. The planned opening date for the Veterans Pkwy. store was September 13, 2009.

Commissioner Buchanan noted that the CVS store would be located on a lot within a commercial development. Mr. Malone noted that CVS would lease the property.

Commissioner Stockton questioned the impact of the Veterans Pkwy. store upon the Downtown store. Mr. Malone believed that the new store would impact the prescription count. He noted that CVS handles prescriptions for State Farm. The Downtown store would probably maintain its previous numbers. Commissioner Stockton stated that the City appreciated having a Downtown pharmacy. He questioned the typical CVS store. Mr. Malone noted that a CVS store has 13,000 square feet. The Veterans Pkwy. store is CVS's prototype. CVS had also acquired stores. He cited the Downtown store as an example. The largest acquired store has 20,000 square feet.

CVS's will stock packaged liquor in one (1) aisle and four (4) cooler doors. He estimated that there would be fifty-six (56) linear feet of liquor stock. Commissioner Buchanan questioned the percentage of sales from alcohol. Mr. Malone noted six percent (6%).

Commissioner Clapp noted her familiarity with CVS. She did not recall the east coast stores offering alcohol for sale. Mr. Malone noted that alcohol statutes vary by state.

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

Motion by Commissioner Petersen, seconded by Commissioner Clapp that the application of Highland Park CVS, LLC d/b/a CVS Pharmacy #7017 located at 1130 S. Veterans Pkwy., requesting a PAS liquor license which allows the sale of all types of packaged alcohol for consumption off the premises seven (7) days a week be approved.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Public notice was published in the Pantagraph in accordance with City Code. In accordance with City Code, approximately 22 courtesy copies of the Public Notice were mailed. In addition, the Agenda for the July 14, 2009 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 will be a new liquor license with an annual fee of \$1,410.

Respectfully,

Reviewed and concur:

Stephen F. Stockton
Chairman of Liquor Commission

Randall D. McKinley
Police Chief

Motion by Alderman Anderson, seconded by Alderman Purcell that a PAS liquor license for Highland Park CVS, LLC, d/b/a CVS Pharmacy #7017 located at 1130 S. Veterans Pkwy., 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 Inchiban Chinese/Japanese Restaurant, Inc., d/b/a Lucky Garden, located at 706 Eldorado Rd., for an RAS liquor license, which will allow the sale of all types of alcohol by the glass for consumption on the premises seven (7) days a week

RECOMMENDATION: Based on the above, the Liquor Commission recommends to the City Council that an RAS liquor license for Inchiban Chinese/Japanese Restaurant, Inc., d/b/a Lucky

Garden, located at 706 Eldorado Rd., be created, contingent upon compliance with all applicable health and safety codes.

BACKGROUND: The Bloomington Liquor Commissioner Rich Buchanan called the Liquor Hearing to hear the application of Inchiban Chinese/Japanese Restaurant, Inc., d/b/a Lucky Garden, located at 706 Eldorado Rd., requesting an RAS liquor license which allows the sale of all types of alcohol by the glass for consumption on the premises seven (7) days a week. Present at the hearing were Liquor Commissioners Steve Stockton, Rich Buchanan, Marabeth Clapp, and Steve Petersen; George Boyle, Asst. Corporation Counsel; Tracey Covert, City Clerk; Jing Lin, owner and Applicant, and Jimmy Mapugay, real estate agent and Applicant representative.

Commissioner Buchanan opened the liquor hearing. He requested that the Applicant present the business plan.

Commissioner Stockton arrived at 4:10 p.m.

Jimmy Mapugay, real estate agent and Applicant representative, addressed the Commission. Jing Lin, owner and Applicant, planned to purchase the former China Buffet. He described the Lucky Garden as a combination of the Orient Gourmet and Hayashi. Mr. Lin had obtained the necessary permits. The sale of the property was contingent upon Mr. Lin obtaining a liquor license. Liquor service would compliment the food.

Commissioner Buchanan questioned the restaurant operations. Mr. Mapugay noted that the City needed to approve the plans. He stated that there would be a bar area and rooms for private parties. Mr. Lin hoped to add an outdoor patio in the future. Mr. Lin needed to hire the restaurant's staff.

Commissioner Buchanan noted that a Liquor Hearing addressed important issues. He questioned Mr. Mapugay's role at this hearing. Mr. Mapugay would relay information to Mr. Lin. Mr. Lin has requested that Mr. Mapugay speak for him at the hearing. Commissioner Stockton informed the Applicant that if approved, Mr. Lin would have six (6) months to pick up the liquor license. An Applicant may request an additional six (6) months if needed. He encouraged the Applicant to acquire a copy of Chapter 6 Alcoholic Beverages.

Mr. Mapugay informed the Commission that Mr. Lin would not start remodeling the building nor hiring staff, until after the liquor license is approved. Mr. Lin was the co-owner of the Orient Gourmet. This restaurant holds a liquor license.

Commissioner Clapp questioned if Mr. Lin planned to also operate Lucky Garden. Mr. Mapugay stated that Mr. Lin planned to be a hands on manager. He added that Mr. Lin also owned and operated Hot Wok. Commissioner Clapp questioned if there had been any issues at the Orient Gourmet. Mr. Mapugay responded negatively.

Commissioner Clapp questioned the business hours. Mr. Mapugay noted the following business hours: 11:00 a.m. to 10:00 p.m., seven (7) days a week.

Commissioner Clapp questioned the bar area. She noted that there was small waiting area. Mr. Mapugay responded affirmatively. The bar would offer eight to ten, (8 - 10), seats.

Commissioner Petersen stated that he had no questions at this time. He noted that Applicant's past experience.

Commissioner Buchanan questioned if City staff had any comments and/or questions. George, Boyle, Asst. Corporation Counsel, responded negatively.

Commissioner Stockton described this Application as routine. The Lucky Garden would be located at an established location. The Applicant also had a good record.

Commissioner Buchanan questioned the kitchen's hours. Mr. Mapugay noted that the kitchen would be open until closing. Commissioner Buchanan stated that a restaurant may become a tavern late at night. The Liquor Commission may apply "T", Tavern rules. The full menu should be available when alcohol is being served.

Commissioner Petersen questioned if the Lucky Garden would offer an outdoor patio. Mr. Mapugay noted that the existing one needed work. The Applicant believed that outdoor dining would enhance the restaurant's appearance. He questioned if the patio needed to be considered now.

Commissioner Buchanan questioned if the Applicant was ready to request the outdoor patio at this time. The premise would need to be defined, (size, materials, management, etc.). The Applicant could request a hearing before the Commission at a future date. Mr. Mapugay noted that the Applicant was not ready today. The patio was put in place when the establishment was known as the Smiling Moose.

Commissioner Buchanan recommended that the Commission hold a separate hearing on the issue of the outdoor patio at a future date. Commissioner Stockton noted that other issues would need to be address: 1.) access and 2.) surveillance.

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

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Public notice was published in the Pantagraph in accordance with City Code. In accordance with City Code, approximately 115 courtesy copies of the Public Notice were mailed. In addition, the Agenda for the July 14, 2009 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 will be a new liquor license with an annual fee of \$2,210.

Respectfully,

Reviewed and concur:

Stephen F. Stockton
Chairman of Liquor Commission

Randall D. McKinley
Police Chief

Motion by Alderman Anderson, seconded by Alderman Purcell that an RAS liquor license for Inchiban Chinese/Japanese Restaurant, Inc., d/b/a Lucky Garden located at 706 Eldorado Rd., 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: Request of Big Cheese, Inc., d/b/a Flingers Pizza Co., located at 608 N. Main St., currently holding 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, with the following conditions: 1.) that the Commission advised Mr. Fruin that it reserved the right to vary the sale hours for liquor and/or impose "T", Tavern rules if Flingers appeared to be operating as a bar; and 2.) that liquor sales cease at 1:00 a.m. on Saturdays and Sundays with no consumption after 2:00 a.m. on the same days of the week; for a review of Condition 2. and allow liquor sales until 1:45 a.m. on Saturdays and Sundays

RECOMMENDATION: Based on the above, the Liquor Commission recommends to the City Council that condition number two (2) be removed.

BACKGROUND: The Bloomington Liquor Commissioner Rich Buchanan called the Liquor Hearing to hear the request of Big Cheese, Inc., d/b/a Flingers Pizza Co., located at 608 N. Main St., currently holding 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, with the following conditions: 1.) that the Commission advised Mr. Fruin that it reserved the right to vary the sale hours for liquor and/or impose "T", Tavern rules if Flingers appeared to be operating as a bar; and 2.) that liquor sales cease at 1:00 a.m. on Saturdays and Sundays with no consumption after 2:00 a.m. on the same days of the week; for a review of Condition 2. and allow liquor sales until 1:45 a.m. on Saturdays and Sundays. Present at the hearing were Liquor Commissioners Steve Stockton, Rich

Buchanan, Marabeth Clapp, and Steve Petersen; George Boyle, Asst. Corporation Counsel; Tracey Covert, City Clerk; Patrick Fruin, owner/operator and License holder.

Commissioner Buchanan opened the liquor hearing. He requested that the License holder present his request. Patrick Fruin, owner/operator and License holder, addressed the Commission. He had held a liquor license for over ten (10) months and requested that the Commission revisit Condition 2 which did not allow the sale of alcohol after 1:00 a.m. on Saturdays and Sundays. He noted that this condition impacted business on these nights. Patrons come in to dine on pizza after midnight. He added that there would not be any liquor service after 1:30 p.m.

Commissioner Stockton recalled that the basis for this condition was the number of Downtown bars located along the 500 and 600 blocks of N. Main St. There were concerns that Flingers was a restaurant that might turn into a tavern. He questioned if there would be more people eating than drinking during these late hours. Mr. Fruin noted that alcohol sales equaled two to three percent, (2 - 3%) of total sales. Commissioner Stockton noted that Flingers was a restaurant and questioned closing hours. Mr. Fruin provided the following information: Mondays through Thursdays - 1:15 a.m.; and Fridays and Saturdays - 3:15 p.m. On the weekends, Flingers sold pizza by the slice. He noted the high sales volume during these hours.

Commissioner Buchanan stated that conditions were meant to enlighten and/or caution a new license holder. He often visited the Downtown to observe the activities of the bar patrons. He had visited Flingers a number of times. He did not believe that Condition 2 was applicable to the license. He also noted the fact that the cost of beer was higher at Flingers.

Mr. Fruin informed that Commission that after a band played at Six Strings, they dined at Flingers, (lower level). He noted that it would have been nice to be able to offer beer to accompany the pizza. Commissioner Buchanan restated that he had no concerns with Flingers' operations.

Mr. Fruin noted that currently liquor sales stop at 12:45 a.m. Commissioner Stockton stated that the license holder determines last call. If Condition 2 is removed, then Flingers would have to comply with the City Code. Flingers had been open and liquor sales were limited. The percentage of liquor sales was minimal. Mr. Fruin had stated that he has no intention of turning Flingers into a tavern.

Commissioner Buchanan opened the hearing to public comment.

Daniel Rolph, owner/operator and License holder for Six Strings, located at 525 N. Center St., addressed the Commission. He expressed his opinion that Mr. Fruin had demonstrated responsible management. At Six Strings, last call was regulated based upon the number of customers in the establishment.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: The Agenda for the July 14, 2009 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

Motion by Alderman Anderson, seconded by Alderman Purcell that condition number two (2) be removed.

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

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

Nays: None.

Abstains: Alderman Fruin.

Motion carried.

The following was presented:

SUBJECT: Request for Alcohol in Miller Park Zoo for the Miller Park Zoological Society fundraiser, known as ZooDo

RECOMMENDATION: That the Ordinance be passed.

BACKGROUND: For many years, the Miller Park Zoological Society held its Annual Gala at Bloomington Country Club. The event has consisted of a catered dinner and silent auction with proceeds helping to support both education and capital development projects. In 2008, the event was renamed ZooDo and moved back to Miller Park.

The 2009 event is being planned to occur within the Zoo's grounds with celebrity chefs preparing hors d'oeuvres. In case of inclement weather, the event will be moved indoors to the Pavilion. The event is scheduled for Saturday, September 12, 2009 from 6 p.m. until 10 p.m.

Section 26(d) of Chapter 6 and Section 701 of Chapter 31 of the Bloomington City Code prohibits the possession of open containers of alcohol on public property and the sale and possession of alcohol in the parks respectively.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Miller Park Zoological Society.

FINANCIAL IMPACT: The ZooDo fundraising goal is \$50,000 to assist with future capital improvements to the Zoo.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

John Kennedy
Director of Parks, Recreation & Cultural Arts

David A. Hales
City Manager

ORDINANCE NO. 2009 - 50

AN ORDINANCE SUSPENDING PORTIONS OF SECTION 26(d) OF CHAPTER 6 and SECTION 701 OF CHAPTER 31 OF THE BLOOMINGTON CITY CODE TO ALLOW POSSESSION OF OPEN ALCOHOL ON PUBLIC PROPERTY DURING THE ZOO DO TO BE HELD AT THE MILLER PARK ZOO AND PAVILION

WHEREAS, the Miller Park Zoo Society will hold a Zoo Do at the Miller Park Zoo and Pavilion on September 12, 2009; and

WHEREAS, the Miller Park Zoo Society requested permission to allow sales and consumption of alcohol during the Zoo Do, its Annual Gala; and

Whereas, to allow possession of an open container of alcohol on a public street, Section 26(d) of Chapter 6 which prohibits the possession of open containers of alcohol on public streets and Section 701 of Chapter 31 which prohibits alcohol within the park of the Bloomington City Code, 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 and Section 701 of Chapter 31 of the Bloomington City Code, 1960, as amended, are suspended on the following dates during the following hours: September 12, 2009 between 5:00 o'clock p.m. and 10:00 o'clock p.m. for Miller Park Zoo and Pavilion. This suspension shall be effective only as to persons inside the designated area only and for alcohol purchased from an event vendor within the designated area. No alcohol may be taken out of a licensed premises into the designated area, notwithstanding the fact that the premises are operated by the event vendor.

Section 2: Except for the dates, times and location set forth in Section 1 of this Ordinance, Section 26(d) of Chapter 6 and Section 701 of Chapter 31 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) and Section 701.

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 10th day of August, 2009.

Approved this 11th day of August, 2009.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Motion by Alderman Anderson, seconded by Alderman Purcell 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: Variance from Chapter 38, Section 123(a) of City Code to Allow a Driveway Approach Thirty-three Feet (33') Wide at 2906 DeGarmo Drive, Lot 247 Tipton Trails Subdivision Ninth Addition (Ward 3)

RECOMMENDATION: That the Variance be approved.

BACKGROUND: Staff has received a request from Jeffrey L. and Helen M. Sohn to grant a variance to Chapter 38, Section 123(a) of City Code to allow a driveway approach thirty-three feet (33') wide at 2906 DeGarmo Drive. This is a new single family residence with a three (3) car garage located on lot 247 in the Ninth Addition to Tipton Trails Subdivision. The lot is 86.8 feet in width. The maximum driveway approach allowed by code is 20 feet wide (measured at the back of sidewalk). There is sufficient room on the lot to widen the driveway to thirty-three feet (33'). A similar variance for a thirty-three foot (33') wide driveway approach was issued for 2910 DeGarmo by Council on October 27, 2008.

Staff respectfully recommends that Council approve a variance to Chapter 38, Section 123(a) of City Code to allow a driveway approach thirty-three feet (33') wide (measured at the back of sidewalk) at 2906 DeGarmo Drive.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Not applicable.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

Jim Karch
Director of Public Works

David A. Hales
City Manager

Motion by Alderman Anderson, seconded by Alderman Purcell that the Variance 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: Variance from Chapter 38, Section 123(a) of City Code to Allow a Driveway Approach thirty-three Feet (33') Wide at 2106 Sinclair Court, Lot 252 Tipton Trails Subdivision Ninth Addition (Ward 3)

RECOMMENDATION: That the Variance be approved.

BACKGROUND: Staff has received a request from Distinctive Designs to grant a variance to Chapter 38, Section 123(a) of City Code to allow a driveway approach thirty-three (33') feet wide at 2106 Sinclair Court. This is a new single family residence with a three (3) car garage located on lot 252 in the Ninth Addition to Tipton Trails Subdivision. The lot is approximately eighty-seven feet (87') in width. The maximum driveway approach allowed by code is twenty feet (20') wide (measured at the back of sidewalk). There is sufficient room on the lot to widen the driveway to thirty-three feet (33'). A similar variance for a thirty-three foot (33') wide driveway approach was issued for 2910 DeGarmo by Council on October 27, 2008.

Staff respectfully recommends that Council approve a variance to Chapter 38, Section 123(a) of City Code to allow a driveway approach thirty-three feet (33') wide (measured at the back of sidewalk) at 2106 Sinclair Court.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Not applicable.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

Jim Karch
Director of Public Works

David A. Hales
City Manager

Motion by Alderman Anderson, seconded by Alderman Purcell that the Variance 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: Variance from Chapter 38, Section 123(a) of City Code to Allow Two (2) Driveway Approaches at 115 Regency Drive, Lot 51 Belmont Subdivision Third Addition (Ward 8)

RECOMMENDATION: That the Variance be approved.

BACKGROUND: Staff has received a request from Bill Galloway, owner of 115 Regency Drive, to grant a variance to Chapter 38, Section 123(a) of City Code to allow two (2) driveway approaches at this address. This is an existing single family residence located on Lot 51 in the Third Addition to Belmont Subdivision. Regency Drive is a relatively busy street and the owner wishes to add the second driveway approach and a horseshoe driveway for safety reasons.

The lot is approximately eighty-five feet (85') in width and only one twenty foot (20') wide driveway approach is allowed by code. There is sufficient room on the lot to add the second driveway approach. Staff respectfully recommends that Council approve a variance to Chapter 38, Section 123(a) of City Code to allow two (2) driveway approaches at 115 Regency Drive, Lot 51 Belmont Subdivision Third Addition contingent upon the owner obtaining all required permits.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Not applicable.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

Jim Karch
Director of Public Works

David A. Hales
City Manager

Motion by Alderman Anderson, seconded by Alderman Purcell that the Variance 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: Petition submitted by First Christian Church, requesting approval of a Special Use Permit to expand the use of an existing noncommercial parking lot at 402 N. Lee Street, located in an R-3B, High Density Multi-Family Zoning District

RECOMMENDATION: That the Special Use be approved and the Ordinance passed.

BACKGROUND: First Christian Church is the owner of the noncommercial parking lot (principle use) at 401 W. Jefferson Street. They are proposing to construct a 24x36 accessory structure on the site for storage of church vehicles and maintenance equipment. This property is currently zoned R-3B, High Density Multifamily. Non-commercial parking lots are permitted as a special use in the R-3B district. However, expansion of existing special uses are governed by section 44.10-3, G, 5; requiring the existing special use be revoked and a new special use be considered when activity expands beyond the level of the current special use.

Adjacent Zoning

Adjacent Land Uses

north: R-3B, Multiple Family Residence District

north: single and multiple family dwellings

south: S-2, Public Lands and Institutions

south: Fire Station

east: R-3B, Multiple Family Residence District east: vacant property
west: R-3B, Multiple Family Residence District west: single family and duplex

The City of Bloomington Comprehensive Plan recommends high density residential development. The R-3B zoning classification and use is in conformance with this requirement.

The Zoning Code stipulates the following standards and conditions for development of noncommercial parking in the R-3B zoning classification:

- (1) Minimum Fencing/Screening Requirements: Parking lots shall be screened from adjacent dwellings and mobile homes in accordance with Section 44.4-7 C. of this Code.
- (2) Minimum Yard Requirements: No parking space shall be located closer than ten (10) feet to the lot line of an adjacent lot occupied by a residential building.
- (3) Additional Requirements: Parking lots shall be designed, constructed, and maintained in accordance with Section 44.7-2 of this Code.

The subject property meets all applicable standards for a noncommercial parking lot in an R-3B zoning classification.

Zoning Board of Appeals Action: Mr. Edward Manahan of 1502 E. Emerson St., a trustee for the First Christian Church, was present to speak on behalf of the petitioner. He explained that the Church desired to build a garage on the existing parking lot for the storage of the church van and mowing equipment.

No one spoke in opposition.

Ms. McCaleb presented the staff report. There were no issues with this request and staff recommended approval. Ms. Meek inquired regarding the need for the Special Use. It was explained that the existing parking is considered a Special Use and any changes would require Council approval of a Special Use Permit. The board voted 6 in favor and 0 against to recommend Council approval of this petition.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: The public was notified by legal notice in the paper, direct mailing to adjoining property owners, and yard signs as required by the zoning ordinance.

FINANCIAL IMPACT: Not applicable.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed for legal sufficiency by:

Mark R. Huber
Director of PACE

J. Todd Greenburg
Corporation Council

Recommended by:

David A. Hales
City Manager

**PETITION FOR A SPECIAL USE PERMIT FOR PROPERTY LOCATED AT:
NORTHEAST INTERSECTION OF MONROE AND OAK STREETS**

State of Illinois)
) ss.
County of McLean)

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

Now comes the First Christian Church 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, or is a mortgagee or vendee in possession, assignee of rents: receiver, executor (executrix); trustee, lease, or any other person, firm or corporation or the duly authorized agents of any of the above persons having proprietary interest in said premises;
2. That said premises presently has a zoning classification of R – 3B, Multiple Family Residence District under the provisions of Chapter 44 of the Bloomington City Code, 1960;
3. That under the provisions of Chapter 44, Section 44.6-30 of said City Code an accessory Building (garage) in a parking lot, is allowed as a special use in a R – 3B zoning district;
4. That the establishment, maintenance, or operation of said special use on said premises will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;
5. That said special use on said premises will not be injurious to the use and enjoyment of other property in the immediate vicinity of said premises for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood;

6. That the establishment of said special use on said premises will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the R – 3B zoning district;

7. That the exterior architectural treatment and functional plan of any proposed structure on said premises will not be so at variance with either the exterior architectural treatment and functional plan of the structures already constructed or in the course of construction in the immediate neighborhood or the character of the applicable district, as to cause a substantial depreciation in the property values within the neighborhood adjacent to said premises;

8. That adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided to said premises for said special permitted use;

9. That adequate measures have been or will be taken to provide ingress and egress to and from said premises so designed as to minimize traffic congestion in the public streets; and

10. That said special permitted use on said premises shall, in all other respects, conform to the applicable regulations of the R – 3B zoning district in which it is located except as such regulations may, in each instance, be modified by the City Council of the City of Bloomington pursuant to the recommendations of the Bloomington Board of Zoning Appeals.

WHEREFORE, your petitioner respectfully prays that said special use for said premises be approved.

Respectfully submitted,

First Christian Church

Edward Manahan
Trustee

ORDINANCE NO. 2009 - 53

AN ORDINANCE APPROVING A SPECIAL USE PERMIT FOR AN ACCESSORY BUILDING (GARAGE) IN A PARKING LOT FOR PROPERTY LOCATED AT: NORTHEAST INTERSECTION OF MONROE AND OAK STREETS

WHEREAS, there was heretofore filed with the City Clerk of the City of Bloomington, McLean County, Illinois, a petition requesting a Special Use Permit for an accessory building (garage) in a parking lot for certain premises hereinafter described in Exhibit A; and

WHEREAS, the Bloomington Board of Zoning Appeals, after proper notice was given, conducted a public hearing on said petition; and

WHEREAS, the Bloomington Board of Zoning Appeals, after said public hearing made findings of fact that such Special Use Permit would comply with the standards and conditions for granting such special permitted use for said premises as required by Chapter 44, Section 44.6-30 of the Bloomington, City Code, 1960; and

WHEREAS the City Council of the City of Bloomington has the power to pass this Ordinance and grant this special use permit.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Bloomington, McLean County, Illinois:

1. That the Special Use Permit for an accessory building (garage) in parking lot on the premises hereinafter described in Exhibit A shall be and the same is hereby approved.

2. This Ordinance shall take effect immediately upon passage and approval.

PASSED this 10th day of August, 2009.

APPROVED this 11th day of August, 2009.

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

EXHIBIT A
Legal Description

Assessor's Subdivision, Block 32 Allin Gridley & Pricketts Addition, (except the north 15') Lot 5 & all of Lot 6 Block 32

PIN 21 04 161 009

Motion by Alderman Anderson, seconded by Alderman Purcell that the Special Use 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 for a Special Use Permit to Allow for a Rooming House in an R-2, Mixed Residential Zoning District, for the Property Located at 501 N. McLean St.

RECOMMENDATION: That the Special Use be approved and the Ordinance passed.

BACKGROUND: The property in question is currently approved as a two (2) story single family residence containing approximately 1,904 square feet of floor area. The lot is 4,600 square feet and contains a two (2) car detached garage. The petitioners are requesting a Special Use Permit to allow rooming house with up to seven (7) occupants in four (4) existing bedrooms.

Staff and the Zoning Board of Appeals, (ZBA) recommend that Council pass an Ordinance creating a Special Use Permit for a rooming house located at 501 N. McLean Street with the stipulation that the Special Use be restricted to not more than seven (7) occupants and that the occupancy be limited to use by the Oxford House™.

Adjacent Zoning

north: R-2, Mixed Residential
south: R-2, Mixed Residential
east: R-2, Mixed Residential
west: R-2, Mixed Residential

Adjacent Land Uses

north: single family residence
south: single family residence
east: single family residence
west: single family residence

The City of Bloomington Comprehensive Plan recommends low to medium density residential development for this area. This proposal meets the standards established by the comprehensive plan.

The Zoning Code stipulates the following standards and conditions for a rooming house as a special use in an R-2, Mixed Residential district.

- (1) Minimum Fencing/Screening Required: Parking lots shall be screened in accordance with Section 44.4-7 C. of the Zoning Code.
- (2) Minimum Lot Area: Four Hundred (400) square feet per roomer plus two thousand (2,000) square feet per supervisor where applicable.
- (3) Minimum Lot Width: Sixty (60) feet.
- (4) Minimum Yard Requirements: Same requirements as for the zoning district in which the special use is to be located.
- (5) Maximum Height: Same requirements as for the zoning district in which the special use is to be located.
- (6) Additional Requirements: Parking requirements shall be in accordance with Section 44.7-2 of this Code for these special uses. These special uses shall not have access to parking facilities from an alley unless said alley is of an all weather pavement and has been designated by the City as one-way. All parking and maneuvering room shall be provided on the rooming house property; said parking shall be illuminated with lighting fixtures that direct the light away from adjoining residential property and shall not increase the intensity of light within ten (10) feet of a Residence District boundary line by more than one-half (½) foot candles. Said parking area shall also be screened along the rear of the property. (Ordinance No. 2006-137)

The subject property does not meet the standards related to off-street parking, being short three (3) spaces, lot width being short two (2) feet, and front yard set backs on McLean and Market Streets, five (5) and two (2) feet short respectively. The petitioners filed a separate application requesting variances for three (3) off-street spaces, two (2) feet of lot width, and front setbacks of five (5) and two (2) feet. The applicants needed the approval of the ZBA for such variances before Council could approve the Special Use Permit.

The petitioner is requesting this special use to allow occupancy of the building by Oxford House™, an operation for recovering alcoholics and drug addicts. This occupancy is the primary reason for the request for a variation to the off-street parking requirements, based on the idea that a very low percentage of the occupants have the right or resources to own or operate motor vehicles.

Zoning Board of Appeals Action: Ms. Lisa Harrod-TeXeria, 206 S. Clinton St., was present to discuss this application for a Special Use Permit. The house had been used as an Oxford House™ for several years before she purchased the property. The residents are good tenants and have not caused any trouble to her as the landlord or the neighbors.

Chairperson Ireland requested that the term Oxford House™ be explained for the ZBA and others present. The Oxford House™ is a place where recovering alcoholics live once they are in a place where they can function in society, including social behavior and in the world of work. Chairperson Ireland requested that staff provide the ZBA some background on this case. It appeared that this property had been used for this purpose for several years.

Mr. Todd Greenburg, Corporation Council, explained that the Oxford House™ had been in existence for nineteen (19) years in the United States and is a not for profit organization with many homes throughout the country. Under federal law a recovering alcoholic is considered handicapped. Oxford House™ officials inform their member homes that the law states that they are allowed to exist in any residential zoning district. This is inaccurate information as they must still abide by local ordinances in regard to zoning and permitted uses. Federal law does require the handicap be equally accessible to all local housing.

Mr. Greenburg recommended approval of the Special Use Permit with the stipulation that once it is no longer affiliated with Oxford House™ it would lose the Special Use status. The tenants are no trouble and the variances needed could be accommodated.

Mr. Snyder inquired how many occupants were currently at this address. Ms. Harrod-TeXeria responded that she the capacity was seven (7) tenants.

Mr. Briggs inquired regarding the stipulation mentioned. He questioned if anyone considered handicapped could be allowed to move in, or if the landlord had a right to refuse. Mr. Greenburg responded the landlord had a right to turn down an applicant, but not discriminate against them.

Mr. Briggs questioned if the Oxford House™ left this address, whether a new owner would be required to apply for a Special Use Permit for a rooming house. Mr. Greenburg responded that due to the stipulation on this petition, a new owner would be required to apply for a Special Use Permit if they desired to continue the use as a rooming house. That petition would be judged on its own merit.

Mr. Briggs inquired regarding the difference between this case and the petition for a rooming house located on E. Locust as a group home for parolees. Mr. Greenburg responded that parolee's are not a protected class. The Oxford House™ does not have twenty-four (24) hour supervision as the tenants all live separately in their own quarters, and are responsible for the upkeep of the property and grounds.

Mr. Kearney pointed out that the parking variance could potentially pose a problem. The variance is based on the notion that the tenants would not likely need the extra parking required. He believed this to be a fair assessment. He also noted that the variance may have to be reversed at some later date. Mr. Greenburg responded that it was possible.

Mr. Kearney inquired if residents of Oxford House™ could have a driver's license. Ms. Harrod-TeXeria responded affirmatively, and that some do. However, no one currently residing in the home or in the recent past had the means to buy a vehicle or maintain one. The purpose for them to reside in the house was to regain order in their lives by securing a job and learning or relearning the life skills needed to cope in society on their own.

Ms. McCaleb stated that the property had been used as a rooming house for several years even before Ms. Harrod-TeXeria purchased it. Rooming houses are allowed in the R-2 district but only with a Special Use Permit. To obtain a Special Use Permit for this property, variances would be needed. This particular situation came to light during recent rental housing inspections. The owners needed variances for the minimum lot size, the number of parking spaces, and for the front yard setback.

Staff recommended approval. The lot size is a preexisting problem, as the home is on a corner lot in an older neighborhood. The front yard setbacks, by using the block averages, are fifteen (15) feet on McLean St. and thirteen (13) feet on Market St. The petitioner is requesting a five (5) foot variance for Mclean St. and a two (2) foot variance on Market St.

City code requires five (5) off-street parking spaces, requiring a variance for three (3) spaces. Since the lot and the structure can not be changed, staff believes this is not a major problem for the City. Additionally, many of the neighboring structures are two (2) unit houses or multi-family. This Special Use with the requested variations would not change the make up or character of the neighborhood.

Mr. Parker inquired regarding the contract with Oxford House™. Mr. Kearney stated the contract had to have been subject to the original agreement with Oxford House™. They purchased the property as a rental and it was already rented to Oxford House™.

Mr. Snyder inquired regarding a building manager for the house. Ms. Harrod-TeXeria stated that the Oxford House™ managed this property using a senior tenant who was present to address questions from the board.

Mr. Joseph Anderson, 501 N. McLean St., addressed the board. He stated the house is managed in a democratic fashion. The tenants have weekly meetings in which they address issues and pay the bills for the house. He is the president and a comptroller and treasurer for the house is elected. The Oxford House™ tries to instill order in the tenant lives, teach them how to live in the world by being responsible, getting along with people, how to save money, pay bills, etc. There are three (3), two (2) bedroom apartments and one (1), one (1) bedroom apartment which he occupies.

There are currently six (6) residents which have signed contracts with Oxford House™. If a resident is caught with alcohol or drugs, they have two (2) hours to gather their belongings and leave the premises, with no exceptions. All previous evictions have come from within the house and pertain to the house rules. The landlord has never evicted a tenant. Residents are required to have full time jobs unless they are a student or currently performing community service work. The house is part of the Illinois Chapter 2 Charter of the National Oxford House™. There are

currently two (2) Oxford Houses™ in Bloomington; the second is for females. There are four (4) Oxford Houses™ in Springfield.

Mr. Snyder questioned the length of stay at the house. Mr. Anderson responded that it varies but the average is one (1) year. The residents have about an eighty percent (80%) chance for sobriety when leaving Oxford House™. Everyone performs household chores while living at the house, such as yard work and cleaning the interior. They also try to be good neighbors by helping others shovel snow and by keeping watch over the neighborhood.

Mr. Briggs questioned how the residents come to reside at Oxford House™. Mr. Anderson replied they are referred from places such as Lighthouse and or Bromenn Hospital that have programs which start patients in the right direction. New prospects are interviewed by the tenants and then must receive an eighty percent (80%) approval vote if in order to move in.

Mr. Briggs inquired about visitor parking. Mr. Anderson replied that most visits take place away from the home. Children under eighteen (18) are not allowed in Oxford House™.

Mr. Rodney Klingerberg of 411 N. McLean St. spoke in favor of the petition. He has lived at his present address for ten (10) years and had seen improvements during this time. He considered the home a breath of fresh air for the neighborhood. Parking had not been an issue during the time Oxford House™ has been at this location.

Mr. Joe Tulley of 905 E. Market St. spoke on behalf of this petition a past president of the home. He stated that as a resident of the home a concerned citizen would occasionally stop by and check to see if everyone was doing alright. He believed that the Oxford House™ filled a need in the community.

Mr. Jason Fehr of 508 N. Evans St. addressed the board. He has lived at this address for two (2) years and there have not been any problems. The home and yard are well kept and the parking is no different than most of the properties in the neighborhood. Few of the homes in this neighborhood have off street parking. He was in support of this petition.

The ZBA voted on this petition for the variances and passed 6 in favor and 0 against.

Chairperson Ireland explained that the ZBA voted to make a recommendation to the Council. The recommendation would be that this Special Use Petition be approved with the stipulation that the number of tenants be limited to seven (7) and that this Special Use Permit would be valid for the Oxford House™ only.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: The public was notified of pending action by legal notice in the paper, direct mailing, and yard signs as required by the Zoning Ordinance.

FINANCIAL IMPACT: Rooming House License required with an annual \$200 fee.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed for legal sufficiency:

Mark R. Huber
Director, PACE

J. Todd Greenburg
Corporation Council

Recommended by:

David A. Hales
City Manager

**PETITION FOR A SPECIAL USE PERMIT FOR PROPERTY LOCATED AT:
501 N. MCLEAN**

State of Illinois)
) ss.
County of McLean)

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

Now comes Lisa Harrod-Teixeira 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, or is a mortgagee or vendee in possession, assignee of rents: receiver, executor (executrix); trustee, lease, or any other person, firm or corporation or the duly authorized agents of any of the above persons having proprietary interest in said premises;
2. That said premises presently has a zoning classification of R-2 under the provisions of Chapter 44 of the Bloomington City Code, 1960;
3. That under the provisions of Chapter 44, Section 44.6-30 of said City Code Rooming Houses are allowed as a special use in an R-2 zoning district;
4. That the establishment, maintenance, or operation of said special use on said premises will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;
5. That said special use on said premises will not be injurious to the use and enjoyment of other property in the immediate vicinity of said premises for the purposes already

permitted, nor substantially diminish and impair property values within the neighborhood;

6. That the establishment of said special use on said premises will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the R-2 zoning district;
7. That the exterior architectural treatment and functional plan of any proposed structure on said premises will not be so at variance with either the exterior architectural treatment and functional plan of the structures already constructed or in the course of construction in the immediate neighborhood or the character of the applicable district, as to cause a substantial depreciation in the property values within the neighborhood adjacent to said premises;
8. That adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided to said premises for said special permitted use;
9. That adequate measures have been or will be taken to provide ingress and egress to and from said premises so designed as to minimize traffic congestion in the public streets; and
10. That said special permitted use on said premises shall, in all other respects, conform to the applicable regulations of the R-2 zoning district in which it is located except as such regulations may, in each instance, be modified by the City Council of the City of Bloomington pursuant to the recommendations of the Bloomington Board of Zoning Appeals.

WHEREFORE, your petitioner respectfully prays that said special use for said premises be approved.

Respectfully submitted,

Lisa Harrod-Teixeira

ORDINANCE NO. 2009 - 54

AN ORDINANCE APPROVING A SPECIAL USE PERMIT FOR A ROOMING HOUSE FOR PROPERTY LOCATED AT: 501 N. MCLEAN

WHEREAS, there was heretofore filed with the City Clerk of the City of Bloomington, McLean County, Illinois, a petition requesting a Special Use Permit for a Rooming House for certain premises hereinafter described in Exhibit A; and

WHEREAS, the Bloomington Board of Zoning Appeals, after proper notice was given, conducted a public hearing on said petition; and

WHEREAS, the Bloomington Board of Zoning Appeals, after said public hearing made findings of fact that such Special Use Permit would comply with the standards and conditions for granting such special permitted use for said premises as required by Chapter 44, Section 44.6-30 of the Bloomington, City Code, 1960; and

WHEREAS the City Council of the City of Bloomington has the power to pass this Ordinance and grant this special use permit.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Bloomington, McLean County, Illinois:

1. That the Special Use Permit for a Rooming House on the premises hereinafter described in Exhibit A shall be and the same is hereby approved.
2. This Ordinance shall take effect immediately upon passage and approval.

PASSED this 10th day of August, 2009.

APPROVED this 11th day of August, 2009.

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

EXHIBIT A

K.H. Fells 2nd Addition SW ¼ of Lot 8 & S ½ of Lot 7 Block 5

Motion by Alderman Anderson, seconded by Alderman Purcell that the Special Use 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: Waive the Formal Bidding Process and Authorize a Professional Services Agreement with Stark Excavating, Inc. in an amount not to exceed \$35,000 for the Emergency Adjustment of a Twenty-four Inch (24") Water Transmission Main on Pipeline Road.

RECOMMENDATION: That the formal bidding process be waived, the contract with Stark Excavating, Inc. for the emergency adjustment of a twenty-four inch (24") water transmission main on Pipeline Road be approved in an amount not to exceed \$35,000, the Mayor and City Clerk be authorized to execute the necessary documents, and the Resolution adopted.

BACKGROUND: The Town of Normal is widening Pipeline Road north of Northtown Road to Ziebarth Road. As part of this work, they are extending a drainage way across the road with three (3) seventy-two inch (72") pipes which cross the City's three (3) active water transmission mains coming from the water treatment plant into the City. There is a recently abandoned twenty-four inch (24") water transmission main in the vicinity as well.

While the road work contractor, Stark Excavating, Inc. was doing the work on the drainage way, the City's concrete transmission main was mismarked and Stark Excavating accidentally hit the pipe with the tooth of a track-hoe and caused a leak. The close proximity of the four (4) water transmission mains caused the locating and marking mistake.

The repair of a water main would normally be a routine task for the water distribution crew and the road job would continue. However, as the crew prepared to make the repair, it became apparent that it would be in the City's best interest to lower its water transmission main. Currently, the bottom of the storm water pipes is close to the top of a concrete water transmission main. Concrete pipe has very specific and complex repair techniques. More working room is needed to make a repair on concrete pipe as compared to iron pipe.

In addition, if the concrete pipe were to fail in the future under the three (3) seventy-two inch (72") storm water pipes, it would be very difficult to shore up since the repair would be taking place under storm pipes of such a large diameter. Staff has determined that the best long term

solution would be to: 1) move the concrete pipe to a lower elevation; 2) replace the damaged portion of pipe, and all that is under the storm water pipes with ductile iron pipe, and 3) place the ductile iron pipe in a casing.

If there would happen to be a break or leak of some kind in the future, ductile iron pipe is more easily repaired. Staff would have enough clearance to make the repairs and working directly under the storm water pipes would be avoided. The excavation is currently open at this site awaiting Council's authorization to perform this work. Staff strongly recommends using Stark Excavating, Inc., the contractor on site, performing the road and storm water pipe work to complete this repair and relocations.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: This work would be paid for from the Water Fund, Distribution Division, O & M account for infrastructure repair and maintenance (5010-50120-70550) which currently has a balance of about \$400,000.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed as to legal sufficiency:

Craig M. Cummings
Director of Water

J. Todd Greenburg
Corporation Counsel

Recommended by:

David A. Hales
City Manager

RESOLUTION NO. 2009 - 40

A RESOLUTION WAIVING THE FORMAL BIDDING PROCESS AND AUTHORIZING THE AGREEMENT WITH STARK EXCAVATING, INC. FOR THE EMERGENCY ADJUSTMENT OF A TWENTY-FOUR INCH (24") WATER TRANSMISSION MAIN ON PIPELINE ROAD IN AN AMOUNT NOT TO EXCEED \$35,000

Be It Resolved by the City Council of the City of Bloomington, Illinois,

1. That the bidding process be waived and the agreement with Stark Excavating, Inc. for the emergency adjustment of a twenty-four inch (24") water transmission main on Pipeline Road. For reasons set forth in a Council memo dated August 10, 2009, this work is considered in the best interest of the City of Bloomington.

ADOPTED this 10th day of August, 2009.

APPROVED this 11th day of August, 2009.

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Motion by Alderman Anderson, seconded by Alderman Purcell that the formal bidding process be waived, the contract with Stark Excavating, Inc. for the emergency adjustment of a twenty-four inch (24") water transmission main on Pipeline Road be approved in an amount not to exceed \$35,000, the Mayor and City Clerk be authorized to execute the necessary documents, and the Resolution adopted.

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.

Motion by Alderman Schmidt, seconded by Alderman Purcell to amend the agenda by placing The Prevailing Wage Resolution; The Proposed Amendment to Chapter 1 of the Bloomington City Code providing for Performance of Community Service to Satisfy Citations for Ordinance Violations; and The Text Amendment and Ordinance Amending Chapter 40, Taxicabs of the City Code after The Text Amendment to Chapter 6. Alcoholic Beverages, Section 21. Closing Hours – Sunday Sales.

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: Text Amendment to Chapter 6. Alcoholic Beverages, Section 21. Closing Hours – Sunday Sales

RECOMMENDATION: Based on the above, the Liquor Commission recommends to the City Council that the Text Amendment to Chapter 6. Alcoholic Beverages, Section 21. Closing Hours – Sunday Sales be amended as follows: packaged and restaurant license classifications commence at 6:00 a.m.; with the following option 1.) that the Council may consider granting the tavern license classification an earlier Sunday sale hour, (i.e. commence at 11:00 a.m. or an earlier hour or remain at 12 noon), and the Ordinance passed.

BACKGROUND: The Bloomington Liquor Commissioner Rich Buchanan called the Liquor Hearing to address a proposed Text Amendment to Chapter 6. Alcoholic Beverages, Section 21. Closing Hours - Sunday Sales. Present at the hearing were Liquor Commissioners Steve Stockton, Rich Buchanan, Marabeth Clapp, and Steve Petersen; George Boyle, Asst. Corporation Counsel; Tracey Covert, City Clerk.

Commissioner Buchanan opened the liquor hearing. Commissioner Stockton provided the background behind the proposed Text Amendment. He noted that the City and the Town of Normal have similar liquor sale hours. He reviewed the history of Sunday Sales in the City, (from none to limited hours). Recently, the Town changed its Sunday sale hours to commence at 7:00 a.m. He noted the recent request from Jewel/Osco based upon customer requests and the fact that one of their stores close proximity to the Town, (Meijer). In addition, the City had been approached by the Airport Authority. Sunday is viewed as a travel day, the same as any other day. In addition, there were restaurants which offered Sunday buffet brunches. They have also received requests from patrons. A Sunday morning alcoholic beverage was seen as a public convenience.

Commissioner Buchanan noted that the proposed Text Amendment would treat Sunday as any other day of the week which allows liquor sales to commence at 6:00 a.m. Commissioner Buchanan opened the hearing to public comment.

Loreta Jent, 14297 Twin Grove Rd., addressed the Commission. She noted an article which appeared in the June 5th Pantagraph. She stated that the current code allowed liquor sales to commence at 12 noon on Sunday. She described alcohol consumption as a physical assault. Grocery stores looked like liquor stores. She questioned the number of police calls related to alcohol. She cited the economic cost of alcohol abuse. She questioned the public benefit. She cited various statistics and costs associated to alcohol abuse. She questioned drinking during the early morning hours. The Commission needed to consider convenience versus safety. She cited state statutes. Sunday was difference from the other days of the week. She noted the national economy and questioned why the City wanted to encourage an increase in liquor sales. The City should protect the quality of life in the community. She encouraged the Commission to have the strength to say no.

Commissioner Stockton acknowledged the statistics presented were interesting. Alcohol does have a cost. A number of police calls were linked to alcohol. There were general warnings

regarding alcohol. He noted that some individuals believe that additional sale hours might make the situation worse. He questioned if there was a difference between individuals drinking in a tavern versus a Sunday brunch versus a package sale.

Ms. Jent believed that individuals needed to plan ahead. The Commission needed to take a positive stand against. Commissioner Stockton believed that Ms. Jent's presentation was focused on tavern sales. The Commission might recommend allowing package and restaurant sales but not tavern sales. The Commission was looking for guidance.

Commissioner Buchanan thanked Ms. Jent for her presentation and research.

Tom Hubbard, owner/operator and License holder at the Hanger located at 3201 CIRA Dr., Suite 110, addressed the Commission. The Hanger had not operated at a profit since 2003. The numbers were down. He had brought this information to the attention of Commissioner Stockton. He cited the early morning Sunday flight and the ability to offer Bloody Marys and Screwdrivers. He expressed his belief that the City's tavern owners/operators were not anxious to open at 6:00 a.m. on Sundays. He recommended that taverns be allowed to commence liquor sales at 10:30 to 11:00 a.m. He cited football season as a reason.

Commissioner Petersen acknowledged that retail stores were at a disadvantage. Mr. Hubbard noted that the retail stores should be on a level playing field with the Town of Normal. He added that restaurants offered Sunday brunches and taverns might open early during football season.

Commissioner Petersen questioned NASCAR. Mr. Hubbard acknowledged that there were a few early races. Commissioner Petersen stated his concern and opposition to the whole City starting liquor sales at 6:00 a.m. on Sundays. He acknowledged that the City might lose consistency and the ease of enforcement. Mr. Hubbard restated that Sunday was a leisure travel day.

Commissioner Stockton questioned the potential revenue from Sunday sales. Mr. Hubbard believed that Sunday sales would make the Hanger a little more viable. He estimated an additional \$250 - \$300 in sales per Sunday. He cited the tough economy. He restated that the numbers at the airport were down.

Matt Dunn, Friar Tuck's Store Manager, located at 2401 Maloney Dr., addressed the Commission. He stated that good points had been made. The issue involved competition and a level playing field.

Ken Graham, 2516 Timber View Dr., addressed the Commission. He stated his agreement with Commissioner Stockton's comments. He was a nondrinker and personally was opposed to the proposed Text Amendment. The issue was presented as purchase versus consumption. Individuals who visit taverns just consume alcohol. Patrons leave intoxicated. He believed that Sundays were different. He questioned how this proposal would impact the community. Families were on the road. He cited the risk of someone driving under the influence and causing injury. The Commission should minimize the opportunity for DUI.

Thomas Yount, Qik N Ez's Store Manager, located at 1607 Morrissey Dr., addressed the Commission in support of the proposed Text Amendment. Qik N Ez was open twenty-four (24) hours a day. He cited that there were a variety of overnight workers in the community. He would not address the moral argument. Changing the Sunday sale hours would be a convenience to the community.

Connie Zaio, Jewel Osco's Asst. Secretary, located at 150 Pierce Rd., Suite 200, Itasca, IL, addressed the Commission. She had sent the City a letter addressing Sunday sales. A list was included which cited various communities' Sunday sales hours. She noted that there had been changes. The company had seen a change in shopping trends. There had been increase in the number of customers who do their weekly shopping on Sundays. She added that everyone did not work nine to five.

Dave Ezell, Schnucks' Store Manager, located at 1701 E. Empire St., addressed the Commission. He welcomed the proposed Text Amendment. Sundays were the second busiest day of the week. Customers were doing their weekly shopping on Sundays. He supported the 6:00 a.m. start time for Sunday sales.

Commissioner Stockton stated that based upon what he had heard and citing Normal's experience, he would support the proposed change. There was not a lot of support for changing Sunday sale hours for taverns. There was not a lot of interest expressed in packaged and/or restaurant sales. He would support allowing the change to Sunday sale hours for these two (2) license classifications. He described it as a compromise position.

Commissioner Petersen expressed support for the idea. Initially, he had issues with the proposed Text Amendment. He wanted the City be responsible. It was a statement about the community.

Mr. Hubbard readdressed the Commission. He also operated Cheeks, located at 1206 Towanda Ave. He requested that taverns be allowed to commence liquor sales at 11:00 a.m. Commissioner Stockton expressed his concern regarding the start time. He would not support a change any greater than one hour. Taverns would be treated differently.

Commissioner Petersen expressed his concern that the City would be inconsistent, (setting Tavern sale hours at 11:00 a.m.). Commissioner Stockton stated that the Council would be presented with options.

Commissioner Buchanan closed the Public Hearing.

Commissioner Buchanan expressed his support for the amendment for packaged licenses. He added his support for restaurant sales to commence at 11:00 a.m. He cited Sunday brunch. Sunday sales have been allowed since 1977. He questioned any change to tavern sale hours. He noted that liquor was everywhere. He did not believe that the change to packaged sale hours would lead to an increase in consumption. He also believed that there would be little increase to liquor sales.

Commissioner Buchanan questioned the liquor license at the Hanger. The Commission had received a request which specifically requested earlier sale hours at the airport. Commissioner Stockton noted that the Airport Authority has specific powers. At this time, the Airport Authority complies with City Code.

Commissioner Clapp questioned the distinction without difference. She believed that there was no economic interest by the tavern license holders to open on Sundays at 6:00 a.m. She believed that there was interest in being open and having the ability to sell liquor during certain sporting events. This would give taverns the ability to compete with restaurants. She believed that it would be easier for the City to have the same sale hours for all Sunday license holders. The Commission could review the impact of this Text Amendment within the year and look at its impact. She believed that the results would be the same. The Text Amendment was about convenience and fairness. She added that the Commission considered this request based upon the market.

Commissioner Stockton expressed his concern that some taverns might open at 6:00 a.m. He added that Sunday mornings are viewed differently. He expressed his preference for the City to take one step at a time. The Council would be allowed to consider granting taverns an earlier sale hour. He preferred to leave taverns out of the proposed Text Amendment. He stated his opposition to allowing taverns to open at 6:00 a.m. on Sundays.

Commissioner Buchanan acknowledged that by including taverns the City might lose positive impact. He added his belief that there would be no impact upon consumption. He planned to support the proposed Text Amendment.

Motion by Commissioner Stockton, seconded by Commissioner Petersen to recommend a Text Amendment regarding Sunday sale hours, packaged and restaurant license classifications commence at 6:00 a.m.; with the following option 1.) that the Council may consider granting the tavern license classification an earlier Sunday sale hour, (i.e. commence at 11:00 a.m. or an earlier hour or remain at 12 noon).

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: All Sunday Sale Liquor License holders were notified. The Agenda for the July 14, 2009 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 for legal sufficiency:

Stephen F. Stockton
Chairman of Liquor Commission

George Boyle
Asst. Corporation Counsel

ORDINANCE NO 2009 - 55

**AN ORDINANCE AMENDING SECTION 21 OF
CHAPTER 6 OF THE BLOOMINGTON CITY CODE
TO ALLOW LIQUOR SALES ON SUNDAY MORNINGS**

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

Section One: That Section 21 of Chapter 6 of the Bloomington City Code, 1960, as amended, shall be further amended as follows: (additions are indicated by underlines; deletions are indicated by strikeouts):

(a)(i) Except as provided in subsection (c) below, it shall be unlawful for any liquor license holder to sell or offer for sale at retail, or allow consumption on the premises of any alcoholic liquor during the following hours, unless the license is issued for a premises located inside the passenger terminal owned and operated by the Central Illinois Regional Airport, in which case subsection (ii) shall apply:

MONDAY – FRIDAY 1:00 A.M. - 6:00 A.M.
SATURDAY – SUNDAY 2:00 A.M. - 6:00 A.M.
SUNDAY 2:00 A.M. – 12:00 NOON

(ii) Except as provided in subsection (c) below, it shall be unlawful for holders of licenses for premises located inside the passenger terminal owned and operated by the Central Illinois Regional Airport to sell or offer for sale at retail or allow consumption on the premises of any alcoholic liquor during the following hours:

MONDAY – FRIDAY 1:00 A.M. - 5:00 A.M.
SATURDAY 2:00 A.M. - 5:00 A.M.
SUNDAY 2:00 A.M. - ~~12:00 NOON~~ 6:00 A.M.

(b) Except as provided in subsection (d) below, it shall be unlawful for any liquor license holder, other than a holder of a Class "C" or "S" license, to sell or offer for sale at retail or allow consumption on the premises of any alcoholic liquor during the following hours:

SUNDAY 6:00 AM ~~12:00 NOON~~ - 12:00 MIDNIGHT
MONDAY 12:00 MIDNIGHT - 1:00 A.M.

(c) Notwithstanding anything in subsection (a) above, it shall be lawful for liquor license holders to operate between 1:00 A.M. and 2:00 A.M. on January 1.

(d) Notwithstanding anything in subsection (b) above, it shall be lawful for all liquor license holders to operate between 6:00 AM ~~12:00 Noon~~ on December 31, through 2:00 A.M. on January 1, whenever December 31 falls on a Sunday.

(e) Hours stated in this Section shall mean Central Standard Time or Central Daylight Savings Time, whichever is being observed in the City.

(f) The closing hours provided in subsections (a) - (e) above shall also apply to any event or premises at which alcoholic liquor is served or consumed whenever there is a charge imposed on persons attending, any part of which may be considered a direct or indirect charge for alcoholic liquor. Such charges include, but are not limited to cover charges, admission charges, entertainment charges, any charges enumerated in Section 1 of this Chapter or any other similar charge.

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

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

Section Four: This ordinance shall be effective September 1, 2009.

PASSED this 10th day of August, 2009

APPROVED this 13th day of August, 2009.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Mayor Stockton introduced the text amendment. He had received a number of requests from several community entities. They stated the environment of the City had changed. Early sale of liquor was allowed in the Town of Normal. They would like to see certain establishments have earlier liquor sales. The Liquor Commission (Commission) had heard from several establishment owners. The Hanger in the Central Illinois Regional Airport wanted to accommodate early Sunday travelers. Jewel Osco on Veterans Parkway had moved from Normal to Bloomington which changed their liquor sale hours. Certain establishments served Sunday morning brunches/buffets and requested earlier liquor sales. Taverns wanted early liquor sale hours to accommodate early sporting events. The Commission also heard from those opposed to early liquor sales on Sundays. Those opposed believed earlier sales of liquor would make things in the community worse. The Commission had originally recommended 6:00 a.m. liquor sales. The Commission had

determined that taverns serve more alcohol in the evening hours. Later liquor sales hour, (10:30 to 11:00 a.m.), was more appropriate. It was the Council's decision to determine time for liquor sales. Bar owners had testified before the Commission and deemed 10:30 or 11:00 a.m. as a sufficient time to begin serving alcohol on Sundays.

Alderman Fruin stated the Mayor had framed the issue well. It was important to have a hearing process. He cited testimony before the Commission by both those opposed to and in support of. The Commission had fulfilled its commitment by considering testimony. Taverns open earlier to accommodate sporting events. Earlier sales hour would put them on a level playing field with restaurants. Mayor Stockton cited other types of liquor licenses. He recommended catering licenses be included in the earlier time with restaurants and clubs licenses be included in the later time with taverns.

Alderman Fruin clarified the motion. He stated this item had not gone as expected. There may be a need to readdress or change this item in the future.

Alderman Huette cited the Town of Normal's municipal code. He questioned the City's consistency with the Town.

Alderman Anderson also questioned the City's consistency with the Town. Mayor Stockton stated the City was consistent with the Town Monday through Saturday. The City would not be consistent with the Town on Sundays. He cited a number of differences between the City and Town.

Alderman Huette wanted to hear testimony from the people who would be affected by the change. Mayor Stockton requested minimal discussion and no lengthy testimonies. Testimony had already been heard by the Commission.

Alderman Sage was uncomfortable including the catering and club categories. There had not been testimony from people representing those categories. He believed those categories intentionally had not been included in the amendment. Mayor Stockton included the categories to remain consistent. If they were not included their liquor sales would remain at noon. He requested two (2) people who were opposed and two (2) people who supported the proposed Text Amendment give testimony.

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

Motion carried.

Ken Graham, 2516 Timber View Dr., addressed the Council. He was opposed to this item. He cited the difference between the City and Town as the Town did not issue tavern licenses. The City cannot be consistent with the Town in that respect. There were many families who attended church on Sundays. Sundays were a special day. He noted that taverns do not serve food. This issue was personal to him. He had lost a family member to a DUI (Driving Under the Influence) on a Sunday, who had been on their way

to church. He stated there were not that many sporting events that began before noon on Sundays. He cited the community culture and the economy. He was against the proposed text amendment as a whole. Early sporting events had been the initial argument for an early liquor sales time. He believed this argument did not support the need for an earlier time. He questioned who they were as a community. The City was responsible for its citizens.

Tom Hubbard, 1902 Marzel Drive, owner of The Hanger, located at the Central Illinois Regional Airport and Cheeks, located at 1206 N Towanda Ave Suite 6 addressed the Council. He noted that The Hanger was classified as a restaurant and Cheeks as a tavern. He believed the opening time should be at 6:00 a.m. for all entities. He did not believe that tavern owners would open their doors at 6:00 a.m. The owners should have the opportunity to choose when to open. They were responsible to do so six (6) days a week. He believed they were capable of continued responsibility for the seventh (7th) day. He also believed that he had been misunderstood at the Commission meeting.

Mayor Stockton acknowledged the minutes had reflected Mr. Hubbard's desire to move the time for liquor sales from noon to 10:30 or 11:00 a.m. Mr. Hubbard cited many restaurants that operate as taverns that can begin liquor sales earlier. He believed those restaurants were sports bars. He wanted to be on an equal playing field with those entities. Mayor Stockton stated that particular testimony needed to be brought before the LC. He believed the Commission would be open to future change in that area. Mr. Hubbard believed that taverns should have the same rights at restaurants in their ability to open at 6:00 a.m.

Alderman Huette clarified the opening times for The Hanger and Cheeks. He also clarified that Mr. Hubbard wanted a consistent time across the board. Mr. Hubbard believed that license holders should choose when they open with a consistent liquor sale time across all liquor license holders.

Alderman Stearns clarified that Mr. Hubbard owned both establishments. She stated the significant difference between a tavern and restaurant was the allowance of children. It was an important difference. Mr. Hubbard reiterated his desire to have consistency for all license classifications. Mayor Stockton stated there were a number of distinctions between a tavern and a restaurant. The dividing line has always been the percentage of alcohol sales. He acknowledged that some restaurants resemble taverns. There have been restrictions imposed upon those establishments. Mr. Hubbard believed regardless of the time decided upon tavern owners would not open at 6:00 a.m.

Kendra Rathbun, 616 S Clayton Street, addressed the Council. She was in opposition of the amendment. She cited the growing partnership between the City and Town. She acknowledged the existence of responsible tavern owners and their willingness to open later. She lived in close proximity to a tavern and a liquor store. There was plenty of foot traffic by her home on a nightly basis, by people who had consumed alcohol. She was concerned about the impact alcohol consumption would have on the community. She was not opposed to establishments serving at 11:00 a.m.

Jason Taylor, 704 W Locust Street, owner of Mulligan's located at 531 North Main Street, and Western Tap located at 1301 North Western Avenue, addressed the Council. He was in support of this item. He would not open his establishments at 6:00 a.m. He wanted to see a level playing field across all establishments. He noted some restaurants that resemble taverns. He cited when the Town had amended their closing hour to match the City. He wanted the option of being able to open at 6:00 a.m. He did not believe any establishments would open at 6:00 a.m. He questioned if individuals could apply for a change of classification from a tavern to a restaurant.

Alderman Purcell questioned the Town's start time.

Alderman Stearns stated it was 7:00 a.m. Mayor Stockton reminded the Council that the Town did not have a tavern category. Mr. Taylor wanted to address the issue tonight rather than undergo a lengthy process through the Commission. Mayor Stockton understood the discussions regarding the difference between restaurants and taverns. He believed there was a fundamental difference between the two. There was room for the Commission to examine those differences and fine tune the clarifications. He was concerned with a 6:00 a.m. opening time even if owners would not open at that time. The testimony should be brought before the Commission not the Council. The issue may need to go back to the Commission for a future decision.

Alderman Huette stated the Commission took classifications seriously. The average citizen did not understand the different classifications. This put certain license holders at a disadvantage. He did not know the answer but suggested the issue be sent back to the Commission. Mayor Stockton stated the Commission could reexamine the issue. It appeared as though the Council had been lobbied on the issue.

Alderman Stearns had sought out information and had not been lobbied. She was concerned for the public's perception. She wanted the issue sent back to the Commission.

Alderman Schmidt had attended the Commission's meeting. She believed the language regarding hours took place after the public hearing had been closed. She believed the issue should be reexamined to be fair to license holders.

Bob Grifton, 801 Ironwood Drive, owner of Schooners located at 806 E. Grove St., addressed the Council. He believed a decision would be made at the Council meeting based on the commission minutes. Mayor Stockton reiterated that testimony should be heard by the Commission. He believed there was a difference in the role of the Commission versus the Council.

Alderman Sage questioned the dynamics of the Commission and the public testimony they had heard. Mr. Grifton had understood Mr. Hubbard's testimony regarding the hours. Competition was competition. He held a restaurant license.

Alderman Huette stated the average customer does not know the type of license an establishment has. Mr. Grifton stated the hospitality industry had been hit. It was one of the largest employers in the nation.

Alderman Huette cited the smoking ban and the level playing field established. Mr. Grifton stated the hospitality industry had taken a hit after the smoking ban went into effect. He requested that the City be the same across all license holders and match the Town hours. The customers would dictate what bar owners do regarding hours. He had been in the business a long time and it could be a tough business.

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

Motion carried.

Alderman Fruin cited the original motion concerning liquor sales. It had been amended to reach a compromise. He requested the Commission monitor the issue. If a motion failed then he suggested a motion to send the issue back to the Commission. This was not his preference. He called for the vote.

Alderman Purcell noted Aldermen were not allowed to speak at Commission meetings. He wanted to see all license holders treated the same.

Alderman McDade would second the motion. She believed the motion reflected the Commission minutes. Based on the night's discussion she would vote against the motion. If the motion failed, she would make another motion. She did not believe the issue should be returned to the Commission. She learned new things from the discussion. She had been hearing that license holders desired consistency and a level playing field.

Alderman Sage was concerned about inconsistencies between catering, club, tavern and package licenses. Staff could not make an informed decision based on incomplete work. He was also concerned that individuals were not given the opportunity to address the Commission.

Alderman Schmidt clarified that individuals were allowed to address the Commission. The language had been finalized after public hearing had closed.

Alderman McDade stated retailers had been waiting on a decision. There had been plenty of discussion on the issue. It did not need to be returned to the Commission.

Alderman Sage stated the new information presented made a difference. Mayor Stockton added that the Commission reflected what it had heard. There was no interest in a 6:00 a.m. opening at the Commission's meeting.

Motion by Alderman Fruin, seconded by Alderman McDade that the Text Amendment to Chapter 6. Alcoholic Beverages, Section 21. Closing Hours – Sunday Sales

be amended as follows: packaged, restaurant, and catering license classifications commence at 6:00 a.m.; and tavern and club license classifications commence at 10:30 a.m.

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

Ayes: Aldermen McDade, Anderson, and Fruin.

Nays: Alderman Stearns, Huette, Schmidt, Hanson, Sage and Purcell.

Motion failed.

Alderman Fruin reviewed the options to send the amendment back to the Commission or make a motion to have a consistent opening hour across all classifications. The Council would need to decide on an appropriate hour. Mayor Stockton requested the Aldermen state their preference for opening times.

Alderman Huette favored a 7:00 a.m. opening time for all classifications to be consistent with Normal. The business owners would do what was advantageous for them.

Alderman McDade favored a 6:00 a.m. opening for all classifications.

Alderman Sage wanted to see an opportunity for everyone to be heard by the Commission. If the motion to send the amendment back to the Commission failed, he would support consistency across all classifications. He wanted to see equal and legitimate dialogue between the business owners and the Commission.

Alderman Fruin favored 6:00 a.m. for all classifications.

Alderman Schmidt favored 6:00 a.m. for all classifications.

Alderman Purcell favored 6:00 a.m. for all classifications. He believed the Town would follow the City's example.

Alderman Stearns favored 6:00 a.m. for all classifications.

Alderman Huette was in the minority. He did not believe the extended hours would benefit the City. He was opposed to the text amendment.

Alderman Anderson favored 6:00 a.m. for all classifications. Mayor Stockton stated the Council needed to insure this did not happen in the future. All testimony should be heard by the Commission.

Alderman Fruin wanted to see the Commission monitor the issue. The public's input should be considered. The amendment could be examined in the future if necessary.

Motion by Alderman Fruin, seconded by Alderman Hanson that the Text Amendment (Chapter 6. Alcoholic Beverages, Section 21. Closing Hours – Sunday Sales (be amended from 12 noon to 6:00 a.m.) be approved and Ordinance passed.

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

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

Nays: Alderman Huette.

Motion carried.

The following was presented:

SUBJECT: Prevailing Wage Resolution

RECOMMENDATION: That the Resolution be adopted.

BACKGROUND: Illinois law requires the City Council to pass a Prevailing Wage Resolution each year. Prevailing wage records are kept by the Illinois Department of Labor and with the help of municipalities throughout the state, they are updated each June. The prevailing wage information received from the Department of Labor has been corrected pursuant to information received from the various local labor unions.

The Resolution also adds a requirement that as a prerequisite to the awarding on contracts for public work in excess of \$100,000 the contractor provide proof of participation in apprenticeship and training programs approved and registered with the United States Department of Labor's Bureau of Apprenticeship and Training.

The Resolution requires prevailing wages to be paid when private commercial economic development projects are directly supported by public funds, such as Tax Increment Financing or tax incentives. This requirement was first imposed by the City in 1991. Certain private projects which, in the staff's opinion, are less directly supported by public funds have been exempted from the requirements that prevailing wages be paid.

The Resolution complies with Illinois law as to public works and is within the Home Rule authority of the City as to private commercial economic developments directly supported by public funds. The staff recommends adoption of this Resolution.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: All area unions.

FINANCIAL IMPACT: Not applicable.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

J. Todd Greenburg
Corporation Counsel

David A. Hales
City Manager

RESOLUTION NO. 2009 - 47

**A RESOLUTION OF THE CITY OF BLOOMINGTON, McLEAN COUNTY, ILLINOIS
ASCERTAINING THE PREVAILING RATES OF WAGES FOR LABORERS,
WORKERS AND MECHANICS EMPLOYED AT PUBLIC WORKS
OF THE CITY OF BLOOMINGTON**

WHEREAS, the Prevailing Wage Laws, 820 ILCS 130/1 et seq., as amended, require that each public body awarding any construction contract for public work or doing such work by day labor shall annually ascertain the general prevailing hourly rates of wages for employees engaged on such work; and

WHEREAS, “public work”, as defined in the Prevailing Wage Law, includes commercial or industrial projects financed in whole or in part through the issuance of revenue bonds by the City of Bloomington under authority of the Industrial Project Bond Act or Home Rule Ordinance, without regard to what person or entity formally contracts for such work; and

WHEREAS, the statutes further provide that said rates be published, publicly posted and/or kept available for inspection by any interested party and a certified copy hereof must be promptly filed in the Office of the Secretary of State and Labor Department and be provided to others on request; and

WHEREAS, the City of Bloomington believes Prevailing Wage Law should apply to private commercial economic development projects directly supported by public funds, including projects supported by Tax Increment Financing or tax incentives of any kind, but excluding projects financed by the Downtown Commercial Revolving Loan Fund, projects resulting from Annexation Agreements, Intergovernmental Agreements, projects involving the City's Land Subdivision Code (including waivers/variations therefrom), activities that are exempt due to specific contract language, or certain projects the City Council finds inappropriate for application of Prevailing Wage Law; and

WHEREAS, the City of Bloomington believes that contractors awarded contracts for public work as defined by state statute and this Resolution should, as a prerequisite to such contract, provide proof of participation in apprenticeship and training programs approved and registered with the United States Department of Labor’s Bureau of Apprenticeship and Training for all construction contracts in excess of \$100,000,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Bloomington, County of McLean, State of Illinois that the prevailing wages as set forth in the

document attached hereto are incorporated herein by reference as the prevailing rates of hourly wages in the City of Bloomington, Illinois for the laborers, workers and mechanics specified therein who are engaged in the construction of public works within the jurisdiction of this municipality; and

BE IT RESOLVED that the prevailing wages set forth in the document attached hereto and incorporated by reference shall be paid to laborers, workers and mechanics specified therein when such persons perform work on private commercial economic development projects directly supported by public funds, including projects supported by Tax Increment Financing or tax incentives of any kind, but excluding projects financed by the Downtown Commercial Revolving Loan Fund, projects resulting from Annexation Agreements, Intergovernmental Agreements, projects involving the City's Land Subdivision Code (including waivers/variations therefrom), activities that are exempt due to specific contract language, or certain projects the City Council finds inappropriate for application of Prevailing Wage Law; and

BE IT RESOLVED that contractors awarded contracts for public work as defined by state statute and this Resolution should, as a prerequisite to such contract, provide proof of participation in apprenticeship and training programs approved and registered with the United States Department of Labor's Bureau of Apprenticeship and Training for all construction contracts in excess of \$100,000, and

BE IT RESOLVED that nothing herein contained shall be construed to apply said prevailing hourly rates of wages in the locality to any work or employment other than public works or private commercial economic development projects directly supported by public funds as defined in the Act and this Resolution; and

BE IT RESOLVED that the City Clerk shall publicly post or keep available for inspection by any interested party in the main office of this City this determination of prevailing rates of wages; and

BE IT RESOLVED that the City Clerk shall mail a copy of this determination to any employer, any association of employers, and to any person or association of employees who have filed or do file their names and addresses with the Clerk requesting copies of any determination under said law of the particular rates and of the particular classes of persons whose wages will be affected by such rates; and

BE IT RESOLVED that the City Clerk shall promptly file a certified copy of this Resolution with the Secretary of State* and the Department of Labor** of the State of Illinois; and

BE IT RESOLVED that the City Clerk, as required by law, shall cause to be published in a newspaper of general circulation within the area of this municipality a notice of this determination and that it is the effective prevailing wage determination of this public body.

ADOPTED this 10th day of August, 2009.

APPROVED this 11th day of August, 2009.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

(MCLEAN COUNTY PREVAILING WAGE FOR JULY 2009 AND EXPLANATION ON FILE IN CLERK'S OFFICE)

Alderman Schmidt understood that this resolution was approved annually. The apprenticeship program was set at a \$100,000 threshold. She questioned if this program was specific to the City. She also questioned how the program would impact the bidding process. Todd Greenburg, Corporate Counsel, stated the Town of Normal does have the apprenticeship program. The City had recently increased to \$100,000. He could not speak to the number of bidders.

Alderman Schmidt suggested the Council consider raising the threshold level. She questioned the cost of business if the level continued to rise.

Alderman Huette questioned the apprenticeship program. He was concerned with the limited number of bidders. He believed it was a cumbersome addition and eliminated the opportunity for new and growing companies to participate. He wanted to see the program removed from the Resolution.

Alderman Fruin questioned if the threshold should be increased or the program removed.

Alderman Schmidt believed the program had a useful purpose. \$100,000 was a low threshold to meet.

Alderman Huette stated the Prevailing Wage would still need to be paid.

Alderman Sage questioned the removal of the apprenticeship program from the Resolution. He questioned consistency with the Town.

Alderman Fruin stated the Town had a lower threshold.

Alderman McDade questioned the fairness to taxpayers and if the program would allow more firms to bid.

Alderman Huette believed it should be the contractor's choice to participate. Removing the program could create opportunities. It was an unnecessary recommendation. David Hales, City Manager, offered staff could perform additional research.

Alderman Schmidt wanted more information on the cap and its impact on emerging businesses.

Motion by Alderman Schmidt, seconded by Alderman Purcell that the item be laid over until the Council's September 14, 2009 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.

The following was presented:

SUBJECT: Proposed Amendment of Chapter 1 of the Bloomington City Code Providing for Performance of Community Service to Satisfy Citations for Ordinance Violations

RECOMMENDATION: That the Text Amendment be approved Ordinance be passed.

BACKGROUND: At present, the only means by which a citation for an Ordinance Violation may be satisfied is through payment of a fine. The proposed ordinance provides that a person cited for an Ordinance Violation may, if recommended by the Corporation Counsel, satisfy the obligation through: 1) performance of Community Service; 2) participation in a counseling program; or 3) completion of an education program.

The proposed Ordinance affords flexibility in sentencing options particularly relevant to young and/or low-income offenders. While maintaining the deterrent component of a sentence, it provides for the possibility of obtaining a more enforceable, and potentially socially useful, result than might be had through collection of fines.

Fines have limited effectiveness in cases involving young and low-income offenders because many lack the ability to obtain funds to pay their fine, and inability to pay can be an effective defense for non-compliance. This undermines the deterrent effect that should result from a successful Ordinance Violation prosecution. At present, where fines alone are the only

sentencing option, if a fine is not paid on the date the court has ordered, the only recourse for the City is to file a petition for a finding of contempt of court against the defendant. That petition requires a separate hearing. At that hearing, in order to obtain a finding of contempt, the City must demonstrate not only that the defendant failed to comply with the court order, but also that the defendant had the ability to pay the fine and that the failure to do so was “willful and contumacious.” Inability to pay is a defense in a contempt proceeding. Alternative sentencing will provide a means by which those unable to pay can fulfill their sentencing obligations by means that may be a benefit to the community and possibly to the defendant.

The alternative disposition program will have components both within the City and externally. Internally, departments, such as Parks and Recreation, can provide opportunities and supervision for community service. Externally, participating agencies, such as Providing Access to Help (PATH), can provide for community service, counseling and education referrals, as well as verify the compliance of offenders. PATH has agreed to provide a liaison person that can help direct defendants to participating community agencies.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Karen Zangerle, Director, PATH, supports the proposed Ordinance and has offered to provide a liaison person as described above.

Judge Paul Lawrence, Associate Judge, McLean County Circuit Court currently hears all Ordinance Violation prosecutions. He is very supportive of the proposed ordinance.

Judge Robert Freitag, Associate Judge, McLean County Circuit Court was the judge to whom Ordinance Violation prosecutions were assigned during 2008. He also supports the proposed ordinance.

FINANCIAL IMPACT: It is not anticipated that this Ordinance will have a major financial impact.

Respectfully submitted for Council consideration.

Prepared by:

George D. Boyle
Assistant Corporation Counsel

Recommended by:

David A. Hales
City Manager

ORDINANCE NO. 2009 - 51

**AN ORDINANCE AMENDING SECTIONS 6 AND 9 OF CHAPTER 1
OF THE BLOOMINGTON CITY CODE BY ALLOWING COMMUNITY SERVICE AS
A PENALTY FOR ORDINANCE VIOLATIONS IN LIEU OF FINES
BE IT ORDAINED BY THE CITY COUNCIL OF THE
CITY OF BLOOMINGTON, ILLINOIS:**

SECTION ONE: That Section 6 of Chapter 1 of the Bloomington City Code, 1960, as amended, shall be further amended as follows: (additions are indicated by underlines; deletions are indicated by strikeouts):

Whenever in this Code or in any future Ordinance of the City any act is prohibited or is made or declared to be unlawful or an offense, or whenever in such Code or such Ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefore, the violation of any such provision in this Code or any such Ordinance shall be punished by a fine ~~not exceeding Two Hundred Dollars~~ of not less than \$50.00, nor more than \$500. Each day any violation of any provision of this Code or of any such Ordinance shall continue shall constitute a separate offense.

SECTION TWO: That Section 9 of Chapter 1 of the Bloomington City Code, 1960, as amended, shall be further amended as follows: (additions are indicated by underlines; deletions are indicated by strikeouts):

SEC 9: CITATION CHARGING VIOALTION OF CERTAIN ORDINANCES AND SETTLEMENT BY PAYMENT OF MINIMUM FINES OR ALTERNATIVE DISPOSITION.

(a) Any City employee or other person designated by the City Manager may issue citations to persons who are believed to have violated the sections of the Bloomington City Code hereinafter specified. The citations ~~shall~~ may give the alleged violator the option to settle the case by paying the fine set forth in subsection ~~(g)~~ (f) if payment is made within the time and in the manner set forth in subsection (b) of this section.

(b) Payments in settlement of violations set forth in subsection (f) shall be made within fifteen (15) days after the date the citation was issued to the person accused of such violation. Payment shall be made by cash, credit card or check made payable to the City of Bloomington. Failure to make payment within the said fifteen day period will ~~subject the alleged violator to ordinance violation prosecution in the McLean County Circuit Courts by one or more representatives of the City~~ result in referral of the citation to the Legal Department for further action.

(c) The original copy of any citation issued pursuant to this section shall be delivered to the Finance Department. The Finance Department shall hold citations for the fifteen (15) day period allowed for settlement by payment of the fine and at the end of that period of time the citation shall be delivered to the Legal Department for the filing of a complaint for ordinance violation in the McLean County Circuit Court.

(d) At the discretion of the corporation counsel or his or her designee, citations may be settled by payment of the fine provided in subsection (f) or by alternative disposition as provided in subsection (g). after the filing of a complaint for ordinance violation in the McLean County Circuit Court, at the discretion of the corporation counsel or his or her designee, if payment is made by the person so charged prior to the initial court appearance date and the person so charged pays any service fees and court costs incurred in the filing of the complaint. The corporation counsel or his or her designee may elect to reject the settlement of any violation of the sections of the City Code specified in subsection (f) and proceed to filing a complaint for such violation in the McLean County Circuit Court.

~~(e) The corporation counsel or his or her designee may, in his or her discretion, elect to reject the settlement of any violation of the sections of the City Code specified in subsection (g) and proceed to filing a complaint for such violation in the McLean County Circuit Court.~~

~~(f)~~ (e) The amount stated in subsection ~~(g)~~ (f) shall be the fine for settlement pursuant to the provisions of this section, notwithstanding that the fine stated for such violation in another section of the code may be lower than the fine stated in this section.

~~(g)~~ (f) The violations for which citations may be issued and the fines which shall be paid to settle the case are as follows:

(g) Any citation for ordinance violation issued pursuant to this section may be settled by alternative disposition. As defined in this section:

- (1) “Alternative disposition” shall mean community service, counseling, and/or education programs.
- (2) “Community service” shall mean:
 - (i) any reasonable public service work, including, but not limited to, the picking up of litter in public parks or along public highways or the maintenance of public facilities;
 - (ii) the performance of hours of service with an agency, organization or school approved for participation in the City of Bloomington Alternative Disposition Program by the corporation counsel or his or her designee.
 - (iii) Each 8 hours of community service shall be the equivalent of \$100.00 in fines.
- (3) “Counseling” shall mean participation in a drug or alcohol counseling or treatment program approved for participation in the City of Bloomington Alternative Disposition Program by the corporation counsel or his or her designee.

(4) “Education program” shall mean any curriculum, course of study, or class approved for participation in the City of Bloomington Alternative Disposition Program by the corporation counsel or his or her designee. Such programs may include, but are not limited to, job training, literacy, smoking cessation, and general education degree courses.

(h) When imposing a sentence following conviction for violation of any ordinance contained in this Code, the Court may, upon recommendation by the corporation counsel, impose a sentence of alternative disposition as defined in subsection (g). Each 8 hours of community service shall be the equivalent of \$100.00 in fines. Defendant shall pay all court costs.

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 take effect ten (10) days after passage and approval.

PASSED this 10th day of August, 2009.

APPROVED this 11th day of August, 2009.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Alderman Sage wanted clarification on several issues. He questioned the projected loss in revenue for uncollected fines. He stated parking fine collection efforts had been handled by Barbara Adkins, Deputy City Manager. He questioned the standard threshold for service hours and who would be included. He questioned the cost to the City for scheduling, tracking and coordinating service hours. He also questioned the process for those individuals who did not complete their service hours. He wanted a better line of sight. He believed this information had not been included in the staff report. George Boyle, Assistant Corporation Counsel questioned Alderman Sage’s meaning of loss of revenue.

Alderman Sage questioned the dollar value of outstanding fees. Mr. Boyle stated the best estimate was \$570,000 in uncollected fees. \$330,000 of that was due to housing code violations and \$240,000 due to uncollected fines from the past six (6) years. David Hales, City Manager, stated staff was doing additional analyses. There were other outstanding bills. He cited water and ambulance bills. He cited West Jordan, Utah as an example. They had \$3.5 million in outstanding fines. The City needed more comparison data. It could be difficult to collect all outstanding fines.

Alderman Sage questioned what reasonable revenue was. He also questioned the process of determining who would receive a fine versus community service. Mr. Boyle noted there were two (2) types of fines. One (1) were fines that required a court appearance. The other could be settled at City Hall. A large number of fines were paid before going through to City Hall. There were 1,300 ordinance violation prosecutions filed last year. A significant number of those were by juveniles between twelve and seventeen (12 - 17) years of age. Sometimes court costs exceeded the violation fine. The County was paid before the City in those cases.

Alderman Sage liked the idea for minors/juveniles. Mr. Boyle stated staff was looking at many factors. Age, income, disabilities, and ability to find employment would all be considered. As far as administration was concerned, internally the Parks, Recreation and Cultural Arts Department would work with the County. Externally, YouthBuild would monitor course attendance. They had standards for completion already in place. Champaign and Normal have similar programs. The program would have a deterrent effect. When fines were not collected other avenues were needed to address the ordinance violation conduct.

Alderman Sage understood the City's need to prioritize. He wanted a better understanding. He wanted to make certain there was no cost shifting from the Legal Department to hidden costs in administration for this program. Mr. Hales added the judges levy fines plus community service. The City would have the right to accept or reject individuals. Some of the administration would be completed by capable volunteers to reduce the overall cost.

Alderman Sage questioned using a third party service provider to collect the fines. Mr. Boyle responded affirmatively. Staff was looking into same. Mr. Hales cited a Fire Department's contract for a collections agency for ambulance fees. Staff was willing to make modifications to increase collection efforts. Mr. Boyle stated that if a person was unable to pay it was not necessary to bring them to court. He cited juveniles and homeless persons. The court process for them could be lengthy.

Alderman Sage wanted to see this conversation included in the proposal. He requested more information on the impact of the program on different groups of people. Mr. Hales stated if the motion was approved staff could reevaluate the program in six (6) months. He offered to provide a report detailing the numbers and any recommendations. The proposition could be changed in the future if needed. Mayor Stockton requested that

the Legal Department bring back a set of rules to the Council. All of the details did not need to be included.

Alderman Sage wanted a specific date that the report would be presented to the Council.

Alderman Stearns stated that \$570,000 was a lot of money. She was concerned about the fiscal crunch. Improvements in infrastructure were needed. She had not been aware of the large sum of outstanding fines. She wanted a report to better understand where the ordinance violations came from. She requested outstanding fine numbers from other Central Illinois cities for comparison purposes. The Town had a very successful program. She questioned the administrative efforts and cost of the alcohol/drug counseling. Mr. Boyle stated many of the cases were individuals that were unable to pay. For those cases court time was inefficient. If those cases were dismissed then the deterrent effect was taken away. The City had various options. There would not be a request for funding by the City for this Ordinance. The City would be working with local agencies such as PATH.

Alderman Stearns stated many of the ordinance violations were alcohol related. She questioned Police Officers patrolling the Downtown. Many violations issued were to college students. She questioned if college students would be included in the Ordinance. Mr. Boyle stated the Town had issued counseling for repeated alcohol violations. Payments for the ordinance violations were the deterrent.

Alderman Stearns requested a report on who would be included and what type of community service they would perform. She did not want the Council to be caught by surprise. Mr. Hales stated there were also collections challenges with water and ambulance fines. Staff would report back to the Council. The goal was to be flexible when there is doubt an individual can pay the fine. He recommended the Council pass the Ordinance. He offered to report back to the Council in three to six (3 - 6) months. Mr. Boyle stated the report would list the factors. Sentencing recommendations would be based on certain factors. Staff would have to gauge court space and staff availability.

Alderman Purcell questioned if an individual could not pay if they would be held in contempt of court. Mr. Boyle stated those that were assigned community service and failed to appear would be held in contempt. Those issues would be easy to address in court. Mayor Stockton reiterated that the report would include the number assigned, hours worked, and rules.

Alderman McDade thanked the community partners for their willingness to help. She also thanked the Legal Department's staff for their efforts.

Motion by Alderman Sage, seconded by Alderman Anderson that the Text Amendment 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.

Staff was directed to prepare a report which would address the number assigned to Community Service, the number of hours worked and the staff rules used to determine those eligible for Community Service. The report would be presented to the Council at their February 22, 2010 meeting.

The following was presented:

SUBJECT: Text Amendment to Chapter 40. Taxicabs – Background Investigation

RECOMMENDATION: That the Text Amendment be approved and the Ordinance be passed.

BACKGROUND: By Intergovernmental Agreement, the City regulates companies which transport persons in return for the payment of fees (the Operations of the Bloomington-Normal Public Transit System are exempted from these regulations).

In May 2009, it came to staff's attention that the Police Department could no longer perform criminal history checks on Taxicab and Vehicles for Hire applicants as required by Chapter 40. Taxicabs, Sections 403 and 1004, Investigation of Applicant.

The National Crime Information Center (NCIC) prohibits criminal history checks for Liquor Commissions, Taxi Drivers, Day Care/Child Care Centers employees, Fire Departments (Volunteer), and Adult Entertainment Club employees through the NCIC System. NCIC does recommend that these checks be performed through the Illinois State Police Bureau of Identification and/or the Illinois Uniform Conviction Act Name Check. There is a fee associated with using either of these two (2) entities. Both entities charge a \$10 fee for criminal history checks and an additional \$20 if additional information is needed, such as fingerprints, to complete the criminal history check for an applicant.

As soon as staff was made aware of NCIC's regulations, Police Department staff discontinued the criminal history checks on the taxi and vehicle for hire applicants. To ensure that the Taxicab and Vehicles for Hire Companies were not being penalized during this time, staff made the decision that the City Administration Department would incur the cost for the background fees.

All Taxicab and Vehicles for Hire Company Owners were notified of these changes by letter. They were also informed that staff would be making a recommendation to Council to assess these fees, and would have an opportunity to discuss these changes in detail at the quarterly Taxi/Vehicles for Hire meeting on August 4, 2009.

As part of the City's employment process, the Human Resources Department currently uses the Illinois State Police Bureau of Identification for criminal history checks on potential new hires. This process is completed by Human Resources staff. To date, the City has expended approximately \$200 performing criminal history checks of taxicab and vehicle for hire applicants through the Human Resources Department.

The ordinance makes the following changes:

1. The applicant background non refundable fee of \$10 be paid to the City Clerk's Office along with the completed Taxi/Vehicle for Hire Application.
2. If fingerprints are requested by the Illinois State Police Bureau of Identification for additional identification, the applicant would be charged an additional \$20.
3. Allow for the fees to be raised upon any increases made by the Illinois State Police Bureau of Identification without Council approval.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Owners of Taxicab and Vehicles for Hire companies.

FINANCIAL IMPACT: Not applicable.

Respectfully submitted for Council consideration.

Prepared by:

Barbara J. Adkins
Deputy City Manager

Recommended by:

David A. Hales
City Manager

Reviewed as to legal sufficiency:

J. Todd Greenburg
Corporation Counsel

ORDINANCE NO 2009 - 52

**AN ORDINANCE AMENDING CHAPTER 40 OF THE BLOOMINGTON CITY CODE,
IMPOSING A CHARGE FOR CRIMINAL BACKGROUND CHECKS FOR
APPLICANTS FOR TAXI AND VEHICLE FOR HIRE DRIVERS**

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

Section One: That Chapter 40 of the Bloomington City Code, 1960, as amended, be further amended by amending Section 203 as follows (additions are indicated by underlines; deletions are indicated by strikeouts):

Section 203: Investigation.

The Chief of Police shall cause an investigation to be made of the character, fitness and qualifications of the applicant, and shall transmit the findings to the City Manager. No applicant who has been convicted within the last five (5) years of any felony or any criminal offense under Article 11 of the Illinois Criminal Code shall be eligible to receive a certificate of public convenience and necessity. Any person who has received a certificate of public convenience and necessity who desires to drive a taxicab must also have a permit from the City of Bloomington pursuant to Article IV of this Chapter. In addition to any other fee required by this Chapter 40, every person for whom a background investigation is required shall pay a fee of \$10.00 to the City of Bloomington for the costs of an initial background investigation and shall pay an additional fee of \$20.00 in the event an additional background check (including but not limited to the cost of fingerprinting) is deemed necessary by the City.

Section Two: That Chapter 40 of the Bloomington City Code, 1960, as amended, be further amended by amending Section 403 as follows (additions are indicated by underlines; deletions are indicated by strikeouts):

Section 403: Investigation of Applicant.

The Police Department shall conduct an investigation of each applicant for a taxicab driver's permit and a report of such investigation and copy of the traffic and police record of the applicant, if any, shall be forwarded to the City Manager. In addition to any other fee required by this Chapter 40, every person for whom a background investigation is required shall pay a fee of \$10.00 to the City of Bloomington for the costs of an initial background investigation and shall pay an additional fee of \$20.00 in the event an additional background check (including but not limited to the cost of fingerprinting) is deemed necessary by the City.

Section Three: That Chapter 40 of the Bloomington City Code, 1960, as amended, be further amended by amending Section 403 as follows (additions are indicated by underlines; deletions are indicated by strikeouts):

Section 1004: Investigations of Applicant.

The Police Department shall conduct an investigation of each applicant for a vehicle for hire

driver's permit and a report of such investigation and copy of the traffic and police record of the applicant, if any, shall be forwarded to the City Manager. The City Manager upon consideration of the application shall approve or deny it. Approval of any application may be withdrawn if a police investigation or other information discloses grounds for denial of an application under Section 1005. No applicant for a permit to operate a vehicle for hire company who has been convicted within the last five (5) years of any felony or any criminal offense under Article II of the Illinois Criminal Code shall be eligible to operate a vehicle for hire company. Any person who has received a permit to operate a vehicle for hire company who desires to drive a taxicab must also have a permit to drive a vehicle for hire from the City of Bloomington pursuant to Section 1003 of this Chapter. In addition to any other fee required by this Chapter 40, every person for whom a background investigation is required shall pay a fee of \$10.00 to the City of Bloomington for the costs of an initial background investigation and shall pay an additional fee of \$20.00 in the event an additional background check (including but not limited to the cost of fingerprinting) is deemed necessary by the City.

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

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

Section Six: This ordinance shall be effective ten days after the date of its publication as required by law.

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

PASSED this 10th day of August, 2009

APPROVED this 11th day of August, 2009.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Alderman Anderson questioned if the \$10 fee was sufficient to cover all administrative costs. Personnel were expensive. He suggested that the fee for the background checks was too low. Barbara Adkins, Deputy City Manager, stated the City

only requested the actual fee. There was no internal fee included. Staff needed to assess the fees in order to continue with background investigations. David Hales, City Manager, stated there would be a fee service cost study upcoming. It would examine direct and indirect cost. Staff would present recommendations to Council. The project had been delayed. It was a challenge.

Alderman Anderson stated the City needed to consider the administrative cost for services.

Aaron Halliday, 1415 W. Locust, owner of Checker Cab, addressed the Council. He spoke on behalf of Taxi Cab/Vehicle for Hire company owners. They understood and were in support of the increased costs for inspections.

Motion by Alderman Anderson, seconded by Alderman Hanson that the Text Amendment 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:

Pot Hole Program Presentation.

Item will appear on the Council's August 24, 2009 meeting.

MAYORS' DISCUSSION: None.

CITY MANAGERS' DISCUSSION: David Hales, City Manager, stated the June financial report had been distributed. Staff would continue to enhance and modify it as needed. The next report would be for July. It was the first (1st) quarterly report. The Council had been surprised by the drop in income tax and utility tax revenue. The August 31, 2009 Work Session would include financial information and any adjustments needed. It would also prepare the Council for the upcoming retreat on September 18th and 19th.

ALDERMENS' DISCUSSION: Alderman Anderson had the opportunity to provide training to the Fire Department. He congratulated Mike Kimmerling, Fire Chief.

Alderman Stearns commented on the Town of Normal's bicycle plan. She was interested in developing a partnership with the Town and following their lead. There was

an opportunity for synergy. She encouraged the Council to partner with the Town. She cited the benefits of pedestrian/bicycle access.

Aldermen McDade and Schmidt supported Alderman Stearns comments. David Hales, City Manager, added that he had a copy of the Town's plan. Mayor Stockton requested that be added to Mr. Hales' list.

Alderman Purcell requested clarification on the article concerning the US Cellular Coliseum (USCC). Mayor Stockton had sent a note to the Council. There needed to be a balance. The USCC could not be left dark. They needed to control their losses. The City had three (3) goals for the USCC: 1.) minimize subsidy, 2.) entertain as many people as possible, and 3.) scheduled "free or at cost" events that could help the community. The City had not told USCC management to cancel shows. The City would hold them accountable to find a balance within the goals. Year to date statistics revealed that losses were lower than last year. Mr. Hales stated the USCC had to cancel events in order to control losses. Staff may have John Butler, Central Illinois Arena Management's President, address the Council regarding the quarterly report. The USCC had made aggressive cost reductions in overall budget. The entertainment industry had been hit hard. Mayor Stockton stated the Council needed to examine the environment of the City. The USCC had tried to increase the number of shows last year. At the same time, gas prices increased and the recession had impacted sales. It was important to look at the time of year to determine impact on sales.

Alderman Fruin questioned a new podium microphone. Mr. Hales stated there was some money that would be used to improve Council Chamber audio.

Alderman Fruin questioned the memorandum for Wright Water service. He questioned if it was budgeted or new. Craig Cummings, Director of Water, stated it was a recent development. A contractor would replace the oil and damaged parts at no cost to the City. Some hydrants would be rebuilt as a result of litigation.

Alderman Sage acknowledged the Parks, Recreation and Cultural Arts Department. He had attended the Franklin Park concerts and enjoyed them. He appreciated the ice cream social fundraisers.

Alderman McDade stated that the time for back to school was approaching. She thanked staff for their efforts.

Motion by Alderman Anderson, seconded by Alderman Fruin, that the meeting be adjourned. Time: 10:06 p.m.

Motion carried.

Tracey Covert
City Clerk

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