

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

The Council convened in regular Session in the Council Chambers, City Hall Building, at 7:30 p.m., Monday, August 27, 2007.

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, Allen Gibson, David Sage, John Hanson, Jim Finnegan, Steven Purcell, Karen Schmidt, Jim Fruin and Mayor Stephen F. Stockton.

City Manager Tom Hamilton, City Clerk Tracey Covert, and Corporate Counsel Todd Greenburg were also present.

The following was presented:

Oath of Office – Steven Moreland, Jr., and Stephen Brown, Police Patrol Officers.

Randy McKinley, Asst. Police Chief - Operations, introduced Steven Moreland, Jr., and Stephen Brown, Police Patrol Officers. Both individuals had completed their training. Officer Brown was hired on February 20, 2006. He was an Experienced Officer Hiring Program candidate. His previous employer was Livingston County. Officer Brown held a Bachelor's Degree in Criminal Justice. He was accompanied this evening by his wife.

Officer Moreland was also hired on February 20, 2006. He also was an Experienced Officer Hiring Program candidate. His previous employer was the City of LeRoy. He held an Associates Degree. He was accompanied this evening by his wife and parents.

Tracey Covert, City Clerk, performed the Oath of Office. Mayor Steve Stockton presented the officers with their certificates. He congratulated the officers and their families.

The following was presented:

Marty Vanags, Economic Development Council's, (EDC), Chief Executive Officer, addressed the Council. He presented an update regarding the EDC's Navigating a New Direction program. This program was a five year initiative for economic growth and prosperity for the Bloomington-Normal area, 2007 – 2011. He thanked the Mayor and the Council for the opportunity to address them. Mayor Stockton expressed his opinion that economic development was one of the most important issues facing the community. Mr. Vanags had prepared a Power Point presentation. He commented that beautification was a

part of the community which in turn was a part of economic development. The EDC embarked upon this programming initiative in 2007. This program consisted of four (4) priorities: 1.) Business Assistance, Retention and Expansion; 2.) New Business Recruitment and Development; 3.) Community Improvement; and 4.) Program Oversight and Investor Relations.

The goal of Priority #1 was to understand the needs of local businesses and industry and to increase the capacity to support them. Specific objectives included visiting 500 businesses during 2007 – 2008. A Circle of Seven program which would be a mentoring program. There also was a business incubator program. The goal of Priority #2 was to increase the EDC's visibility among target industries, develop a higher level of industry knowledge among same, and use the knowledge to compete for and attract business to McLean County. Specific objectives included marketing a Central Illinois regional brand by viewing I-39 as a logistics corridor. The goal of Priority #3 was for the EDC to serve as leader, catalyst, and coordinator of projects and initiatives that improve and move the goal of greater economic development community forward. Specific objectives included the One Voice program for the Town of Normal, County of McLean, and City. This program promoted the area to the federal government. Economic development impacts the quality of life. The goal of Priority #4 was to move the area forward with the support and investment from local businesses, governments and other stakeholders. Their continued support would be based upon the success of Priorities 1 – 3. He described this priority as program oversight and investor relations. In closing, he thanked the City for its continued support. He added his belief that this program was important to the community. Economic development benefits the entire community. Mr. Vanags introduced the EDC staff members who were present.

Mayor Stockton noted that the City was an investor at the highest level. Mr. Vanags restated his appreciation to the Mayor and Council for the time to address them and the City's financial investment. He acknowledged Alderman Huette's past service and recognized Alderman Hanson as a new member to the EDC Board.

The following was presented:

Presentation of Beautification Awards 2007. Stan Cain, Beautification Committee Chairman, addressed the Mayor and Council. He introduced those Committee members who were present at the meeting. These awards are an annual program which recognizes residential and commercial properties throughout the City. The Committee reviewed sixty (60) nominations. These evening twelve (12) residential and six (6) commercial properties will be recognized. Most of the recipients were present. Residential awards: (the following were present), Ann Kerrick, 809 N. Morris Ave.; Ruth Lowrey, 102 S. State St.; Annette Schneider and John Halkapraun, 619 E. Chestnut St.; Lori Dressler, 54 Ventnor Ave.; Rod and Vicki James, 1301 N. Clinton Blvd.; John Morris and Links Landing Homeowners Association, 1213 Butler Ave., (common area/retention pond); Scott and Gina Bradley, (Scott present), 1903 E. Oakland Ave.; Joan Mowrey, 2 Breckenridge Dr., (award accepted on her behalf by Michael Willy, her nephew); Bill Kuffel and Susan Vittitoe, 3401 Stephanie Rd.; and Stonebrook Court Homeowners Association, (SCHA), (transformed a

drainage way with plans for more work), Roger Elm, SCHA President, 30 Stonebrook Ct. Residential awards (the following were not present): Sonny Garcia and Larissa Bailey, 703 E. Monroe St., and Don and Belinda Franke, 3 Windsong Way. Commercial awards: (the following were present: The Monroe Center, 200 W. Monroe St. – Tim and Vicki Tilton, property owner; Central Station, 220 E. Front St. – Inchol Chong, Manager; Lady Wellness Center, 1414 Leslie Dr., Larry Bielfeldt, developer/property owner, (also present was a representative of Lady Wellness); Bloomington County Club, (BCC), 605 W. Towanda Ave., (entrance way), Scott Blevins, General Manager, (Barb Coleman, BCC representative); Washington Elementary School, 1201 E Washington St., Jeff Lockenvitz, Principal, (also present were Dr Robert Nielsen, Superintendent – District 87 and Erik Prenzler); and Holiday Pool, (renovation of public recreation area), 800 S. McGregor Ave., Bob Moews, Superintendent – Parks and Dave Lamb, Horticulturist. He encouraged all present to visit these properties.

Mayor Stockton thanked the Committee for their efforts which were important to the community. He also recognized the efforts of all of the property owners.

The following was presented:

To: Honorable Mayor and Members of the City Council
From: Staff
Subject: Council Proceedings and Executive Session Minutes of September 26, 2005, and the Executive Session Minutes of August 13, 2007

The Council Proceedings and Executive Session Minutes of September 26, 2005, and Executive Session Minutes of August 13, 2007 have been reviewed and certified as correct and complete by the City Clerk.

Respectfully,

Tracey Covert
City Clerk

Tom Hamilton
City Manager

Motion by Alderman Purcell, seconded by Alderman Schmidt that the reading of the minutes of the previous Council Proceedings and Executive Session Minutes of September 26, 2005, and Executive Session Minutes of August 13, 2007 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, Finnegan, Gibson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council
From: Staff
Subject: Bills and Payroll

The following list of bills and payrolls have been furnished to you in advance of this meeting. After examination I find them to be correct and, therefore, recommend their payment.

Respectfully,

Brian J. Barnes
Director of Finance

Tom Hamilton
City Manager

(ON FILE IN CLERK'S OFFICE)

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

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

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

Nays: None.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council
From: Staff
Subject: Payments from Various Municipal Departments

1. The third and partial payment to Peace Meal in the amount of \$2,082 on a contract amount of \$25,000 of which \$6,246 will have been paid to date for work certified as 25% complete for the Peace Meal. Completion date – April 2008.
2. The third partial payment to Peace Meal in the amount of \$624 on a contract amount of \$7,500 of which \$1,872 will have been paid to date for work certified as 25% complete for the John M. Scott Home Delivered Meals. Completion date – May 2008.
3. The eighth partial payment to Economic Development Council of Bloomington/Normal in the amount of \$6,666.66 on a contract amount of \$80,000 per year of which \$53,333.28 will have been paid to date for work certified as 67% complete for the McLean County Economic Development. Completion date – December 2008.
4. The eighth partial payment to Felmley Dickerson in the amount of \$31,000 on a contract amount of \$925,000 of which \$705,483.15 will have been paid to date for work certified as 76% complete for the Downtown Courthouse Square Streetscape. Completion date – December 2007.
5. The third partial payment to The Pantagraph in the amount of \$1,849.60 on a contract amount of \$35,350.92 of which \$3,930.48 will have been paid to date for work certified as 11.12% complete for the 2007-2008 Seasonal Advertising Services. Completion date – April 2008.
6. The third partial payment to Farnsworth Group in the amount of \$573.96 on a contract amount of \$11,250 of which \$9,575 will have been paid to date for work certified as 98% complete for the Repair of the Police Parking Deck. Completion date – May 2007.
7. The ninth partial payment to Thompson Dyke & Associates in the amount of \$8,377.50 on a contract amount of \$248,500 of which \$223,300 will have been paid to date for work certified as 90% complete for the McGraw Park – Phase II. Completion date – December 2007.
8. The tenth partial payment to Ratio Architects in the amount of \$2,158.08 on a contract amount of \$135,240 of which \$105,415.75 will have been paid to date for work certified as 78% complete for the Miller Park Playground Renovation. Completion date – May 2007.
9. The second partial payment to Cornerstone Construction LLC in the amount of \$9,584 on a contract amount of \$398,770 of which \$19,834 will have been paid to date for work certified as 5% complete for the Zoo Animal Hospital. Completion date – May 2007.
10. The fifth partial payment to Rowe Construction Co. in the amount of \$22,825.81 on a contract amount of \$817,603.74 of which \$321,835.92 will have been paid to date for work certified as 39% complete for the 2007 Curb and Gutter Improvements. Completion date – September 2007.

11. The second partial payment to JG Stewart Contractors in the amount of \$14,439.25 on a contract amount of \$200,000 of which \$34,613.50 will have been paid to date for work certified as 17% complete for the 2007-2008 Sidewalk Replacement and Handicap Ramp Program. Completion date – November 2007.
12. The sixth partial payment to Laesch Electric, Inc. in the amount of \$55,625 on a contract amount of \$172,846.86 of which \$146,380 will have been paid to date for work certified as 85% complete for the MacArthur at Main & Center Traffic Signals. Completion date – September 2007.
13. The second partial payment to Terracon Consultants, N.E. Inc. (Dept. 1277) in the amount of \$3,693 on a per ton and hour contract of which \$6,732.51 will have been paid to date for work certified as ongoing for the 2007-2008 Asphalt & Portland Concrete Plant Inspection and Lab Testing. Completion date – July 2008.
14. The third partial payment to Rowe Construction in the amount of \$296,638.07 on a contract amount of \$1,795,000 of which \$1,243,366.27 will have been paid to date for work certified as 69.3% complete for the 2007-2008 General Resurfacing. Completion date – October 2007.
15. The third and final payment to Stark Excavating, Inc. in the amount of \$11,353.80 on a contract amount of \$150,000 of which \$142,572.25 will have been paid to date for work certified as 100% complete for the 2006-2007 Rigid Pavement Patching Program. Completion date – July 2007.
16. The first partial payment to Stark Excavating, Inc. in the amount of \$60,622 on a contract amount of \$1,183,030.68 of which \$60,622 will have been paid to date for work certified as 5% complete for the Towanda Avenue – Rowe to Orleans. Completion date - December 2007.
17. The eleventh partial payment to Stark Excavating, Inc. in the amount of \$186,649.62 on a contract amount of \$2,959,945.10 of which \$2,344,307.88 will have been paid to date for work certified as 79% complete for the Fox Creek Road and Scottsdale Avenue Improvements. Completion date – September 2007.
18. The twenty-second partial payment to Lewis, Yockey & Brown in the amount of \$7,044.67 on a contract amount of \$93,000 of which \$86,091.11 will have been paid to date for work certified as 93% complete for the Lincoln Street Water Main – Veterans to Morrissey. Completion date – June 2008.
19. The eighteenth partial payment to Farnsworth Group in the amount of \$2,526 on a contract amount of \$203,300 of which \$186,515.26 will have been paid to date for work certified as 92% complete for the Constitution Trail – Grove to Hamilton. Completion date – October 2007.

20. The twenty-eighth partial payment to Clark Dietz, Inc. in the amount of \$2,457.90 on a contract amount of \$366,591.65 of which \$353,991.67 will have been paid to date for work certified as 97% complete for the Hamilton Road – Greenwood to Timberlake Lane. Completion date – August 2007.
21. The seventeenth partial payment to Farnsworth Group in the amount of \$483.75 on a contract amount of \$32,562 of which \$19,887.10 will have been paid to date for work certified as 61% complete for the Norfolk Southern Railroad Crossing Negotiations – ML King at White Oak, Hamilton at Commerce and Hershey at Hamilton. Completion date – November 2007.
22. The fourth partial payment to Farnsworth Group in the amount of \$17,536.10 on a contract amount of \$130,300 of which \$41,956.22 will have been paid to date for work certified as 32% complete for the Tanner Street – Morris Ave. to Lake Dr. Completion date – April 2008.
23. The thirteenth partial payment to Lewis, Yockey & Brown, Inc. in the amount of \$5,365.79 on a contract amount of \$120,000 of which \$94,443.34 will have been paid to date for work certified as 79% complete for the Dr. M.L. King Jr. Drive – Washington to Oakland. Completion date – September 2007.
24. The second partial payment to McLean County Soil and Water Conservation District in the amount of \$77,438.79 on a contract amount of \$100,000 of which \$87,299.99 will have been paid to date for work certified as 87% complete for the Water Department Nutrient Management Program. Completion date – December 2007.
25. The fifth partial payment to Farnsworth Group in the amount of \$1,491.25 on a contract amount of \$45,000 of which \$10,215.25 will have been paid to date for work certified as 23% complete for the Waste Water Treatment System at Lake Bloomington. Completion date – October 2007.
26. The twenty-third partial payment to Farnsworth Group in the amount of \$7,468.98 on a contract amount of \$384,300 of which \$352,722.47 will have been paid to date for work certified as 92% complete for the Kickapoo Force Main Design, Property Surveys and Brokaw Road Surveys. Completion date – September 2007.
27. The second partial payment to Stark Excavating, Inc. in the amount of \$136,750 on a contract amount of \$1,990,500 of which \$516,750 will have been paid to date for work certified as 26% complete for the Recovery Pumps and Piping (Groundwater) – Main Branch Kickapoo Creek Pump Station. Completion date – November 2007.
28. The fourth partial payment to Gildner Plumbing, Inc. in the amount of \$40,000 on a contract amount of \$1,114,445 of which \$407,256 will have been paid to date for work certified as 37% complete for the Sewer and Storm Drain - Kickapoo Force Main. Completion date – October 2007.

29. The fifth partial payment to Stark Excavating, Inc. in the amount of \$299,088 on a contract amount of \$2,974,384 of which \$2,261,088 will have been paid to date for work certified as 76% complete for the Brokaw Road Sanitary Trunk Sewer. Completion date – November 2007.

All of the above described payments are for planned and budgeted items previously approved by the City Council. I recommend that the payments be approved.

Respectfully,

Tom Hamilton
City Manager

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

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

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

Nays: None.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Audit of the Accounts for the Township Supervisor of General Assistance Fund and General Town Fund for the Month of July, 2007

Audit of the Accounts for the Township Supervisor of General Assistance Fund and General Town Fund for the month of July were presented for Audit by the Township Supervisor.

The Audit of these accounts took place on Monday, August 27, 2007 at 6:30 p.m. in the Conference Room of Bloomington City Hall and should, at this time, be made a matter of record.

Respectfully,

Tracey Covert
City Clerk

Motion by Alderman Purcell, seconded by Alderman Schmidt that the audit of the bills and payrolls for the Township for the month of August, 2007 be made a matter of record.

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

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

Nays: None.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Report

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

1. Monthly Receipt & Expenditure Report, July, 2007.

Respectfully,

Tracey Covert
City Clerk

Tom Hamilton
City Manager

(REPORTS ON FILE IN CLERK'S OFFICE)

Motion by Alderman Purcell, seconded by Alderman Schmidt that the report be received and placed on file.

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

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

Nays: None.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council
From: Staff
Subject: Request to Pay McLean County Asphalt Company, Inc. for Emergency Street Repair

The Public Service Department performed emergency repairs to the combination sewer system, inlet leads, and inlets at the intersection of Taylor Street and Moore Street. Due to the extensive amount of asphalt pavement to be restored, staff engaged McLean County Asphalt Company to perform the work.

McLean County Asphalt Company has submitted a time and materials bill for the work in the amount of \$6,012.56. Staff has reviewed the bill and finds it to be in order. Staff respectfully requests that Council approve a payment in the amount of \$6,012.56 to McLean County Asphalt Company, Inc. for the restoration of the asphalt pavement with payment to be made with Sewer Depreciation Funds (X52200-72550).

Respectfully,

Douglas G. Grovesteen
Director of Engineering

Tom Hamilton
City Manager

Motion by Alderman Purcell, seconded by Alderman Schmidt that the payment be approved.

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

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

Nays: None.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council
From: Staff
Subject: Payment to Bloomington Public Schools for Public Sidewalk Work Along Empire Street in Front of Bloomington High School

Bloomington Public Schools District 87 is completing improvements to the Bloomington High School site along Empire Street. As part of the improvements, the public sidewalk was replaced along the south side of Empire Street. District 87 has requested City participation in paying for the public sidewalk. In the past the City has shared in the cost of replacing public sidewalks around schools. Based on the current 2007-2008 Sidewalk Replacement Program, this sidewalk replacement totals \$15, 881.24 or \$7,940.62 each for the District and the City. Sufficient funds remain in the current sidewalk program to pay this amount.

Staff respectfully recommends that Council approve the payment to Bloomington Public Schools in the amount of \$7,940.62 with payment to be made with Capital Improvement Funds (X40100-72560) and this work be charged to the 2007 – 2008 Sidewalk Replacement Program. In addition, staff requests a change order to the 2007-2008 Sidewalk Replacement Program contract limiting the total expenditure to \$184,118.76. The original contract was limited to \$200,000, (\$100,000 of City funds and \$100,000 of property owners' dollars).

Respectfully,

Douglas G. Grovesteen
Director of Engineering

Tom Hamilton
City Manager

Alderman Stearns questioned this item. She specifically cited the 50/50 Sidewalk Replacement Program. Tom Hamilton, City Manager, noted that the City did not have a commitment for the full value of the contract. Alderman Stearns questioned the next fiscal year. Mr. Hamilton recommended that individuals who were interested in this program should contact the City now.

Motion by Alderman Purcell, seconded by Alderman Schmidt that the payment to District 87 in the amount of \$7,940.62 and the change order reducing to the 2007 2008 Sidewalk Replacement Program to \$184, 118.76 be approved.

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

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

Nays: None.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council
From: Staff
Subject: Permission to Request Proposals for a Lime Residuals Disposal

The Water Department is interested in seeking proposals for the removal of lime residuals from the storage lagoons located at the Water Treatment Facility. The current ten (10) year contract has expired and staff wishes to request proposals from multiple vendors.

Lime residuals are by-products of the water treatment process. Water in the Midwest from surface and groundwater sources has a certain amount of dissolved minerals contained in solution. Certain kinds of these naturally-occurring minerals, collectively, cause water "hardness." Most of this water hardness can be removed by adding a calcium solution to the water during the water treatment process. This is known as water softening. The water softening process removes certain minerals from the water by adding limestone that has been heated to high temperatures and then is mixed with water to form a slurry. This limestone slurry along with the amount of hardness minerals removed from the water is flushed to the lime storage lagoons on a daily basis. Approximately 25,000 lbs. of lime sludge is created on a daily basis.

For the past ten (10) years, the City has utilized the services of Evergreen Farm Service (FS), for the annual removal of the lime sludge from the lime storage lagoons. This service has cost from \$150,000 - \$200,000 per year. This lime sludge removal process allows for the recycling of the lime sludge. Evergreen FS uses a dredge in the sludge lagoons to harvest the lime sludge, homogenize it and then re-sells it to farm owners for the control of the acidity in cultivated farm soil. Evergreen FS has done an excellent job over the past ten (10) years. Staff believes it is in the best interest of the City to request proposals for this important service.

Respectfully,

Craig M. Cummings
Director of Water

Tom Hamilton
City Manager

Motion by Alderman Purcell, seconded by Alderman Schmidt that staff be allowed to request proposals for Lime Sludge Removal.

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

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

Nays: None.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Waive the Formal Bidding Process and Retain an Online Auction Service for the Disposal of Surplus Vehicles

The City currently has ten (10) dump trucks which staff plans to sell through an online auction service. Staff has had discussions with Iron Planet to provide this service. Iron Planet provides online auction service to large private and government fleets, and companies from around the globe bid on trucks and equipment auctioned by this company.

Under the terms of the proposed contract with Iron Planet, the City would be required to pay 10% of the proceeds from the sale of the vehicles for their services. The fee covers their expenses of sending an appraiser to our facility to evaluate the equipment, taking all photos to be posted on the auction site and all written text and description of the equipment on the site. This fee also covers their service of accepting payment from the successful bidder. Since the company sends an appraiser in to evaluate the equipment, they have a history of higher selling prices. The City's trucks are estimated to sell for a minimum of \$7,000 each. Once payment is received by Iron Planet from by the successful bidder they retain their 10% fee and will wire transfer or submit a check to the City.

Staff respectfully recommends that Council waive the formal bidding process, approve the agreement with Iron Planet, and further that the Mayor and City Clerk be authorized to execute the necessary documents.

Respectfully,

Daniel Augstin
Director of Fleet Management

Tom Hamilton
City Manager

Alderman Sage expressed his appreciation for City staff's approach to this item. Tom Hamilton, City Manager, stated that this approach should bring more money for heavy duty vehicles. The cost for an on line auction would be minimal. This company already has developed a market for these vehicles. Alderman Sage described it as a creative approach to budgeting.

Motion by Alderman Purcell, seconded by Alderman Schmidt that the Formal Bidding Process be waived, the agreement with Iron Planet be approved and the Mayor and City Clerk be authorized to execute the necessary documents.

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

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

Nays: None.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council
From: Staff
Subject: Waive the Formal Bidding Process and Purchase Thermal Imaging Cameras for the Fire Department

Staff respectfully requests that Council waive the formal bidding process and approve the purchase of two (2) thermal imaging cameras from Fire Apparatus Supply Team located in Lincoln, IL at a total cost of \$15,519.06.

Thermal imaging cameras are heat sensitive video devices utilized to search for victims in areas of zero or limited visibility. Carrying this type of equipment on fire apparatus is now the industry standard. The department currently has four (4) thermal imaging cameras. The additional two (2) thermal imaging cameras are to equip the two (2) new rescue pumpers currently on order.

This purchase will be made with pricing off of a State of Illinois Central Management Services open purchasing agreement. Staff believes the State bid offers the lowest cost to the City. The department's FY 07-08 fixed asset budget contains \$24,000 for this purchase. Payment will be made from F15210-72140.

Respectfully,

Keith Ranney
Fire Chief

Tom Hamilton
City Manager

RESOLUTION NO. 2007 - 83

**A RESOLUTION WAIVING THE FORMAL BIDDING PROCESS AND
AUTHORIZING THE PURCHASE OF (2) THERMAL IMAGING CAMERAS FROM
FIRE APPARATUS SUPPLY TEAM IN THE AMOUNT OF \$15,519.06**

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

1. That the bidding process be waived and the Purchasing Agent be authorized to Purchase (2) thermal imaging cameras from Fire Apparatus Supply Team in the amount of \$15,519.06.

ADOPTED this 27th day of August, 2007.

APPROVED this 28th day of August, 2007.

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Alderman Stearns questioned this item. She specifically questioned the need for each pumper truck to have its own thermal imaging camera. Keith Ranney, Fire Chief, addressed the Council. He stated that each pumper truck would have its own thermal imaging camera. He noted the improvements in technology. The state contract offered better pricing. The equipment would be on the truck whenever it would be needed. This equipment is used in environments with limited visibility.

Motion by Alderman Purcell, seconded by Alderman Schmidt that the formal bidding process be waived, the two (2) thermal imaging cameras be purchased from Fire Apparatus Supply Team in the amount of \$15,519.06, the Purchasing Agent authorized to issue a Purchase Order for same, and the Resolution adopted.

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

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

Nays: None.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Analysis of Proposals for a Food & Beverage Vendor for the Cultural District

Requests for Proposals for food and beverage service within the Bloomington Cultural District were received until 10:00 a.m., Thursday, August 16, 2007 at the office of the City Clerk. The following firms submitted proposals:

Biaggi's Ristorante Italiano	Bloomington, IL
Times Past Inn	Bloomington, IL

Fifteen (15) companies were sent notification of this project. Two (2) firms responded.

Both proposals for this project were reviewed by staff for compliance of the requested materials to be submitted as well as their ability to provide all the necessary services. The lowest overall beverage pricing for our patrons attending events and menu selections for our artist's needs that have already been contracted for, was offered by Times Past Inn.

Staff respectfully requests that Council award the proposal from Times Past Inn in the amount of \$15,000, that the Purchasing Agent be authorized to issue a purchase order for same. Payment for this project will come from account X21100-71060 of the Cultural District budget.

Respectfully,

C. Bruce Marquis
Executive Director

Tom Hamilton
City Manager

Alderman Huette questioned this item. Tom Hamilton, City Manager, noted that this Request for Proposal (RFP) was to select a food and beverage vendor for the Cultural District. The vendor would provide various food and beverage service at the various events which are held at the Bloomington Center for the Performing Arts, (BCPA). The vendors provided a list of prices for these products. City staff considered cost effectiveness, completeness of package, ability to meet customer requests, and location (must be located with the City's corporate city limits). The cost provided included food items requested as part of the guest performance contracts. City staff also considered the menu variety. Times Past Inn provided the widest variety at the best price.

Alderman Huette noted that the \$15,000 was a projected amount. Mr. Hamilton responded affirmatively based upon last year's event experience. City staff believed that this figure would be the maximum.

Mayor Stockton questioned how the companies were selected. He cited the US Cellular Coliseum's interest in the RFP. Mr. Hamilton informed the Council that Biaggi's RFP was substantially higher and the menu was limited to Italian food.

Joel Aalberts, Marketing & Communications Manager, addressed the Council. The RFP was mailed to every catering firm that had serviced the Cultural District in the last year. Last year's preferred vendor, the Chateau, did not submit an RFP. Mayor Stockton noted that the vendor must provide staff to provide food and beverage service during the

performances. He questioned how staff levels were set. Mr. Aalberts noted that the BCPA was flexible. Each show was different. Alcohol service was limited. The attendance at each event was unique. BCPA staff makes a decision based upon experience and expectations.

Mayor Stockton questioned the list of requests from the guest performers. Mr. Aalberts noted that there was nothing unusual. He acknowledged that there were specific foods requested as these individuals are on the road traveling.

Motion by Alderman Purcell, seconded by Alderman Schmidt that the Proposal be awarded to Times Past Inn in the amount of \$15,000 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, Finnegan, Gibson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council
From: Staff
Subject: Analysis of Bids -- Printing Services for the Cultural District

On Wednesday, August 8, 2007, at 11:00 a.m., bids were publicly opened and read aloud from printers seeking to print playbills for the Bloomington Center for the Performing Arts (BCPA). The project details include printing an initial order of 13,000 program covers (Cover I), a mid-season printing of up to 7,000 additional covers (Cover II), and up to 1,000 playbills with a maximum of 32 pages for the 21 performances in the BCPA's 2007-08 season. The bids were as follows:

FIRM	Cover I	Cover II	Interior pgs.	TOTAL
BOPI (Bloomington)	\$2,073	\$1,170	\$42,147	\$45,390
Ron Smith Printing (Bloomington)	\$1,950	\$900	\$28,245	\$31,095*
Riddle Enterprises (Heyworth)	\$1,795	\$1,180	\$29,400	\$33,074
StarNet (Bloomington)	\$2,340	\$1,330	\$57,750	\$61,420

* Low and recommended bid.

Staff respectfully requests that Council approve the low bid of \$31,095 submitted by Ron Smith Printing and that the Purchasing Agent be authorized to issue a Purchase Order for same. Funding for this printing will come from account X21100-70740 of the Cultural District budget.

Respectfully,

C. Bruce Marquis
Executive Director, Cultural District

Tom Hamilton
City Manager

Motion by Alderman Purcell, seconded by Alderman Schmidt that the bid be awarded to Ron Smith Printing in the amount of \$31,095, and further that 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, Finnegan, Gibson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Bid Analysis for Morris Ave. – Miller to Fox Hill Apartments

Bidding proposals for Morris Ave. – Miller to Fox Hill Apartments were received until 2:00 p.m. Thursday, August 16, 2007, in the office of the City Clerk at which time and place the bids were opened and read aloud as follows:

Stark Excavating, Inc.	\$1,925,274.55 (Low Bid)
Rowe Construction Co.	\$2,112,210.48
Engineer's Estimate	\$2,087,319.00
Budget	\$ 890,000.00 Motor Fuel Tax Fund
	\$ 400,000.00 Capital Improvement Fund
	\$ 186,000.00 Stormwater Management Fund
	<u>\$ 186,000.00</u> Water Depreciation Fund
	\$1,662,000.00 Total Budget

This project consists of the complete removal of the existing pavement, driveways, and box culvert at Goose Creek and other items within the project limits. New concrete pavement, curb and gutter, sidewalks, driveways and box culvert shall be constructed within the existing right-of-way.

The low bid for the project is over budget. However, Starks' bid includes \$16,000 for unbudgeted sanitary sewer upgrades within the project limits which will be paid for with Sewer Depreciation Funds. Also, higher fuel, steel and concrete costs have increased construction cost. In addition, the box culvert replacement will be paid with Storm Water Management Funds instead of Capital Improvement Funds.

Staff respectfully recommends that Council accept the low bid from Stark Excavating, Inc. in the amount of \$1,925,274.55 and, further, that the Mayor and City Clerk be authorized to execute the necessary documents. Payment to be made with Motor Fuel Tax Funds (X20300-72530, \$919,332.65), Storm Water Management Funds (X55200-72550, \$928,879.90), Sewer Depreciation Funds (X52200-72550, \$16,000.00) and Water Depreciation Funds (X50200-72540, \$61,062.00).

Respectfully,

Douglas G. Grovesteen
Director of Engineering

Tom Hamilton
City Manager

(CONTRACT ON FILE IN THE CITY CLERK'S OFFICE)

Motion by Alderman Purcell, seconded by Alderman Schmidt that the bid be awarded to Stark Excavating, Inc. in the amount of \$1,925,274.55 and, the Mayor and City Clerk be authorized to execute the necessary documents.

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

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

Nays: None.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council
From: Staff
Subject: Analysis of Bids for Mitsubishi Motorway: Six Points to Sugar Creek - MFT Section No. 05-00332-00-PV

Proposals for the construction of Mitsubishi Motorway from Six Points Road to Sugar Creek were received until 2:00 p.m. Thursday, August 16, 2007, in the office of the City Clerk at which time and place the bids were opened and read aloud. The bids were read as follows:

	<u>Total Bid</u>
Rowe Construction Co. (Low Bid)	\$2,940,450.76
Stark Excavating, Inc.	\$3,243,928.65
Engineer's Estimate	\$4,029,556.00
Budget:	
\$2,750,000	-Motor Fuel Tax Funds (X20300-72530)
\$ 800,000	-Storm Water Depreciation Funds (X55200-72550)
\$ 70,000	-Water Depreciation Funds (X50200-72540)

The Mitsubishi Motorway improvements are bordered by Six Points Road on the north, Sugar Creek on the south, and Heartland Hills Subdivision on the west and extend approximately 5,700' south of Six Points Road. Mitsubishi Motorway will be built along the previously approved alignment determined by the 1997 Hanson Engineering study. Six Points Road improvements extend approximately 550' to the west and 875' to the east of the Mitsubishi Motorway intersection. The proposed Fire Station #5 will be located at the southwest corner of the proposed Mitsubishi Motorway and Six Points Road intersection.

The project consists of the construction of the southbound lanes of Mitsubishi Motorway and the widening and overlay of Six Points Road at the intersection with Mitsubishi Motorway. The proposed improvements include a 24' wide portland cement concrete pavement and traffic signals to accommodate the proposed Fire Station #5 entrance onto Six Points Road.

Staff respectfully recommends that Council accept the low bid from Rowe Construction Co. in the amount of \$2,940,450.76 and, further, that the Mayor and City Clerk be authorized to execute the necessary documents. Payment for this work will be made with Motor Fuel Tax Funds (X X20300-72530, \$2,074,609.07), Water Depreciation Funds (X50200-72540, \$148,576.38), and Storm Water Maintenance Funds (X55200-72550, \$717,265.31).

Respectfully,

Douglas G. Grovesteen
Director of Engineering

Tom Hamilton
City Manager

(CONTRACT ON FILE IN THE CITY CLERK'S OFFICE)

Motion by Alderman Purcell, seconded by Alderman Schmidt that the bid be awarded to Rowe Construction Co. in the amount of \$2,940,450.76 and the Mayor and City Clerk be authorized to execute the necessary documents.

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

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

Nays: None.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Change Order #1 to the Contract with Illinois Prairie Electric Co. for the Decorative Lighting at Festival Park

Illinois Prairie Electric, Inc. has requested the following change order to their contract for work associated with the installation of decorative lighting for Festival Park. This change order was reviewed by staff, who found it to be acceptable. The total amount of this change order is \$795.

During the course of installing the lights, AmerenIP informed staff that a meter needed to be installed which was not included in the original scope of work. AmerenIP will not do the final hook up to their power source until this meter is installed. The previous contract amount for the work was \$26,310. With this change order the new amount will be \$27,105. Staff respectfully requests that Council approve the change order in the amount of \$795.

Respectfully,

C. Bruce Marquis
Executive Director

Tom Hamilton
City Manager

Motion by Alderman Purcell, seconded by Alderman Schmidt that the Change Order be approved.

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

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

Nays: None.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council
From: Staff
Subject: Change Order for Professional Services Agreement with Foth & Van Dyke for the Lafayette Street and Maple Street Reconstruction

Staff negotiated an agreement with Foth & Van Dyke to provide civil engineering services to design the pavement reconstruction of Lafayette Street from Morrissey Avenue to Maple Street and Maple Street from Lafayette Street to Beechwood Avenue in the amount of \$120,000. This agreement was approved by Council on September 25, 2006.

Space constraints encountered during the design caused a reevaluation of the original storm sewer concept. The original concept and scope of services only considered the area draining into the existing storm sewer on Maple Street. It was necessary to expand the scope of the services to include a study of the existing storm sewer system on Beechwood Avenue. This study may provide a way to connect into the Beechwood Avenue storm sewer.

Funds to complete the design of the Lafayette Street and Maple Street Reconstruction were included in the 2006-2007 Capital Improvement budget. Lafayette Street is budgeted as a Motor Fuel Tax funded project, while Maple Street is a Capital Improvement fund project. The additional study of the existing Beechwood Avenue Storm Sewer would increase the agreement by \$13,264. Staff finds this change to the original agreement acceptable.

Staff respectfully recommends that Council approve a change order with Foth & Van Dyke to complete a study of the Beechwood Avenue Storm Sewer on a time and materials basis for a total additional fee not to exceed \$13,264, and the Resolution adopted. Payment for this additional work will be made with Storm Water Depreciation Funds (X55200-72530).

Respectfully,

Douglas G. Grovesteen
Director of Engineering

Tom Hamilton
City Manager

RESOLUTION NO. 2007 - 84

A RESOLUTION AUTHORIZING A CHANGE ORDER IN AN AMOUNT NOT TO EXCEED \$13,264 IN THE CONTRACT BETWEEN THE CITY OF BLOOMINGTON AND FOTH & VAN DYKE FOR THE LAFAYETTE STREET AND MAPLE STREET RECONSTRUCTION

WHEREAS, the City of Bloomington has previously entered into a contract with Foth & Van Dyke for the Lafayette Street and Maple Street Reconstruction; and

WHEREAS, for the reasons set forth in a staff report dated August 27, 2007 it was necessary to expand the scope of the services to include a study of the existing storm sewer system on Beechwood Avenue;

WHEREAS, it is the finding of the City Council that the decision to perform the work described in the August 27, 2007 memo was in the best interest of the citizens of the City of Bloomington.

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

That a change order in an amount not to exceed \$13,264 in the contract between the City of Bloomington and Foth & Van Dyke for the Lafayette Street and Maple Street Reconstruction be approved.

ADOPTED this 27th day of August, 2007.

APPROVED this 28th day of August, 2007.

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Motion by Alderman Purcell, seconded by Alderman Schmidt that the Change Order be approved in an amount not to exceed \$13,264, and the Resolution adopted.

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

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

Nays: None.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Change Order to the Agreement with Lewis, Yockey & Brown, Inc. for the Design of Hamilton Road: Bunn Street to Commerce Parkway

On October 26, 1992, Council approved a contract in the amount of \$55,500 with Lewis, Yockey & Brown, Inc. to design Hamilton Road from Bunn Street to Commerce Parkway. On June 28, 1993, Council approved a Change Order in the amount of \$15,000 to include the design of a water main to the State Farm Warehouses under construction at that time. On November 10, 2003, Council approved a Change Order in the amount of \$139,500 pursuant to major scope of work changes including: 1.) performing a new topographic survey of the entire project area; 2.) updating the Intersection Design Study for Hamilton and Bunn intersection; 3.) designing traffic signals, designing a new grade crossing at the Norfolk & Southern Railroad; 4.) designing additional storm sewers and a drainage ditch along the railroad to accommodate stormwater from the new pavement; 5.) adding erosion control items to the plans and specifications in order to comply with the new Non Point Discharge Elimination System (NPDES) storm water regulations, and 6.) preparing the Right-of-Way and Temporary Construction Easement Plats for the entire project.

Although the scope of the project has not significantly changed, additional design and plan changes are required due to the ongoing railroad crossing dispute with the Norfolk & Southern Railroad. Various design standards have changed during the delay caused by this dispute. As a result, the Intersection Design Study for Hamilton and Bunn and many construction details and standards must be updated to current requirements. Also, new traffic data indicates that a signal at Hamilton & Bunn may not actually be warranted. Finally, the railroad dispute delay has enabled the utility companies to better define potential conflicts with the proposed improvement. Some of these conflicts occur in private utility easements and will be costly. Design and plan changes are proposed in order to minimize these costs.

To complete the additional design and document preparations, Lewis, Yockey & Brown, Inc. has requested a change order in the amount of \$72,000. To avoid future change orders, all design and plan changes that are time dependant will not be performed until the railroad crossing issue is resolved.

All previous design costs for this project have been Capital Improvement Funds. A substantial part of the project will involve stormwater items and some of the latest additional design expense involves stormwater issues. Therefore, this entire change order will be paid with Stormwater Management Funds.

Original Contract	\$ 55,500.00
Change Order No. 1	15,000.00
Change Order No. 2	139,500.00
Current Change Order	<u>72,000.00</u>
Total Contract Amount	\$282,000.00

Staff has reviewed their request and has determined that the additional cost is reasonable, and respectfully recommends Council approval of this Change Order in the amount of \$72,000, and that the Resolution be adopted. Payment for this additional work will be made with Storm Water Depreciation Funds (X55200-72530).

Respectfully,

Douglas G. Grovesteen
Director of Engineering

Tom Hamilton
City Manager

RESOLUTION NO. 2007 - 85

A RESOLUTION AUTHORIZING A CHANGE ORDER IN THE AMOUNT OF \$72,000 IN THE CONTRACT BETWEEN THE CITY OF BLOOMINGTON AND LEWIS, YOCKEY & BROWN, INC. FOR THE DESIGN OF HAMILTON ROAD: BUNN STREET TO COMMERCE PARKWAY

WHEREAS, the City of Bloomington has previously entered into a contract with Lewis, Yockey & Brown, Inc. for the Design of Hamilton Road: Bunn Street to Commerce Parkway; and

WHEREAS, for the reasons set forth in a staff report dated August 27, 2007 it was necessary to update the construction details and standards of the Intersection Design Study for Hamilton and Bunn to meet current requirements;

WHEREAS, it is the finding of the City Council that the decision to perform the work described in the August 27, 2007 memo was in the best interest of the citizens of the City of Bloomington.

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

That a change order in the amount of \$72,000 in the contract between the City of Bloomington and Lewis, Yockey & Brown, Inc. for the Design of Hamilton Road: Bunn Street to Commerce Parkway be approved.

ADOPTED this 27th day of August, 2007.

APPROVED this 28th day of August, 2007.

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Alderman Schmidt questioned this item. She specifically questioned when a change order becomes a different project. Tom Hamilton, City Manager, addressed the Council. He stated that this project has continued to evolve. This key issue was involvement of the rail road. He acknowledged that this project has been worked on over the past ten (10) years. There were new requirements. He estimated the cost of the road project at \$3 million. Doug Grovesteen, Director of Engineering, addressed the Council. This project had taken so long due to changes to standards and rules. The plans have been updated and the design was placed on hold until City staff was assured that if changed the project would move forward. City staff has continued to work with the rail road. There have been attempts to pull political strings as the rail road has not been in a hurry to approve this project. It would result in a maintenance issue for them. The rail road has claimed that this project would interfere with its storage space. This space cannot be within 500 feet of a rail road crossing. Mr. Hamilton noted that the rail road claim that this storage area served Mitsubishi Motors, (provided vehicle storage).

Mayor Stockton questioned the chances of the City prevailing. Mr. Grovesteen believed that the City would need to appear before the ICC (Illinois Commerce Commission). One criteria to support the crossing was continuity of the road. The street was almost complete and fed the City's largest employer. Mr. Hamilton added that this street has been shown in the City's Comprehensive Plan for over twenty (20) years. The rail road has continued to drag this project on. He cited the City's past experience with the Emerson St. bridge. Rail roads were very independent. They tend to ignore requests for crossings. They can be very difficult. The City has made two (2) requests. He cited Hershey Rd. as an example. The ICC will not consider holding a hearing until the land south of the rail road develops.

Alderman Fruin questioned if there were other avenues. He questioned ways to supplement the City's existing efforts. Mr. Hamilton noted that once a hearing date is set, letters to the City's legislative representatives, (federal senators and congressman, and state senators and representatives), would be helpful. City staff just wanted a response. Mr. Grovesteen noted that Congressman Tim Johnson served on the Transportation Committee.

Mayor Stockton questioned if there was data available which would document the lack of use of this storage area. Mr. Hamilton stated that this road would be a part of State Farm Corporate South's transportation system.

Mr. Hamilton returned to the question of when does a project become another. City staff did not want to pay another firm to recreate the existing body of work on this project. Mr. Grovesteen added that the expenses incurred would be listed in the ICC order.

Motion by Alderman Purcell, seconded by Alderman Schmidt that the Change Order in the amount of \$72,000 be approved and the Resolution adopted.

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

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

Nays: None.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Proposed Change Order to Laesch Electric, Inc. for Extra Work Done on Airport Road and College Avenue Traffic Signals

On March 27, 2006, Council awarded a contract to Laesch Electric, Inc. for the installation of traffic signals at Airport Road and College Avenue. Due to slight variations in existing conditions and in order to properly install the detector loop, it was necessary to install an additional quantity of detector loop at an additional cost of \$518.83.

Original Contract	\$118,963.11
This Change Order	<u>518.83</u>
Completed Contract	\$119,481.94

Staff respectfully recommends that Council approve this change order to the contract with Laesch Electric, Inc. for the installation of traffic signals at Airport Road and College Avenue in the amount of \$518.83 with payment to be made from Capital Improvement Funds (X40100-72530).

Respectfully,

Douglas G. Grovesteen
Director of Engineering

Tom Hamilton
City Manager

Alderman Finnegan questioned the amount of this change order. Doug Grovesteen, Director of Engineering, addressed the Council. The price difference was based upon amounts used. The bid price was based upon units. It was an estimate. An extra detector loop was needed.

Motion by Alderman Purcell, seconded by Alderman Schmidt that the Change Order be approved.

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

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

Nays: None.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Professional Services Contract

Staff respectfully requests approval of a contract to engage persons and/or groups represented by 1st Mark Artists Management LLC to perform services in the Bloomington Center for the Performing Arts on dates agreed by staff. Base expenses for the contract will be \$24,000.

The selection of this artist was coordinated with the Cultural Commission and the Cultural District's Programming Advisory Committee. Staff and community advisors agree that the visiting professionals will attract broad, positive community involvement and contribute to the public service mission of the Cultural District and the Bloomington Center for the Performing Arts.

Staff respectfully recommends accepting the contract for the performances and further that the Mayor and City Clerk be authorized to execute the necessary documents. Funding for this contract will come from account X21100-70220 of the Cultural District budget, to be offset by future revenues.

Respectfully,

C. Bruce Marquis
Executive Director, Cultural District

Tom Hamilton
City Manager

(CONTRACT ON FILE IN THE CITY CLERK'S OFFICE)

Alderman Finnegan expressed his concern regarding the process. Tom Hamilton, City Manager, informed the Council that 1st Mark Artists Management LLC represented the guest performer. Joel Aalberts, Marketing & Communications Manager, addressed the Council. The agency handled the booking on behalf of the guest artist. A number of performers are contracted as part of a progressive tour at booking conferences.

Motion by Alderman Purcell, seconded by Alderman Schmidt that the contract from 1st Mark Artists Management LLC be accepted in an amount not to exceed \$24,000 and the Mayor and City Clerk be authorized to execute the necessary documents.

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

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

Nays: None.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Revenue Park Subdivision IDOT Utility Permit

Revenue Park Subdivision is located north of Old Peoria Court and east of Mitsubishi Motorway. Construction plans for the subdivision were approved on August 14, 2007. These plans showed the extension of the West Washington Street Sanitary Trunk Sewer north to this subdivision. Some of this work will occur within state right of way, and it is required by District 5 of the Illinois Department of Transportation (IDOT) that a Utility Permit be approved and executed.

Staff respectfully recommends that Council approve a utility permit with IDOT District 5 and the mayor and City Clerk be authorized to execute the necessary documents.

Respectfully,

Douglas G. Grovesteen
Director of Engineering

Tom Hamilton
City Manager

(CONTRACT ON FILE IN THE CITY CLERK'S OFFICE)

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

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

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

Nays: None.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Proposed Water Main Extension Agreement from Mike and Kathy Fulton for Property Located at 3317 Fox Creek Road in McLean County

Mike and Kathy Fulton, property owners of 3317 Fox Creek Road (Tax ID 20-13-300-006) in McLean County have requested permission to tap-on to the City's water main to serve their property. Currently, the property is outside the City's Corporate Limits. The owners have signed a Water Main Extension Agreement wherein the property can be annexed to the City whenever the City so requests. The required tap on fee due for this property has been waived.

As all items are in order, staff respectfully recommends that Council approve the Water Main Extension Agreement with Mike and Kathy Fulton, property owners of 3317 Fox Creek Road (Tax ID 20-13-300-006) in McLean County, and further, that the Mayor and City Clerk be authorized to execute the necessary documents.

Respectfully,

Douglas G. Grovesteen
Director of Engineering

Tom Hamilton
City Manager

**WATER & PROPOSED WATER
MAIN EXTENSION AGREEMENT**

THIS AGREEMENT made and entered into this 27th day of August, 2007 by and between the City of Bloomington, a Municipal Corporation, hereinafter called "CITY" and, Mike

and Kathy Fulton, owners of the real property hereinafter described and hereinafter called "CUSTOMER", WITNESSETH:

For and in consideration of the mutual covenants and undertakings herein made, CITY and CUSTOMER herein covenant and agree as follows:

1. CITY agrees to plan, supervise and permit the construction of 145 feet of 16 inch water main to be extended along the street and highway known as Fox Creek Road for use of the CUSTOMER in obtaining water service from the water reservoir and water main system of CITY to and for the benefit of the property or properties in McLean County owned by CUSTOMER and legally described as:

PIN# 20-13-300-006
(Tax I.D. No.)

A/K/A 3317 Fox Creek Road
(Street Address)

and shown by plat of said area attached hereto and made a part hereof, and in accordance with specifications approved by the CITY.

2. CUSTOMER agrees to pay his share of the cost of the water main completed as follows: the total cost of the water main divided by the number of lineal feet of said main, divided by two, multiplied by the frontage of the above described property. CUSTOMER's contribution is **waived per their agreement for easement (Contract for sale of Real Estate dated October 11, 2006).**

3. CUSTOMER agrees that said extended water main shall become the property of and subject to the control of the CITY as a part of its water distribution system and that CUSTOMER and his/her property shall become subject to and shall be obligated to conform to all ordinances and other rules and regulations of the CITY with regard to the construction, use and maintenance of water mains and for the payment of charges for water services now in effect and as hereinafter enacted and amended from time to time.

4. CUSTOMER certifies that Mike and Kathy Fulton are all of the owners and their spouses and mortgagees of said above-described property and there are no other parties who have any other right, title or interest in said property.

5. As a covenant running with the land, CUSTOMER agrees that in the event any portion of the above-described property hereafter becomes contiguous with the corporate boundaries of the City of Bloomington, CUSTOMER will within one hundred eighty (180) days after the City Council adopts a Resolution requiring him to do so, annex said property to the City of Bloomington by petition or if required by the City, by an annexation agreement. Simultaneously or at the earliest time CUSTOMER could legally petition to do so, CUSTOMER will petition for annexation to the Bloomington-Normal Water Reclamation District. Upon failure of CUSTOMER to do any of the foregoing, the CITY in its sole discretion may discontinue water service to said property and may refuse and continue to refuse water service to such property until all such annexations have been completed.

6. This Agreement does not affect the operation of City ordinances. At the time of annexation, CUSTOMER will in an Annexation Agreement:

- 1. be required to agree to dedicate street right-of-way abutting his property in such amounts as may be required in the then current street plan;
- 2. be required to agree to dedicate any utility easements requested by the CITY at that time;
- 3. be required to agree to participate financially to the cost of making local improvements affecting customer's property.

7. CUSTOMER covenants and agrees that he/she will not permit or allow any other person, firm or corporation to connect or annex to said water main or use water therefrom or in any other way benefit from the service provided to CUSTOMER under the terms of this AGREEMENT, except where express written permission has been procured therefore from CITY.

8. CUSTOMER and CITY agree that covenants herein contained are the essence of this Agreement.

IN WITNESSETH WHEREOF the parties have hereunto set their hands and seals the day and year above written.

Kathy Fulton
Applicant

Michael Fulton
Applicant

STATE OF ILLINOIS)
)ss.
COUNTY OF MCLEAN)

I Vellon Hale, a Notary Public in and for said County in the State aforesaid, do hereby certify that Kathy Fulton personally known to me to be the same person(s) whose name(s) is/are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that the person or persons named in Paragraph 4 of said instrument is/are the only person or persons who have any right, title or interest of record in and to the property described in said instrument, and that he/she signed, sealed and delivered said instrument as his/her free and voluntary act for the uses and purposes therein set forth, including release and waiver of the right of homestead.

Given under my hand and notarial seal this 20th day of August, 2007, A.D.

Official Seal
Vellon Hale, Notary Public
My Commission Expires 10/23/07

ATTEST:

CITY OF BLOOMINGTON

Tracey Covert
City Clerk

Stephen F. Stockton
Mayor

Alderman Stearns questioned the cost to extend the water main. Tom Hamilton, City Manager, noted that this water main would serve a larger area. Doug Grovesteen, Director of Engineering, addressed the Council. He stated that the water main was placed in an easement within the right of way to allow the expansion of the street. Any lot that develops along it would tap into this sixteen inch (16") water main. Mr. Hamilton added that the main would serve the existing area plus the Palmer property which has yet to develop. The Fultons traded land for the easement plus the construction for the water main tap on. Mr. Grovesteen acknowledged that the water main had been extended to Scottsdale Ave. The Palmer development would owe tap on fees.

Motion by Alderman Purcell, seconded by Alderman Schmidt that the Water Main Extension be approved and the Mayor and City Clerk be authorized to execute the necessary documents.

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

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

Nays: None.

Motion carried.

The following was presented:

To: Members of the City Council

From: Liquor Commission

Subject: Application of Ai Shri Khodal, Inc. d/b/a Ai Shri Khodal, located at 2444 S. Main St., for a GPBS liquor license, which will allow the sale of packaged beer and wine for consumption off the premises seven (7) days a week

The Bloomington Liquor Commissioner Steve Stockton called the Liquor Hearing to hear the application of Ai Shri Khodal, Inc., d/b/a Ai Shri Khodal, located at 2444 S. Main St., requesting a GPBS liquor license which allows the sale of packaged beer and wine 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; Lt. Tim Stanesa, Police Department; Tracey Covert, City Clerk; and Ramchandra Patel, owner/operator, and Keyur Patel, seller, Applicant representatives; and Terry Dodds, Applicant's attorney.

Commissioner Stockton opened the liquor hearing. He requested that the Applicant present the business plan. Terry Dodds, applicant's attorney, addressed the Commission. He noted that Keyur Patel was the current owner. Ramchandra Patel was the buyer and Applicant. Keyur will assist Ramchandra after the sale of the business. A new corporation had been formed and Ramchandra was its president. Ramchandra would purchase the business from Keyur. He noted that these two (2) individuals were related.

Commissioner Petersen questioned Ramchandra's liquor sale experience. Ramchandra noted previously employment. He had worked for an uncle who held a liquor license in the Chicago area. This application represented his first attempt to hold a liquor license. Mr. Dodds noted that Ramchandra owned and operated two (2) Blimplie's stores. Keyur added that he would assist Ramchandra during the first six (6) months of operations. Ramchandra planned to move to Bloomington.

Commissioner Stockton questioned if any substantial changes were planned. Keyur noted that the store had been family owned. He was employed full time with State Farm. His father had been managing the business. Currently, his health has become an issue. The Brock family owned the building. It had previously operated under the Clark name.

Commissioner Stockton recommended that Ramchandra, as a new owner, obtain a copy of the City's liquor code, Chapter 6. Alcoholic Beverages from the City Clerk's Office. Mr. Dodds noted that Ramchandra had been provided with a copy to review. Ramchandra also had the City's web site address.

Based on the above, the Liquor Commission recommends to the City Council that a GPBS liquor license for Ai Shri Khodal, Inc., d/b/a Ai Shri Khodal, located at 2444 S. Main St., be created, contingent upon compliance with all applicable health and safety codes.

Respectfully,

Stephen F. Stockton
Chairman of Liquor Commission

Motion by Alderman Purcell, seconded by Alderman Schmidt that a GPBS liquor license for Ai Shri Khodal, Inc., d/b/a Ai Shri Khodal located at 2444 S. Main St., 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, Finnegan, Gibson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

To: Members of the City Council

From: Liquor Commission

Subject: Application of WAG Restaurants, LLC, d/b/a J. Buck's Restaurant, located at 3203 E. Empire St., 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

The Bloomington Liquor Commissioner Steve Stockton called the Liquor Hearing to hear the application of WAG Restaurants, LLC d/b/a J. Buck's Restaurant, located at 3203 E. Empire St., 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; Lt. Tim Stanesa, Police Department; Tracey Covert, City Clerk; and Amanda Boehringer, owner and Applicant representative.

Commissioner Stockton opened the liquor hearing. He requested that the Applicant present the business plan. Amanda "Mandy" Boehringer, owner and Applicant representative addressed the Commission. She noted that she was one (1) of the three (3) business owners. The company was head quartered in St. Louis, Missouri. Currently there were six (6) J. Buck's Restaurants. The restaurants were named after the St. Louis Cardinal's famous broadcaster. The facility would feature wood, stone and a classic bar. The cuisine offered would be straight forward American.

Commissioner Stockton noted that he had visited the company's web site. He described J. Buck's as more upscale. Ms. Boehringer noted that she had been in the community for the past seven (7) months. The goal was to be open by October 1, 2007. She noted that private parties have already been booked. She and her partners planned to contact Lovie Smith, Chicago Bears Head Football Coach. Mr. Smith had been with the St. Louis Rams. They hoped to obtain photographs of the Chicago Bears.

Commissioner Stockton questioned if J. Buck's would provide service to the adjoining hotel. He noted that this facility would have to be included in the premise. Ms. Boehringer noted that the two (2) would be connected. In reality, it was one (1) building. She added that the hotel would offer banquet rooms. Commissioner Stockton noted that as the liquor license holder, J. Buck's, would be held responsible for any liquor violations that occurred on the hotel property. He noted that the facility itself could be a challenge to manage. Ms. Boehringer acknowledged the additional risk. J. Buck's has strict standards. She understood the Commission's concern. She was certified to teach alcohol awareness courses in both Illinois and Missouri. All J. Buck's employees go through mandatory training. Alcohol service would be offered on the entire property. She noted that bar service would also be offered in the banquet rooms.

Commissioner Petersen questioned if there was a similar situation in the City. Commissioner Buchanan responded negatively.

Commissioner Stockton questioned if the parent company had been cited for any liquor violations. Ms. Boehringer responded negatively. J. Buck's was a restaurant. Its primary purpose was dining service.

Commissioner Buchanan questioned if the bar would be open after the kitchen closed. Ms. Boehringer noted that the kitchen would close at 11:00 p.m. The bar area would remain open until midnight or 1:00 a.m. The closing would be dependent upon business. Commissioner Buchanan noted the Commission's standard condition that a restaurant facility close an hour after the kitchen closes.

Commissioner Stockton noted that J. Buck's might be allowed to remain open but operate under tavern rules. Ms. Boehringer noted that J. Buck's has a standard policy that no children are allowed in the bar area after 5:00 p.m.

Commissioner Buchanan questioned on site management. Ms. Boehringer noted that an individual had been hired from the Champaign area. The person will coordinate all food and beverage service to the hotel with the hotel's management staff.

Commissioner Petersen questioned if entertainment would be offered. Ms. Boehringer stated that none was planned at this time. She added that guests have requested same for private parties. She noted that J. Buck's would like to accommodate such requests.

Commissioner Stockton noted the unconventional tables. Ms. Boehringer stated that they were called quads - half booth/half table. Each section can accommodate five to six (5 - 6) guests. This table was a J. Buck's standard. They allow for private conversations.

Commissioner Buchanan questioned occupancy. Ms. Boehringer estimated seating at 250 - 300, plus the private party rooms. Commissioner Buchanan questioned if there would be stools at the bar. Ms. Boehringer responded affirmatively.

Commissioner Stockton questioned if the patio would be fenced. Ms. Boehringer responded affirmatively. There would also be an emergency exit. The patio would be monitored by video. There would also be food and beverage servers present. Business hours for the patio area would be the same as for the restaurant.

Commissioner Stockton noted that J. Buck's would be located in a commercial area. It was near to the Central Illinois Regional Airport. He recommended that the standard condition for outdoor dining areas be included in the motion. He noted the Commission's intention to address safety and security issues.

Ms. Boehringer noted that J. Buck's was excited to be in Bloomington. She stated that when a hotel guest left the property he/she must also leave the beverage behind. Commissioner Stockton also recommended that the motion define the premise.

Based on the above, the Liquor Commission recommends to the City Council that an RAS liquor license for WAG Restaurants, LLC, d/b/a J. Buck's Restaurant, located at 3203 E. Empire St., be created, contingent upon compliance with all applicable health and safety codes with the following conditions: 1.) the premise be defined to include the restaurant/bar area plus the Holiday Inn Hotel & Suites including the guest rooms and multi functional meeting/banquet space; and 2.) the Commission reserves the right to regulate the use of the patio dining area to include the time of use, the time for liquor sales, sound/visual baffling/barrier, and occupancy.

Respectfully,

Stephen F. Stockton
Chairman of Liquor Commission

Motion by Alderman Purcell, seconded by Alderman Schmidt that an RAS liquor license for WAG Restaurants, LLC, d/b/a J. Buck's Restaurant located at 3203 E. Empire St., be created, contingent upon compliance with all applicable health and safety codes with the following conditions: 1.) the premise be defined to include the restaurant/bar area plus the Holiday Inn Hotel & Suites including the guest rooms and multi functional meeting/banquet space; and 2.) the Commission reserves the right to regulate the use of the patio dining area to include the time of use, the time for liquor sales, sound/visual baffling/barrier, and occupancy.

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

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

Nays: None.

Motion carried.

The following was presented:

To: Members of the City Council

From: Liquor Commission

Subject: Application of Lutheran Senior Living of Illinois, d/b/a Luther Oaks, located at 601 Lutz Rd., for an RBS liquor license, which will allow the sale of beer and wine by the glass for consumption on the premises seven (7) days a week

The Bloomington Liquor Commissioner Steve Stockton called the Liquor Hearing to hear the application of Lutheran Senior Living of Illinois d/b/a Luther Oaks, located at 601 Lutz Rd., requesting an RBS liquor license which allows the sale of beer and wine 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; Lt. Tim Stanesa, Police Department; Tracey Covert, City Clerk; and Mindy Kmetz, Campus Administrator and Applicant representative.

Commissioner Stockton opened the liquor hearing. He requested that the Applicant present the business plan. Mindy Kmetz, Campus Administrator and Applicant representative addressed the Commission. She noted that residents had approached her and requested that beer and wine be offered in the dining room. She added that seniors were looking for freedom in their retirement. She acknowledged that a liquor license would be new territory for the City. Lutheran Senior Living's home office was located in Arlington Heights. This facility held a liquor license. Alcohol service would be provided for the residents.

Commissioner Stockton noted that this application was similar to a hotel. The premise needed to be defined. Ms. Kmetz stated that Luther Oaks would be the residents' home. The facility would offer a central dining room. Each apartment also offered a private kitchen. Alcohol service would be offered with a meal, (lunch and/or dinner). She noted her expectation that the liquor would be consumed within the dining room.

Commissioner Buchanan questioned payment for same. Ms. Kmetz noted that it would appear on the residents' monthly bill as a separate transaction. No cash payments would be accepted.

Commissioner Clapp noted that the residents would be over twenty-one (21) years of age. However, there would be outside customers, (extended family and/or friends) of the residents. Servers must be aware of the law. She questioned if conditions should be placed upon the license.

Commissioner Buchanan noted that the staff must be aware that the residents may pass a beverage to an underage child/grandchild. Ms. Kmetz noted that Luther Oaks provides its residents with guidelines/rules. The sale/purchase of alcohol would be added. Alcohol service would only be offered in the assisted living area. Alcohol would be ordered with meals. She stated her expectation that residents would order alcohol with meals to celebrate special occasions. There would be no alcohol service in the memory support area. Ms. Kmetz offered to highlight on the floor plan which was submitted with the application where alcohol consumption would be allowed. She noted the dining area would include the library. Ms. Kmetz noted that this application came about through Lutheran Senior Living's marketing process. There was feedback regarding alcohol service from potential residents. The company was supportive of the idea. Lutheran Senior Living took a progressive approach to senior living. She restated that alcohol service would only be provided with meals. It would not be provided with activities. She planned to exercise good control. She estimated daily liquor service at ten (1) beverages.

Commissioner Petersen stated that he did not have any problems with this Application. He cautioned that there would be other request. The City needed to be consistent. Commissioner Clapp agreed with Commissioner Petersen's statements. She encouraged the City to consider uniformity.

Commissioner Stockton commended the Applicant on their flexibility. He questioned if a Club license classification might be appropriate. Commissioner Stockton instructed Tracey Covert, City Clerk, to contact the City's Corporation Counsel Office regarding same.

Based on the above, the Liquor Commission recommends to the City Council that an RBS liquor license for Lutheran Senior Living of Illinois, d/b/a Luther Oaks, located at 601 Lutz Rd., be created, contingent upon compliance with all applicable health and safety codes with the following condition: 1.) that the floor plan be amended to outline the area which would be defined as the premise.

Respectfully,

Stephen F. Stockton
Chairman of Liquor Commission

Motion by Alderman Purcell, seconded by Alderman Schmidt that an RBS liquor license for Lutheran Senior Living of Illinois, d/b/a Luther Oaks located at 601 Lutz Rd., be created, contingent upon compliance with all applicable health and safety codes with the following condition: 1.) that the floor plan be amended to outline the area which would be defined as the premise.

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

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

Nays: None.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Elevator Registration and Inspections

The City has had an elevator registration and inspection program for nearly forty (40) years. The purposes of this program was to insure safe operations of this equipment in the City by requiring regular inspections by qualified elevator contractors who send reports back to the PACE Department. Recently, the State of Illinois PASSED new rules, under the jurisdiction of the Office of the State Fire Marshall (OSFM), making it impossible for the City to maintain our program. When staff researched the requirements for us to maintain our program, it was found

that the City would be contractually bound to the State to meet their requirements and be required to produce unrealistic documentation.

These new rules require elevator owners to register their equipment with the OSFM (at a substantially higher rate than the City's registration); and have the elevators inspected twice a year by elevator mechanics being observed by a Qualified Elevator Inspector (third party). These requirements would further fall to all new elevator equipment constructed in the state and will substantially increase the maintenance cost to the owner of an elevator or escalator.

After consulting with our counterparts in the Town of Normal (to maintain consistency), staff has determined the best course of action would be to drop the program and let the State operate theirs. Staff respectfully requests that the Text Amendment to Chapter 10 be approved and the Ordinance passed.

Respectfully,

Mark R. Huber
Director of P.A.C.E.

Tom Hamilton
City Manager

ORDINANCE NO. 2007 - 77

**AN ORDINANCE AMENDING BLOOMINGTON
CITY CODE CHAPTER 10**

BE IT ORDAINED by the City Council of the City of Bloomington, Illinois:

SECTION 1. That Bloomington City Code Chapter 10, Article I, Section 2(a), shall be and the same is hereby amended to read as follows: (additions are indicating by underlining; deletions are indicated by strikeouts):

(a) Enforcement of Building Laws. The Department of Planning and Code Enforcement shall by all appropriate means enforce all laws and ordinances in the City relating to the condition, construction, repair, alteration, addition, maintenance or demolition of buildings or structures, including codes regarding buildings, property maintenance, plumbing, electrical, ~~elevator~~ and mechanical and other related work. Department personnel shall make all appropriate inspections and engage in other related activities in connection therewith.

SECTION 2. That Bloomington City Code Chapter 10, Article I, Section 3, shall be and the same is hereby amended to read as follows (additions are indicating by underlining; deletions are indicated by strikeouts):

There is hereby established the office of Director of Planning and Code Enforcement who shall be appointed by the City Manager as provided by law. Subject to the control of the City Manager, the Director of Planning and Code Enforcement shall have control and supervision of all employees of the Department of Planning and Code Enforcement. The Director of Planning and Code Enforcement may also be known as the Building Official, Code Official, Director of Inspections or Supervisor of Inspections. He shall also act and be known as the Building Inspector, Electrical Inspector, Plumbing Inspector, ~~Elevator Inspector~~ and Plans Examiner in the absence of appointment of other persons in the Department of Planning and Code Enforcement to those positions.

SECTION 3. That Bloomington City Code Chapter 10, Article II, Section 15, shall be and the same is hereby amended to read as follows (additions are indicating by underlining; deletions are indicated by strikeouts):

~~SEC. 15 ADOPTION OF THE AMERICAN SOCIETY OF MECHANICAL ENGINEERS
NATIONAL STANDARD SAFETY CODE FOR ELEVATORS AND
ESCALATORS, ASME A17.1 2004 INCLUDING ASME A17.1S 2005, SAFETY
CODE FOR EXISTING ELEVATORS AND ESCALATORS, ASME A17.3 2002
AND SAFETY STANDARD FOR PLATFORM LIFTS AND STAIRWAY
CHAIRLIFTS ASME A18.1 2003 WITH ACCUMULATED ADDENDA AND
SUPPLEMENTS.~~

~~There is hereby adopted by the City Council for the purpose of regulating the design,
construction, installation, operation, inspection, testing, maintenance, alteration and repair of~~

~~elevators, dumbwaiters, escalators, platform lifts, stairway chairlifts, inclined lifts, moving walks, and material lifts, the Safety Code for Elevators and Escalators, ASME A17.1 2004, Safety Code for Existing Elevators and Escalators, including its supplement ASME A17.1S-2005, ASME A17.3 2002 and Safety Standard for Platform Lifts and Stairway Chairlifts ASME A18.1 2003 with current accumulated addenda supplements, published by the American Society of Mechanical Engineers, and the whole thereof save and except such portions as are deleted, modified or amended in Article VI of this Chapter, of which Code not less than one (1) copy has been and now is filed in office of the Clerk of the City of Bloomington.~~

~~The provisions of said Code are hereby adopted and incorporated as fully as if set out at length herein, and the provisions thereof shall be controlling in all matters pertaining to the design, construction, installation, operation, inspection, testing, maintenance, alteration and repair of elevators, dumbwaiters, escalators, platform lifts, stairway chairlifts, inclined lifts, moving walks, and material lifts, except as provided in Section 12 of this Article.~~

~~In addition to the one (1) copy of the Safety Code for Elevators and Escalators ASME A17.1 2004, including its supplement ASME A17.1S 2005, Safety Code for Existing Elevators and Escalators, ASME A17.3 2002 and Safety Standard for Platform Lifts and Stairway Chairlifts ASME A18.1 2003 with current accumulated addenda supplements which has been on file in the office of the City Clerk of the City, for use and examination by the public, at least one (1) copy of said Code shall be kept on file in the office of the Department of Planning and Code Enforcement for public inspection.~~

SECTION 4. That Bloomington City Code Chapter 10, Article IV, Section 108.12, shall be and the same is hereby amended to read as follows (additions are indicating by underlining; deletions are indicated by strikeouts):

~~SEC. 108.12 ELEVATOR PERMITS, CERTIFICATES, FEES.~~

~~New installations, repairs, alterations, and periodic inspections of elevators, dumbwaiters, escalators, moving walks, and the like shall comply with the Safety Code for Elevators and Escalators, ASME A17.1 2004, its supplement ASME A17.1S 2005, Safety Code for Existing Elevators and Escalators, ASME A17.3 2002, and Safety Standard for Platform Lifts and Stairway Chairlifts ASME A18.1 2003, with current accumulated addenda supplements. A permit shall be obtained from the City prior to any work being started.~~

(a) — ~~Permit Fee.~~ The fee for a permit for work required in this Section shall be based on the reasonable cost/value of the work, including material and labor, and shall be calculated in accordance with the schedule used to determine building permit fees set forth in Section 108.7.

(b) — ~~Certificate of Operation (Use).~~ A certificate of use shall be issued annually upon submission of a report attesting to the safe operating condition and good working order of the elevator, dumbwaiter, escalator, or moving walk. A fee of Twenty-five Dollars (\$25.00) shall be paid to the City for such a certificate.

SECTION 5. That Bloomington City Code Chapter 10, Article VI, shall be and the same is hereby amended to read as follows (additions are indicating by underlining; deletions are indicated by strikeouts):

ARTICLE VI

ADDITIONS, COMPLETIONS, MODIFICATIONS, AMENDMENTS TO AMERICAN NATIONAL STANDARD SAFETY CODE FOR ELEVATORS AND ESCALATORS, ASME A17.1 2004 WITH CURRENT ACCUMULATED ADDENDA SUPPLEMENTS ASME A17.1S 2005

~~The numbered Sections of this Article represent additions to the American National Standard Safety Code for Elevators and Escalators, ASME A17.1 2004, with current accumulated addenda and supplements ASME A17.1S 2005, or correspond to sections of said Code which are completed, modified, amended, added to or deleted thereby.~~

~~SEC. 1.3.1 DEFINITIONS.~~

~~ADMINISTRATORS—The Building/Code Official of Bloomington.~~

~~ASME A17.1—The Safety Code for Elevators and Escalators, an American National Standard.~~

~~ASME A17.3—The Safety Code for Existing Elevators and Escalators, an American National Standard.~~

~~ASME A18.1—The Safety Standard for Platform Lifts and Stairway Chairlifts, an American National Standard.~~

~~BOARD—The Construction Board of Appeals as described in this chapter.~~

~~CERTIFICATE OF OPERATION—A document issued by the Building Safety Division that indicates that the conveyance has had the required safety inspection and tests and fees have been paid as set forth in this Chapter.~~

~~CERTIFICATE OF OPERATION; TEMPORARY—A document issued by the Elevator Inspector which permits the temporary use of a non-compliant conveyance by the general public for a limited time of thirty days while minor repairs are being completed.~~

~~CONVEYANCE—Any elevator, dumbwaiter, escalator, moving sidewalk, platform lifts, stairway chairlifts.~~

~~DORMANT ELEVATOR, DUMBWAITER OR ESCALATOR—An installation placed out of service as specified in ASME A17.1 and ASME A18.1.~~

~~ELEVATOR—An installation as defined as an “elevator” in ASME A17.1.~~

~~ELEVATOR CONTRACTOR—Any sole proprietor, firm, or corporation who possesses an elevator contractors license in accordance with State Law and who is engaged in the business of erecting, constructing, installing, altering, servicing, repairing or maintaining elevators or related conveyance covered by this chapter.~~

~~ELEVATOR MECHANIC—Any person, who possesses an elevator mechanic license in accordance with State Law and who is engaged in erecting, constructing, installing, altering, servicing, repairing or maintaining elevators or related conveyance covered by this chapter.~~

~~ESCALATOR—An installation as defined as an “escalator” in ASME A17.1.~~

~~EXISTING INSTALLATION—An installation as defined as an “installation, existing” in ASME A17.1.~~

~~MATERIAL ALTERATION—An “alteration” as defined in the referenced standards.~~

~~MOVING WALK (SIDEWALK)—An installation as defined as a “moving walk” in ASME A17.1.~~

~~REPAIR—A “repair” as defined in the referenced standards.~~

~~TEMPORARILY DORMANT ELEVATOR, DUMBWAITER OR ESCALATOR—An installation whose power supply has been disconnected by removing fuses and placing a padlock on the mainline disconnect switch in the “OFF” position. The car is parked and the hoistway doors are in the closed and latched position. A wire seal shall be installed on the mainline disconnect switch by the elevator inspector. This installation shall not be used again until it has been put in safe running order and is in condition for use. Annual inspections shall continue for the duration of the temporally dormant status by the elevator inspector. “Temporally Dormant” status shall be renewable on an annual basis, and shall not exceed a five-year period. The inspector shall file a report describing the current conditions. The wire seal and padlock shall not be removed for any purpose without permission from the elevator inspector.~~

~~SEC. 3 PERMITS AND CERTIFICATE OF OPERATION.~~

~~A.—No conveyance, covered by this Chapter shall be erected, constructed, installed or altered within buildings or structures within the jurisdiction unless a permit has been obtained from the Planning and Code Enforcement Department of the City before the work is commenced.~~

~~B.—The permit and Certificate of Operation fees shall be per Article IV, Sec. 108.12 of this Chapter. Permit Fees collected are non-refundable.~~

~~C.—Permit Requirements:~~

~~(a)—Each application for a permit shall be accompanied by copies of specifications and accurately scaled and fully dimensioned plans showing~~

~~the location of the installation in relation to the plans and elevation of the building; the location of the machinery room and the equipment to be installed, relocated or altered; and all structural supporting members thereof, including foundations, and shall specify all materials to be employed and all loads to be supported or conveyed. Such plans and specifications shall be sufficiently complete to illustrate all details of construction and design.~~

~~(b) — The applicable fees shall accompany each permit application.~~

~~D. — Revocation of Permits: Permits may be revoked for the following reasons:~~

~~(a) — Where any false statements or misrepresentation as to the material facts in the application, plans, or specifications on which the permit was based.~~

~~(b) — Where the permit was issued in error and should not have been issued in accordance with the code.~~

~~(c) — Where the work detailed under the permit is not being performed in accordance with the provisions of the application, plans or specifications or with the code or conditions of the permit.~~

~~(d) — Where the Elevator Contractor to whom the permit was issued fails or refuses to comply with a STOP WORK order.~~

~~E. — Expiration of Permits:~~

~~(a) — If the work authorized by such permit is not commenced within six months after the Date of issuance,~~

~~(b) — If the work is suspended or abandoned for a period of sixty days, or such shorter period of time as the Elevator Inspector in his discretion may specify at the time the permit is issued, after the work has been started. For good cause, the Elevator Inspector or his representative may allow an extension of the foregoing period at his discretion.~~

~~F. — Display Certificate of Operation. Certificate of Operation referenced are renewable annually [One year]. Certificates of Operation must be clearly displayed on or in each conveyance.~~

~~SEC. 4 PROVISIONS NOT RETROACTIVE.~~

~~The provisions of this chapter are not retroactive unless otherwise stated and equipment shall be required to comply with the applicable code at the date of its installation or within the period determined by the Construction Board of Appeals for compliance with ASME A17.3, whichever is more stringent.~~

~~SEC. 5 INSPECTION AND TESTING.~~

~~5.1—Annual Inspections: It shall be the responsibility of the owner, agent, tenant or other person operating, of all new and existing conveyances located in any building or structure to have the conveyance inspected annually (ASME A17.1, category one). Subsequent to inspection, said licensed contractor shall supply the property owner [s] or lessee and the Elevator Inspector with a written inspection report describing any and all code violations. Property owners shall have thirty days from the date of the published inspection report to be in full compliance with correcting the violations.~~

~~5.2—It shall be the responsibility of the owner of all conveyances to have a Elevator Contractor, as described herein this chapter, insure that the required tests are performed at intervals in compliance with the ASME A17.1, ASME A17.3 and ASME A18.1.~~

~~5.3—A written report of inspection stating that the same does comply with safety requirements, is in safe operating condition and good working order shall be submitted to the Planning and Code Enforcement Department of the City annually. If upon the inspection or tests of any device covered by this chapter, the equipment is found in dangerous condition or not to be in safe condition or good repair or that safety devices have not been furnished or are not in good working order, or there is an immediate hazard to those riding or using such equipment, or if the design or the method of operation in combination with devices used is considered inherently dangerous in the opinion of the Elevator Inspector, he/she shall notify the owner of the condition and elevator use be terminated immediately until the necessary work or repair has been completed. The Elevator Inspector shall order such alterations, repairs or additions as may be deemed necessary to eliminate the dangerous condition.~~

~~SEC. 6 EXISTING ELEVATORS.~~

~~In existing conditions where it has been determined that certain elevators can be operated as such in a reasonable safe manner and cannot comply with all Code requirements of the Safety Code for Existing Elevators, ASME A17.3 2002, the Director of Planning and Code Enforcement may authorize the continuation of the operation subject to the following additional conditions:~~

- ~~(1)—Elevators with wood rails shall be tested annually for a no load safety check;~~
- ~~(2)—Elevators in use prior to November 1, 1069 shall be maintained on a monthly basis;~~

~~SEC. 7 VIOLATION.~~

~~Any owner or operator of an elevator who permits continued operation after having been informed of violation as prescribed above, is subject to penalties as stated in Bloomington City Code, Chapter 10, Section 21.~~

~~SEC. 8 APPEALS.~~

~~Any party aggrieved by a determination of the Code Official / Building Official in the application of this Code may appeal the same to the Board of Appeals in the manner prescribed in the ICC Building Code.~~

SECTION 6. That except as provided herein, the Bloomington City Code, as amended, shall remain in full force and effect.

SECTION 7. The City Clerk shall be, and she is hereby directed and authorized to publish this Ordinance in pamphlet form as provided by law.

SECTION 8. This Ordinance is enacted pursuant to the authority granted to the City as a home rule unit by Article VII, Section 6 of the 1970 Illinois Constitution.

SECTION 9. This Ordinance shall take effect ten (10) days after passage and approval.

PASSED this 27th day of August, 2007.

APPROVED this 28th day of August, 2007.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

TRACEY COVERT
City Clerk

Alderman Fruin questioned if government interference was the right thing to do. Mark Huber, Director of P.A.C.E., addressed the Council. He noted that City staff had coordinated the City's response with the Town of Normal. A joint letter would be sent to property owners with elevators and the elevator companies. Registration would be through the State. The state's regulations made it difficult for the City to maintain its program. Alderman Fruin questioned if City staff had involved state legislators in a discussion. Mr. Huber responded negatively. This directive came from the state's Fire Marshall's office. It was not practical to continue the City's program. Alderman Fruin expressed his opinion that communication was important and questioned moving forward. Mr. Hamilton noted that the City and Town would send a consistent message as there were individuals who owned buildings in both communities.

Alderman Purcell questioned elevator safety. Mr. Huber noted that the state program was more restrictive. There had not been an accident in the City in forty (40) years. Maintenance requirements would be increased under the state's program.

Motion by Alderman Purcell, seconded by Alderman Schmidt 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, Finnegan, Gibson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Petition submitted by Joseph and Carol Vericella requesting approval of a Special Use permit at 911 North East Street to allow a rooming house in an R-3A - Multiple Family Residence District (Ward 7) Case SP-07-07

BACKGROUND INFORMATION:

Adjacent Zoning

north: R-3A - Multiple Family Residence District)
south: R-3A – Same as above
east: R-2 - Mixed Residence District
west: R-3A – Same as north

Adjacent Land Uses

north: single family dwelling
south: apartments
east: single family dwelling
west: apartments

Current Land Use: single family dwelling

Comprehensive Plan: “High Density Residential” use is recommended for this property.

The property in question is a 50’ X 155’ (7,750 square foot) lot that is the site of a single family dwelling, a two (2) car garage, and an outdoor parking area for three (3) cars. The petitioners want to use this dwelling as a five (5) bedroom rooming house that would be rented to students.

The Zoning Code stipulates the following standards and conditions for rooming houses as a special use:

1. Minimum Fencing/Screening Required: Parking lots shall be screened in accordance with Section 44.4-7 C. of this 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: thirty (30) foot front yard, thirty (30) foot rear yard and ten (10) foot side yards
5. Maximum Height: thirty-five (35) feet or two and a half (2 ½) stories whichever is lower.
6. Additional Requirements: Parking requirements shall be in accordance with Section 44.7-2 of this Code for these special uses. (Rooming houses shall have one (1) parking space for every four hundred (400) square feet of gross floor area or five (5) parking spaces in this case.)

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 the 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 (1/2') foot candles. Said parking area shall also be screened along the rear of the property.

Since the subject property currently does not meet the sixty foot (60') minimum lot width requirement for this special use, the petitioners have requested a ten foot (10) variance of this minimum lot width requirement (Case Z-08-07). The petitioners have also requested a four foot (4') variance of the ten foot (10) side yard building setback requirement in order to allow for a six foot (6') side yard building setback between the house and the south lot line (Case Z-15-07).

The parking facilities in the rear yard can be accessed from the alley to the east since the alley has an all weather pavement and is designated by the City as one-way southbound. The site plan shows evergreen screening of the parking area along the rear of the property. Parking lot lighting is also indicated on the site plan.

BOARD OF ZONING APPEALS PUBLIC HEARINGS:

The Zoning Board of Appeals conducted public hearings on this petition on June 20, 2007 and on July 18, 2007. At the June 20th hearing, Mr. Mark R. Huber, Director of Planning and Code Enforcement, noted that there is a variance request for the lot width, but other variances are needed as well. He indicated some issues like parking space maneuvering room, dimensions, and access from the alley could possibly be modified with a different site plan to eliminate some of the variances. Mr. Joseph Vericella, 1112 Ironwood, Normal, indicated he would work with Mr. Huber and urged the Board to continue this case until the next meeting. No testimony was presented in opposition to this petition at the public hearing on June 20, 2007. The Board continued the public hearing until July 18, 2007 to let the petitioners seek the required variances.

At the July 18th hearing, Mr. Jeff Eckhoff, Building Safety Division Manager, noted that there is a four foot (4') encroachment of the building into the required ten foot (10') south side yard setback as well as the requested ten foot (10') variance in lot width. He apologized that this variance was not noticed nor published in time to put it on the July 18th agenda. He suggested that a vote on both of the variances be made at the next meeting on August 15, 2007 and that the Special Use recommendation be continued, or else be approved contingent on the variances being approved. He added that staff is supportive of both variances. Mr. Joseph Vericella and Mrs. Carol Vericella testified that they both understood the situation.

Mr. Vericella commented that they had purchased the property for use as rental housing for students and that is the reason for the requested special use permit for a rooming house. He noted that each student will have a separate bedroom but will share bathrooms and a kitchen.

No testimony was presented in opposition to this petition at the public hearing on July 18, 2007.

ZONING BOARD OF APPEALS RECOMMENDATION:

After having given due consideration to this petition and the staff's recommendations, the Zoning Board of Appeals PASSED a motion on July 18, 2007, by a vote of 6 to 0, recommending Council approval of Case SP-07-07 contingent on the Board's granting of a ten foot (10') variance of the sixty foot (60') minimum lot width requirement and a four foot (4') variance of the ten foot (10') side yard building setback requirement. On August 15, 2007, the Board of Zoning Appeals granted the ten foot (10') variance of the sixty foot (60') minimum lot width requirement and a four foot (4') variance of the ten foot (10') side yard building setback requirement.

STAFF RECOMMENDATION:

Staff concurs with the Board of Zoning Appeals and recommends approval of this special use permit.

Respectfully,

Kenneth Emmons
City Planner

Tom Hamilton
City Manager

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 R3-A 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 Petitioners respectfully prays that said special use for said premises be approved.

Respectfully submitted,

Joseph Vericella
Carol Vericella

ORDINANCE NO. 2007 - 78

**AN ORDINANCE APPROVING A SPECIAL USE PERMIT FOR A
ROOMING HOUSE AT 911 N. EAST**

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, Sections 7.30(E) and 7.30(K) of the Bloomington City Code - 1960, as amended; 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 27th day of August, 2007.

APPROVED this 28th day of August, 2007.

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Exhibit A:

Lot 7 Block 4 Durley Addition in the City of Bloomington, Illinois. For property commonly located at 911N. East Street.

PIN 11 21 04 201 003

Alderman Stearns questioned this item. She questioned who in the neighborhood had been notified. Mark Huber, Director of P.A.C.E., addressed the Council. He informed the Council that a sign was posted on the property. Three (3) Public Hearings were held before the Zoning Board of Appeals. A notice was published in the Pantagraph. In addition, a mailing was sent to notify the nearby property owners and occupants.

Mayor Stockton questioned the impact of Form Based Zoning, (FBZ), upon this Petition. Mr. Huber responded none. Under FBZ, each neighborhood would be treated differently. A Special Use remains with the property unless said use is discontinued for six (6) consecutive months or a combination of eighteen (18) months in a three (3) year period. He added that a rooming house required an annual license.

Motion by Alderman Purcell, seconded by Alderman Schmidt 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, Finnegan, Gibson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Renewal of the Programmatic Agreement between City and the Illinois State Historic Preservation Office

The City, through its administration of the Community Development Block Grant (CDBG) Program, must provide a review process for projects which impact properties of historical significance. The City's previous Programmatic Agreement with the Illinois State Historic Preservation Office was approved for fiscal years 2002-2007.

Minor changes have been implemented to reference required state and federal regulations; and to extend the agreement term from five (5) years to ten (10) years. The process and procedures remain the same as in the previous agreement.

Staff respectfully recommends that Council pass approve the agreement and that the Mayor and City Clerk be authorized to execute the necessary documents.

Respectfully,

Mark R. Huber,
Director of P.A.C.E.

Tom Hamilton
City Manager

PROGRAMMATIC AGREEMENT

AMONG THE CITY OF BLOOMINGTON, THE ILLINOIS STATE HISTORIC PRESERVATION OFFICER, AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION FOR CERTAIN PROGRAMS OF THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ADMINISTERED BY THE CITY OF BLOOMINGTON

WHEREAS, the City of Bloomington, Illinois (City) has determined that the implementation of its Community Development Block Grant (CDBG) and other U.S. Department of Housing and Urban Development (HUD) programs for Federal Fiscal Years 2007 - 2017 (listed in Appendix A) may have an effect on properties included or Eligible for inclusion in the National Register of Historic Places; and

WHEREAS, these programs are administered by the City's Planning and Code Enforcement Department, Community Development Division (Department) and encompass a variety of activities including: Rehabilitation, new construction, demolition, and infrastructure improvements; and

WHEREAS, the City has consulted with the Illinois State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (Council) pursuant to Section 106 of the National Historic Preservation Act on 1966, as amended (16 U.S.C. 470f) and its implementing regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800); and

WHEREAS, the City, the SHPO and the Council have determined that the City can more effectively fulfill its Section 106 review responsibilities for CDBG, HUD and IHDA program activities if a programmatic approach is used to delegate Section 106 compliance responsibilities to the City; and

WHEREAS, the City is a Certified Local Government with a historic preservation review commission and qualified professional staff who will carry out duties enumerated below.

NOW, THEREFORE, the City, the SHPO, and the Council agree that the programs shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

STIPULATIONS

I. Qualified Personnel

- A. The City shall ensure that it maintains a staff that meets the qualifications outlined in 36 CFR Part 61, the Secretary of the Interior's Professional Qualification Standards, hereafter referred to as Certified Staff.
- B. The City shall ensure that all historic preservation work carried out pursuant to this Agreement is carried out by or under the direct supervision of Certified Staff.
- C. The City shall notify the SHPO annually whether it has employed or contracted with qualified professionals to carry out reviews under the terms of the Programmatic Agreement or whether it will require assistance from the SHPO. The a brief biography or resume of qualified professionals and/or contractors shall be provided to the SHPO for review as a component of the Certified Local Government Annual Report.
- D. The City will notify the SHPO of any proposed staffing changes or vacancies. If the City does not have Certified Staff in place or if the SHPO does not certify a City staff person or consultant, then this Agreement will become null and void and the City instead will comply with 36 CFR Part 800.4 through 800.6 with regard to individual undertakings covered by this Agreement.

II. Exempt Activities

When the following activities are proposed for properties listed on the National Register or eligible for listing on the National Register, further review is not required because there is limited potential to affect the historic resource.

- A. Involvement of properties less than 50 years old not listed on or eligible for the National Register.
- B. Repair or replacement of electrical, plumbing, heating and ventilation systems or their components, when no structural alteration is involved. This includes repair or replacements of electrical panels, breakers, circuits, switches, receptacles and fixtures, plumbing and water lines, drains, sewers, fixtures, water heaters, heating vents, floor furnaces, wall heaters, central heat systems and gas lines.
- C. Painting of any exterior component which has previously been painted.
- D. Repair or replacement of existing curbs and sidewalks in kind (historic slate sidewalks are NOT exempt).

III. Identification and Evaluation of Historic Properties

- A. Identification of Historic Properties
1. The City will continue to survey its historic properties and forward information on locally significant properties to the SHPO. This information

will be conveyed via the Certified Local Government Annual Report.

2. In conducting a local identification of historic properties the City shall review and consult:
 - a. The current listing of the National Register of Historic Places.
 - b. S-4 Historic Preservation Zoned Properties.
 - c. Historic Resources as designated by the Illinois Historic Preservation Agency (properties potentially eligible for inclusion on the National Register of Historic properties, Survey, 1974)
3. When the City determines that additional information is required to adequately assess the presence of historic properties, additional surveys shall be conducted that are responsive to the nature of the undertaking. As appropriate, the focus of the identification surveys shall be on target areas rather than property-byproperty.

B: Evaluation of National Register Eligibility

1. Documentation for properties 50 years or older involved in a HUD or IHDA funded undertaking that are not individually listed in the National Register of Historic Places will be evaluated by Certified Staff. Certified Staff shall apply the National Register criteria and determine if the structures qualify for National Register eligibility.
2. If Certified Staff has questions concerning the eligibility of a certain property, he or she will forward documentation to the Bloomington Historic Preservation Commission (Commission) for evaluation and recommendation.
3. If the Commission has questions concerning the eligibility of a certain property, they will forward documentation to the SHPO for evaluation and recommendation. If the Commission chooses not to accept the recommendation of the SHPO, in this instance, they will forward adequate documentation, including the views of the SHPO, to the Keeper of the National Register of Historic Places for a formal determination of eligibility in accordance with 36 CFR Part 800.4©. The SHPO shall be notified accordingly.
4. Certified Staff may submit eligibility determinations for properties to the Bloomington Historic Preservation Commission and SHPO concurrently in order to expedite the Section 106 review.
5. Properties determined to be not listed on the National Register or not eligible for the National Register will be documented as such by Certified Staff and a copy of that determination will be included in the individual project files.

IV. Treatment of Historic Properties

A. Properties listed on the National Register, eligible for listing on the National Register, and which have been determined to meet the National Register criteria in accordance with Stipulation III shall be treated in accordance with this section.

B. Rehabilitation

1. The City shall ensure that work write-ups of plans and specifications for all rehabilitation activities not listed as exempt under Stipulation II are developed in accordance with the recommended approaches in *The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* (Standards). In addition, the City may also use the *Bloomington Historic Preservation Commission's Architectural Review Guidelines*.
2. Prior to the initiation of rehabilitation activities, program recipients shall submit work write-ups or plans, photographs and specifications which evidence adherence to the Standards to Certified Staff for review and approval. These plans must be complete enough in order to facilitate understanding of the proposed project.
3. Should Certified Staff recommend modifications to the work write-up or plans and specifications to ensure that the project meets the Standards, program recipients shall make the appropriate modifications and submit revised work write-ups or plans to Certified Staff. Should program recipients determine that they cannot make the modifications recommended by Certified Staff to meet the Standards, program recipients shall consult further with the Commission. If Certified Staff, in consultation with the Commission, determine that the project meets the criteria of adverse effect, the City will consult with the SHPO to develop a Standard Mitigation Measures Agreement in accordance with Stipulation V. If the SHPO determines that the Standard Mitigation Measures do not apply, the City shall notify the Council and initiate the consultation process set forth in 36 CFR Part 800.5(e).
4. If a project will have no effect or no adverse effect on historic resources, it may proceed after review and documentation in individual project files by Certified Staff.

C. Demolition and Relocation of Historic Properties

1. Recipients shall not proceed with the demolition or relocation of contributing buildings within an historic district or properties listed in or eligible for listing in the National Register until the procedures set forth in this section are completed.
2. Demolition or relocation of properties that are included in or eligible for

inclusion in the National Register, listed as contributing buildings within a historic district or included in the surveys listed in Section III.A.2., will be reviewed by the Commission on a case by case basis. The City and Certified Staff will submit the following documentation to the Commission for review:

- a. Location (including map) and description of the property proposed for demolition or relocation, including views of the public.
 - b. Reasons for demolition, including documentation of building code violations, structural reports citing building deficiencies and estimated cost for rehabilitation; or reasons for relocation.
 - c. A cost comparison of rehabilitation versus property acquisition and demolition and summary of alternatives considered.
 - d. Photographs of the property depicting its current condition.
 - e. Future plans for the site.
 - f. Proposed site for relocation.
3. If the Certified Staff, in consultation with the Commission, determine that demolition or relocation cannot be avoided, the City will consult with the SHPO to develop a Standard Mitigation Measures Agreement in accordance with Stipulation V. If the SHPO specifies that the Standard Mitigation Measures do not apply, the City shall notify the Council and initiate the consultation process set forth in 36 CFR Part 800.5(e).

D. New Construction

Program recipients shall ensure that the design of new construction, infill construction, or additions to historic buildings is compatible with the historic qualities of the historic district or adjacent historic buildings in terms of size, scale, massing, design, features and materials, and is responsive to the recommended approaches for new construction set forth in the Standards.

1. Program recipients shall develop preliminary design plans in consultation with the City. Plans and specifications will be submitted to Certified Staff for review and approval prior to the initiation of construction activities.
2. If Certified Staff, in consultation with the Commission, determine that the design of the new construction does not meet the Standards or would otherwise result in an adverse effect to historic properties, the City shall consult with the SHPO to develop a Standard Mitigation Measures Agreement in accordance with Stipulation V.
3. If the SHPO determines that the Standard Mitigation Measures do not apply, the City shall notify the Council and initiate the consultation process set forth in 36 CFR Part 8005(e).

E. Handicapped Accessibility

Handicapped accessibility projects undertaken by the City to comply with the American Disabilities Act and other local and federal requirements will follow these guidelines:

1. The City will explore all alternative methods to provide handicapped accessibility to historic buildings consistent with the Standards, National Park Service Brief Number 32 "Making Historic Properties Accessible," and the Department of the Interior's report *Access to Historic Buildings for the Disabled: Suggestions for Planning and Implementation*.
2. To the extent feasible, handicapped accessibility features will not be located on primary elevations of historic buildings and will not result in the removal of significant historic or architectural features or materials. Final plans and specifications for handicapped accessibility projects shall be reviewed and approved by Certified Staff to determine if the projects meet these guidelines. If the Certified Staff, in consultation with the Commission, determine that the Standards cannot be met or if the project could have an adverse effect on a historic property, then prior to taking any action, the City will consult with the SHPO and initiate procedures set forth in Stipulation V.

G. Site Improvements and Public Improvements

1. Site and public improvements within historic districts including sidewalk improvements, repaving of streets, installation of landscaping, street lighting and street furniture and other infrastructure improvements will adhere to the Standards. These improvements will be designed to ensure that character defining elements of historic properties are preserved through repair or replacement in kind. Any new materials or features introduced in a historic district will be responsive to the character of that district.
2. Final plans and specifications for site and public improvement projects shall be reviewed and approved by Certified Staff. If the Standards cannot be met or if the project could have an adverse effect on historic properties, then prior to taking any action the City will consult with the Commission.

H. Emergency Undertakings

1. When emergency demolition is required for historic properties associated with a HUD funded activity, Certified Staff will conduct an immediate review, if conditions allow. The existence of an emergency situation shall be based upon the need to eliminate an imminent threat of the health and safety of residents as identified by local building inspectors, fire department officials or other local officials.
2. The City shall forward documentation to Certified Staff for review immediately upon notification that an emergency exists. Documentation should include:

- a. Nature of the emergency.
 - b. Historic property involved.
 - c. Current condition of the building, including photographs.
 - d. Time frame allowed by local officials to respond to, or correct, the emergency situation.
3. The City shall consult with the SHPO to the greatest extent possible given particular circumstances.
 4. The City shall ensure that any mitigation measures recommended by the Certified Staff or SHPO are implemented, if feasible.

V. Resolution of Adverse Effects

A. If the City, in consultation with the Commission, determine that a project meets the Criteria of Adverse Effect, the City shall consult with the SHPO to determine whether the historic properties should be treated in accordance with the Standard Mitigation Measures outlined in Appendix B or reviewed in accordance with 36 CFR Part 800.5(e).

1. The City shall submit to the SHPO, background documentation to include an analysis of alternatives, recent structural reports or assessments of conditions, cost estimates for rehabilitation, programmatic and economic considerations, and marketing studies.
2. If the SHPO determines that a proposed demolition is an acceptable loss or no prudent and feasible alternatives exist to implementing the undertaking without adverse effects, the City, the SHPO and the program recipient shall execute a Standard Mitigation Measures Agreement as outlined in Appendix B.
3. Upon receipt of the Standard Mitigation Measures Agreement from the City, program recipients shall sign the Agreement and return the original to the City within 30 days following receipt. In cases where the City may act as program recipient, the City will consult in the Standard Mitigation Measures Agreement with the SHPO. No further review of the undertaking is required by the Council.
4. If program recipients object to the terms of the Standard Mitigation Measures' agreement, the program recipients shall notify the City and SHPO and initiate the consultation process set forth in 36 CFR Part 800.5(e).

B. Standard Mitigation Measures Agreements shall not be executed when one of the following circumstances exist.

1. The SHPO determines that the Standard Mitigation Measures do not apply to an undertaking.

2. Program recipients object to the Standard Mitigation Measures proposed by the City.
3. The City fails to respond within 30 days.
4. The undertaking will adversely affect a National Historic Landmark.
5. The public objects during the open Bloomington Preservation Commission meeting or by certified letter.
6. Historic human remains are present within the area of potential effect.

VI. Treatment of Archeological Sites

A. The City shall notify the SHPO when ground disturbing activities over an acre are part of a local undertaking.

1. The City shall request the SHPO's opinion regarding the potential effect of such activities on archeological properties prior to initiation of project activities. If the SHPO can determine that there is a high probability for the presence of significant archeological sites or cultural remains within the project area, the City or program recipient's shall contract qualified archeologists to conduct archeological surveys. The City shall forward the scope of work for the archeological survey to the SHPO for review and approval.
2. If the City and the SHPO determine that there is the potential for archeological properties listed in or eligible for listing in the National Register, the City and the program recipients shall seek ways to avoid the archeological properties. If the properties cannot be avoided, the City and the SHPO shall develop a data recovery plan that is consistent with the Secretary of the Interior's Standards and Guidelines for Archeological Documentation (48 CFR 44734-37) and take into account the Council's publication, "Treatment of Archeological Properties," its subsequent revisions and appropriate State guidelines. The City shall ensure that the approved plan is implemented by qualified archeologists.

VII. Public Involvement

A. Each year the City will notify the public of the City's current CDBG program and make available for public inspection documentation on the City's CDBG program. Included in this documentation will be general information on the types of activities undertaken with CDBG funds, information on identified historic properties in the community which might be affected by these activities, the amount of CDBG funds available in the current program year, and how interested persons can receive further information on the program.

B. At any time during the implementation of the measures stipulated in this Programmatic

Agreement, should the public raise an objection pertaining to the treatment of an historic property, the City shall notify the Commission and take the objection into account. Program recipients, the City, the Commission, the SHPO, or the Council, when requested by the objector, shall consult to resolve the objection. Program recipients are not required to cease work while objections are being reviewed, but the City reserves the right to halt work in light of valid arguments from the public.

VIII. Administration, Monitoring and Reporting

A. The SHPO shall provide comments within 30 days for reviews or comments requested by the City or the Commission, with the exception of emergency undertakings. In the event that the SHPO fails to comment within the 30 day time period, the City can assume that the SHPO concurs.

B. The SHPO shall conduct periodic training workshops for Certified Staff to review the requirements of this Programmatic Agreement. The SHPO shall also provide guidance related to implementation of the terms of the Programmatic Agreement.

C. The City shall ensure the SHPO of documentation for local undertakings which involve historic properties and were subject to the terms of the Programmatic Agreement in individual project or environmental files. Each project file shall include at a minimum:

1. Documentation why one of the exemptions from review is applicable.
2. Comments from Certified Staff, the Commission or the SHPO regarding the National Register eligibility of the property.
3. Proposed treatment of historic properties.
4. Before and after photographs.
5. Work write-ups.
6. Date the project was completed.

D. Documentation shall be available for review by the SHPO or Council following reasonable notice.

E. The SHPO shall conduct periodic monitoring visits of the City's project sites to ensure compliance with actions, plans, documents and agreements approved by the City, the SHPO or Council pursuant to this Programmatic Agreement.

F. Nothing in this agreement shall be construed as meaning that the City cannot request the advice or assistance of the SHPO at any time

G. As a component of the Certified Local Government Annual Report, the City shall summarize activities carried out under the terms of this Programmatic Agreement. The report will be submitted no later than June 1, of each year. The Annual Report shall include:

1. List of property addresses submitted for review.

2. Program in which the undertaking took place.
3. Evaluation of National Register eligibility, and if eligible, the finding of effect.

IX. Effective Date

This Programmatic Agreement shall take effect on the date it is signed by all the parties, including the City, the SHPO and the Council. The Programmatic Agreement will remain in effect until **April 30, 2017**, unless terminated due to failure to comply with the terms of the agreement.

X. Amendments

A. Any party to this Programmatic Agreement may request it be amended or modified, whereupon the City, SHPO and Council will consult in accordance with 36 CFR Part 800.13 to consider such revisions.

B. Any resulting amendments or addenda shall be developed and executed among the City, SHPO and Council in the same manner as the original Programmatic Agreement.

XI. Termination

Any party to the Programmatic Agreement may terminate the Agreement by providing 30 calendar days notice to the other parties, provided that the parties will consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination.

XII. Compliance with Agreement

Execution and implementation of this Programmatic Agreement and carrying out its provisions evidences that the City has satisfied its Section 106 responsibilities for all individual undertakings of the programs.

ILLINOIS STATE HISTORIC PRESERVATION OFFICER

By: Anne E. Haaker

Deputy State Historic Preservation Officer

September 24, 2007

CITY OF BLOOMINGTON

By: Stephen F. Stockton

Mayor

August 28, 2007

APPENDIX A

Programs Administered by the City of Bloomington U.S. Department of Housing and Urban Development Programs

1. Community Development Block Grant or City General Fund

- (a). Housing Rehabilitation Loan Program
 - (b). Demolition
 - (c). New Construction / Infrastructure
 - (d). Any other approved City or CDBG Projects / Activities
- 2. Continuum of Care Program
 - 3. Illinois Housing Development Authority Programs

Appendix B

Standard Mitigation Measures for Adverse Effects

Program recipients, the City and the SHPO may develop and execute an agreement that includes one or more of the following Standard Mitigation Measures, as modified by the SHPO, for undertakings not listed in Stipulation V, when the SHPO deems it appropriate. The Council will not be a party to these agreements; however, the City must submit a copy of the Council for their records within 30 days after the Agreement is executed.

A. Program recipients shall ensure that the historic property is recorded prior to its demolition, alteration or relocation in accordance with the Illinois Historic American buildings Survey / Historic American Engineering Record (IL HABS / HAER) standards or a recordation plan developed by the SHPO. At a minimum, this plan will establish recordation methods and standards. The SHPO shall identify appropriate archives for the deposit of recordation materials and program recipients shall be responsible for submitting such materials.

B. The City, in consultation with the SHPO, shall identify appropriate parties to receive salvaged architectural features. Program recipients shall ensure that significant architectural features are salvaged prior to the initiation of demolition activities and properly stored and curated. When feasible, salvaged architectural features shall be reused in other preservation projects, if appropriate.

C. Program recipients shall ensure that the treatment of historic properties or the design of new buildings which cannot feasibly meet the Standards or approved design guidelines is carried out in accordance with the construction documents or work write-ups reviewed and approved by Certified Staff and the Commission.

D. Program recipients shall ensure that the marketing plan proposed by the City and the SHPO is implemented for a mutually agreed upon period prior to the demolition or relocation of historic properties. Program recipients shall review all purchase offers in consultation with the City and the SHPO. If a successful purchaser is selected, program recipients shall include preservation covenants approved by the SHPO in the transfer deed. If no successful purchaser is identified, program recipients may either convey the property without covenants or proceed with the demolition or relocation after the historic properties have been recorded pursuant to IL HABS / HAER standards.

Alderman Schmidt expressed her concern that the Historic Preservation Commission (HPC) had not reviewed this agreement. She noted that the survey cited was dated 1974. The HPC wanted a new survey. She requested a motion to send this agreement back to the HPC. She questioned if the agreement was time sensitive. Tom Hamilton, City Manager, addressed the Council. He stated that this agreement had been in existence since the early 1980's. The survey formed the basis for the City's S – 4, Historic and Cultural District, zoning classification. The program addresses historic neighborhoods. Federal dollars were used. The agreement insures that the state and the City are involved. Federal dollars cannot be used from demolition. Alderman Schmidt questioned the impact of a contemporary survey. Mr. Hamilton stated that a building must be over fifty (50) years old. A request must go through the process in order that protection may be offered to all. The City has done additional surveys which in turn brought about additional S – 4 zoning classifications. He offered to present this agreement to the HPC before its next renewal. He recommended that the HPC speak with Mark Huber, Director of P.A.C.E. and Ken Emmons, City Planner.

Alderman Stearns stated that she had contacted Representative Dan Brady. In turn, she was directed to speak with the state's Historic Preservation office. This agreement would allow the City to review sites and be more involved. Mr. Hamilton directed the Council to sections III. Identification and Evaluation of Historic Properties and IV. Treatment of Historic Properties. These two (2) sections outlined the need for historians and architects.

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

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

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

Nays: None.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Appeal of a Decision by the Zoning Board of Appeals for a Fence Height Variance at 204 South Mercer Avenue

In June of 2007, Bloomington Normal Fence Co. installed a five (5) foot fence on the property located at 204 South Mercer Avenue without the benefit of a permit from Building Safety. Additionally, the five (5) foot fence is in violation of the Zoning Ordinance, limiting fence heights in required front yards to four (4) ft. in height. After being notified of the violation, the fence company filed an appeal with the Zoning Board of Appeals, seeking a variation for the fence height.

The Zoning Board of Appeals heard the case on August 15, 2007. The petitioners argued for the variance based on a dog that can jump a four (4) ft. fence and restrictions caused by a corner lot. Staff recommended denial of the variance based on the premise that the petition did not meet the required "findings of facts", primarily, that a dog is not a peculiar condition of the property; the corner lot is large and has no unusual circumstance or configuration warranting a variation; and the hardship was self-imposed due to construction without proper plans and permits.

After considering the testimony, the Zoning Board of Appeals voted 3-1 to approve the variance request. However, since a variation requires a minimum of four (4) affirmative votes for passage, the request was denied. The vote of the Zoning Board of Appeals, though not an approval would seem to indicate a recommendation for approval. However, since there has been no change to the request, staff is still of the opinion that this petition does not meet the standards or findings required for a variation and continues to recommend Council denial of the petition.

Respectfully,

Mark R. Huber
Director of P.A.C.E.

Tom Hamilton
City Manager

Alderman Hanson noted that this property was located within his ward. Alderman Stearns agreed. She had driven by the property and stated that the fence was a nice addition.

Alderman Hanson informed the Council that he had spoken with Mark Huber, Director of P.A.C.E. and Cheri Miller, Petitioner. He added that only four (4) Zoning Board of Appeals', (ZBA), members were present. The vote was three to one (3 to 1) in support this petition. He believed that this request was workable.

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

Motion carried.

Cheri Miller, 204 S. Mercer, addressed the Council. She expressed her appreciation to the Council for hearing her concern. She had requested a one foot (1') variance in height. She noted that her home was located on a corner lot. She was the owner of a black Labrador. She added her opinion that the five foot (5') fence was more aesthetic based upon the size of the house and lot. She acknowledged the City's concerns regarding public

access and safety. She had been informed that a variance might be necessary. The installer had claimed that his error was due to the common last name. She added that at the ZBA hearing only four (4) members were present. She needed four (4) affirmative votes. She did not understand the City's rationale for a four foot (4') fence. She cited other issues such as type of fence, landscaping, and placement of sidewalks and curbs. She presented photographs of her property. There were not any neighbors in opposition to her petition. She canvassed her neighborhood and had obtained twenty-two (22) signatures of support. She acknowledged that City staff was opposed and she requested special consideration by the Council. She also presented photographs of ten (10) other fences which she believed to be at least five feet (5') tall. Her request did not compromise the neighborhood. There was no risk and no safety issues.

Alderman Schmidt questioned if a building permit had been issued. Ms. Miller believed that this cost was included in her contract with the installer. Tom Hamilton, City Manager, addressed the Council. He noted that the work was completed without a permit. The contractor was fined. However, the ultimate responsibility lay with the homeowner.

Alderman Finnegan questioned the request. Ms. Miller cited the request was for a five foot (5') tall fence. Mr. Hamilton added that the contractor believed that the permit had been issued. The contractor would have been informed about the need for a variance if he had picked up the permit for the right address. He added his belief that the ZBA would have approved the Petition if all of its members had been present at the hearing. The fence was up and looked great.

Alderman Schmidt questioned Mr. Huber's position, (denial). Alderman Stearns noted the four foot (4') requirement applied to front yards. Mr. Hamilton stated that corner lots were considered to have two (2) front yards, (side yard and front yard).

Alderman Hanson acknowledged the efforts of City staff and the ZBA.

Alderman Huette questioned if Ms. Miller had a contacted the installer. Ms. Miller cited her preference for a five foot (5') fence. She cited her rescue dog and aesthetics.

Marion Micke, 202 S. Mercer, addressed the Council. She was Ms. Miller's immediate neighbor to the north. She cited the traffic speed on Mercer and Ms. Miller's concern for her dog. She described the neighborhood as wonderful. The neighbors were supportive of this Petition. She requested that the Council support this request. Alderman Stearns noted that there was no opposition to this Petition. Ms. Micke responded affirmatively. Alderman Stearns cited the ZBA's vote.

Motion by Alderman Purcell seconded by Alderman Schmidt to return to order.

Motion carried.

Alderman Gibson requested that Mr. Huber address the Council. Mr. Huber stated that the fence was installed without a permit. The contractor was fined. City staff

prepared a Findings of Fact. There were five (5) requirements. Ms. Miller's petition did not meet them. The ZBA made a decision that the petition did not meet the standards. The final decision regarding this matter would be made by the Council. He noted that the Zoning Code addressed land use. Dog ownership was not a Findings of Fact. Corner lots may be a hardship. He agreed that the lot was large. City staff stood by its recommendation. He added his belief that if the full ZBA had been present, then the Petition would have been approved. The ZBA currently has six (6) members. There should be seven (7).

Alderman Purcell questioned the photographs which had been presented. Mr. Huber stated that each address would have to be researched. Alderman Purcell noted that fences installed on corner lots can obstruct one's view. Mr. Huber acknowledged visibility requirements.

Alderman Finnegan noted that City staff was following City ordinances. Mr. Huber noted that City staff presents positions. The ZBA makes the decision. City staff's recommendations were based upon City Code.

Alderman Gibson questioned who was responsible for obtaining a permit. Mr. Huber stated the homeowner. The permit should be obtained prior to any work commencing.

Alderman Sage questioned if the ZBA's decision was binding. Mr. Huber noted that the Petition was for a variance. Mayor Stockton added that the Petitioner could appeal to the courts. This difficulty could have been avoided if either party had in fact obtained the permit.

Alderman Stearns stated that the underlying principal of zoning was to preserve and protect neighborhoods.

Motion by Alderman Hanson seconded by Alderman Schmidt that the Variance be granted.

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

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

Nays: None.

Motion carried.

MAYOR'S DISCUSSION: Mayor Stockton stated that the Council Retreat would be held on Saturday, October 20, 2007 from 9:00 a.m. until 3:00 p.m. The University of Illinois, Institute for Government and Public Affairs (UI/IGPA) would facilitate. Lunch would be provided. The meeting would not be held at City Hall.

Alderman Finnegan questioned if there would be an agenda. Mayor Stockton noted that the agenda was being developed. The UI/IGPA would facilitate. There would be discussions regarding decision making, goal setting, planning. etc. The afternoon would be focused on planning specifics. Key topics included: vision, goals, direction, empowerment, and accountability.

The US Cellular Coliseum, (USCC) Open House would include tours of the facility and break out sessions. Break out sessions would address the booking process, contracts and financials, and sports' teams – coaches and management staff. Recommended dates were Thursday, September 20, 2007, Monday, October 1, 2007 and Thursday, October 18, 2007. The final date was also the scheduled Hockey Open House. Aldermen Huette, Fruin and Purcell expressed support for a Monday evening. Mayor Stockton cited his preference for all of the elected officials to attend and meet with the public.

Mike Nelson, Central Illinois Arena Management, addressed the Council. He noted that October 1, 2007 was no longer an available date. The Breaking Benjamin concert was scheduled for Tuesday, October 2, 2007. He recommended Thursday, October 18, 2007. The hockey team would be practicing that night.

Alderman Schmidt described the Open House as a good opportunity for a variety of people. Mr. Nelson added that the public would be allowed to skate with the team plus there would be the break out sessions.

Mayor Stockton noted that this date was six (6) weeks away. The informational meetings would be for the benefit of the public. Alderman Sage echoed the Mayor's concerns. Alderman Stearns added that the meeting should be sooner and not later. Alderman Fruin encouraged the Council to pick a date. Mayor Stockton selected Thursday, September 20, 2007 from 6:00 – 7:30 p.m.

Mayor Stockton reminded the Council that the Budget Work Session would be held on Wednesday, September 5, 2007. This meeting would be to address general ideas for the Fiscal Year 2008 – 2009 budget. He added his belief that there would be additional Work Sessions. The Council should consider changes and new programs. The meeting would be centered on ideas not amounts. He would provide a handout from last year's Budget Work Session. There would also be a list of items from the discussions which were held with individual Alderman. Alderman Fruin questioned if there were any recurring themes/items. Mayor Stockton noted that the list of programs equaled eight (8) pages.

Tom Hamilton, City Manager, noted that there were a lot of different directions. Council direction was important. Budget preparation took time. A critical issue was direction on the Tax Levy. City staff would provide the Council with history and a basic understanding.

Mayor Stockton noted that the Council would return to its back to the basics approach at the October 8, 2007 Work Session. The topic would be the Police Department.

He added that there had been an interest regarding a Work Session on the quality of life. Other topics included water – from rates, to status, to ground wells.

Alderman Hanson questioned the time table. He noted the City's various commitments. He questioned where the money would come from. He encouraged the Council to review the City's capital budget. Mr. Hamilton agreed that there was a list of commitments.

Alderman Fruin questioned if the Water Treatment Plant tour had been rescheduled. Mayor Stockton questioned the Council's interest. There were individual aldermen who had toured this facility. Mr. Hamilton was instructed to reschedule same. Alderman Stearns noted that an alderman can visit the facility at any time. Mr. Hamilton encouraged the aldermen to contact Craig Cummings, Director of Water.

CITY MANAGER'S DISCUSSION: None.

ALDERMEN'S DISCUSSION: Alderman Fruin requested that the Council come to the Budget Work Session with thoughts on how to improve communication. He cited the Parks & Recreation Department's fall brochure. He questioned how well the City communicated and how well the City had been promoted.

Alderman Schmidt expressed her appreciation regarding Hot August Nights, which was held in the Downtown on Saturday, August 25, 2007. She described the event as successful.

Alderman Purcell questioned the skate board park bid. Tom Hamilton, City Manager, noted that any and/or all questions regarding a bid should be directed to the responsible department head and/or the City Clerk. He noted this advice applied to potential vendors and citizens. He cited the legal issues involved. Mayor Stockton encouraged the Council to stay away from this area. Alderman Schmidt noted that the Council should not be communicating with anyone regarding bids. Mr. Hamilton noted that there were statutes regarding purchasing.

Alderman Purcell stated that he also enjoyed Hot August Nights. He noted the concerns regarding the Downtown. The City cannot guarantee the success of each business. The City had invested \$50 million in the Downtown. He cited a recent article in the Pantagraph. Mayor Stockton noted that he was scheduled to meet with the newspaper's editorial board. Alderman Purcell added that downtowns were an issue throughout the country. Alderman Stearns echoed Alderman Purcell's comments. She encouraged City staff to do more of this type of event.

Alderman Stearns thanked the Police Department for the ride along. She described it as an educational experience. She cited an event which occurred on Saturday evening, (August 25, 2007). She questioned how many officers were involved in this incident and if there were other serious incidents that same night. She expressed her interest in additional ride alongs and encouraged other aldermen to do the same.

Mayor Stockton and Alderman Hanson noted that there were no police incidents at Hot August Nights. They were surprised by the crowd.

Alderman Finnegan questioned the Council's plan for the Labor Day Parade. Mayor Stockton encouraged all to meet at City Hall and proceed to the staging area.

Motion by Alderman Purcell, seconded by Alderman Schmidt, that the meeting be adjourned. Time: 10:15 p.m.

Motion carried.

**Tracey Covert
City Clerk**