

**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 28, 2006.

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: Joseph "Skip" Crawford, Kevin Huette, Allen Gibson, Michael Matejka, John Hanson, Jim Finnegan, Steven Purcell, Karen Schmidt and Mayor Stephen F. Stockton.**

**Deputy City Manager, Barb Adkins, City Clerk Tracey Covert, and Corporate Counsel Todd Greenburg were also present.**

**Absent: City Manager, Tom Hamilton.**

**The following was presented:**

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Opening of One Bid for General Maintenance Resurfacing of City Streets Motor Fuel Tax No. 06-00000-00-GM

Bids were received by the City Clerk for General Maintenance Resurfacing, MFT, of City Streets until 2:00 p.m. on Wednesday, August 23, 2006. There is \$500,000 budgeted for this item. Only one bid was received and it is City policy in situations where only one bid is received to have the bid opened and read at the Council Meeting

Staff requests that the City Council authorize the Director of Engineering to open the bid at the August 28, 2006 Meeting and present the City Council with a recommendation prior to the end of the Council Meeting concerning award of the bid.

Respectfully,

Douglas G. Grovesteen  
Director of Engineering

Tom Hamilton  
City Manager

**Motion by Alderman Matejka, seconded by Alderman Purcell that the bid be opened at the Council meeting, referred to staff for analysis and reported back to Council prior to the end of the meeting.**

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

**Ayes: Aldermen Crawford, Huette, Schmidt, Finnegan, Gibson, Hanson, Matejka and Purcell.**

**Nays: None.**

**Motion carried.**

**The following was presented:**

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Council Proceedings and Work Session Minutes of April 11, 2005 and Executive Session Minutes of August 14, 2006

The Council Proceedings for and Work Session Minutes of April 11, 2005 and Executive Session Minutes of August 14, 2006 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 Huette, seconded by Alderman Gibson that the reading of the minutes of the previous Council Meeting and Work Session of April 11, 2005 and Executive Session of August 14, 2006 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 Crawford, Huette, Schmidt, Finnegan, Gibson, Hanson, Matejka and Purcell.**

**Nays: None.**

**Motion carried.**

**The following was presented:**

August 28, 2006

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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 Huette, seconded by Alderman Gibson 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 Crawford, Huette, Schmidt, Finnegan, Gibson, Hanson, Matejka 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, 2006

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 28, 2006 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 Huette, seconded by Alderman Gibson that the audit of the bills and payrolls for the Township for the month of July, 2006 be made a matter of record.**

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

**Ayes: Aldermen Crawford, Huette, Schmidt, Finnegan, Gibson, Hanson, Matejka and Purcell.**

**Nays: None.**

**Motion carried.**

**The following was presented:**

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

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

1. Motor Fuel Tax Allotment for the month of July, 2006.
2. Monthly Receipt & Expenditure Report, July, 2006.
3. Planning and Code Enforcement Department Fiscal Year Report - 2005-2006.

Respectfully,

Tracey Covert  
City Clerk

Tom Hamilton  
City Manager

(REPORTS ON FILE IN CLERK'S OFFICE)

**Motion by Alderman Huette, seconded by Alderman Gibson that the reports be received and placed on file.**

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

**Ayes: Aldermen Crawford, Huette, Schmidt, Finnegan, Gibson, Hanson, Matejka and Purcell.**

**Nays: None.**

**Motion carried.**

**The following was presented:**

To: Honorable Mayor and Members of the City Council  
 From: Staff  
 Subject: Change Order #7 for US Cellular Coliseum

Attached is a list of change orders submitted by Johnston Contractors, Inc. for additions, deletions, and corrections in the construction of the US Cellular Coliseum. All of these change orders pertain directly to the Coliseum portion of the project. Funds for these change orders will come from the construction contingency for the overall Coliseum project. The construction contingency status is outlined below including previously paid change orders from the contingency fund.

Construction Contingency	\$1,000,000
Approved Change Order #1	\$ 22,333
Approved Change Order #2	\$ 38,948
Approved Change Order #3	\$ 76,628
Approved Change Order #4	
Parking Deck	\$ 30,365
Approved Change Order #5	
Parking Deck	\$ 16,148
Approved Change Order #6	\$ 158,418
This Change Order #7	\$ 91,305
Available Contingency	\$ 565,855

Staff believes that these change orders are necessary to complete the Coliseum project. Staff respectfully recommends that Council approve change order #7 to the contract with Johnston Contractors, Inc. in the amount of \$91,305, and that the Resolution be adopted.

Respectfully,

Tom Hamilton  
 City Manager

**RESOLUTION NO. 2006 - 111****A RESOLUTION AUTHORIZING A CHANGE ORDER IN THE AMOUNT OF \$91,305 IN THE CONTRACT BETWEEN THE CITY OF BLOOMINGTON AND JOHNSTON CONTRACTORS, INC. FOR THE CONSTRUCTION OF THE US CELLULAR COLISEUM**

WHEREAS, the City of Bloomington has previously entered into a contract with Johnston Contractors, Inc. for the construction of the US Cellular Coliseum; and

WHEREAS, for the reasons set forth in a staff report dated August 28, 2006 it was necessary for additions, deletions, and corrections in the construction of the US Cellular Coliseum; and

WHEREAS, it is the finding of the City Council that the decision to perform the work described in the August 28, 2006 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 \$91,305 in the contract between the City of Bloomington and Johnston Contractors, Inc. for the construction of the US Cellular Coliseum be approved.

PASSED this 28<sup>th</sup> day of August, 2006.

ADOPTED this 29<sup>th</sup> day of August, 2006.

Stephen F. Stockton  
Mayor

ATTEST:

Tracey Covert  
City Clerk

**Alderman Schmidt questioned this item. She requested an updated running balance for the Contingency Fund. Barb Adkins, Deputy City Manager, stated that this information was contained in the Council memorandum. She offered to verify same with Tom Hamilton, City Manager, upon his return from vacation.**

**Motion by Alderman Huette, seconded by Alderman Gibson that the Change Order to the contract with Johnston Contractors, Inc., in the amount of \$91,305 be approved, and the Resolution adopted.**

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

**Ayes: Aldermen Crawford, Huette, Schmidt, Finnegan, Gibson, Hanson, Matejka 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 the US Cellular Coliseum

Attached is a series of change orders required to complete the Coliseum project. These changes were outside the scope of the contract with Johnston Contractors Inc. and must be paid separately. These change orders include extra work done on the Pepsi Ice Center, work required to supply adequate electricity to the Coliseum scoreboard and its installation, as well as small work items to complete concessions. In total, these change orders amount to \$56,380. This is broken down as follows:

- I. Pepsi Ice Center \$11,536.55
- II. Coliseum \$33,099.45
- III. Concession Work \$11,744

Funding for work at the Pepsi Ice Center will come from the bond issue fund balance which is currently estimated at \$190,000. Funding for the remaining items will come from the remaining construction contingency which has a balance of \$565,855. Following payment of these items, there is only one (1) potential change order remaining on the entire project. This potential change order is well under the amount of contingency remaining.

Staff respectfully recommends that Council approve these change orders to the contract with Johnston Contractors, Inc. as submitted.

Respectfully submitted,

Tom Hamilton  
City Manager

**RESOLUTION NO. 2006 - 112****A RESOLUTION AUTHORIZING A CHANGE ORDER IN THE AMOUNT OF \$56,380 IN THE CONTRACT BETWEEN THE CITY OF BLOOMINGTON AND JOHNSTON CONTRACTORS, INC. FOR THE US CELLULAR COLISEUM**

WHEREAS, the City of Bloomington has previously entered into a contract with Johnston Contractors, Inc. for the US Cellular Coliseum; and

WHEREAS, for the reasons set forth in a staff report dated August 28, 2006 it was necessary to include extra work done on the Pepsi Ice Center, work required to supply adequate electricity to the Coliseum scoreboard and its installation, as well as small work items to complete concessions; and

WHEREAS, it is the finding of the City Council that the decision to perform the work described in the August 28, 2006 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 \$56,380 in the contract between the City of Bloomington and Johnston Contractors, Inc. for the US Cellular Coliseum be approved.

PASSED this 28<sup>th</sup> day of August, 2006.

ADOPTED this 29<sup>th</sup> day of August, 2006.

Stephen F. Stockton  
Mayor

ATTEST:

Tracey Covert  
City Clerk

**Motion by Alderman Huette, seconded by Alderman Gibson that the Change Order to the contract with Johnston Contractors, Inc. in the amount of \$56,380 be approved, and the Resolution adopted.**

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

**Ayes: Aldermen Crawford, Huette, Schmidt, Finnegan, Gibson, Hanson, Matejka and Purcell.**



**Nays: None.**

**Motion carried.**

**The following was presented:**

To: Honorable Mayor and Members of the City Council  
From: Staff  
Subject: Change Order #3 to the Contract with W.M. Masters, Inc. for the Structured Cabling System within the US Cellular Coliseum and Pepsi Ice Center

In November 2005, Council awarded the Structured Cabling System installation contract for the US Cellular Coliseum and Pepsi Ice Center to W.M. Masters, Inc. in the amount of \$145,685. W.M. Masters has completed the installation to the specifications provided in the original contract.

During the installation process, staff requested that W.M. Masters provide materials and workmanship above what was called for in the original specifications. These requests came in the form of additional data/voice/wireless or coaxial cable drop locations, additional cable runs to support both the in-house video camera feed and the loading dock area connections to in-house camera locations, and physical installation of a small number of wall-mount computer terminals. This will be the last change order for this contract as all items have been completed.

Staff has received the invoice detailing the additional charges for the current change order totaling \$14,768. Staff has found these charges to be in order and respectfully requests Council approval, and that the Resolution be adopted.

Respectfully,

Scott Sprouls  
Director of Information Services

Tom Hamilton  
City Manager

**RESOLUTION NO. 2006 - 113**

**A RESOLUTION AUTHORIZING A CHANGE ORDER IN THE AMOUNT OF \$14,768  
IN THE CONTRACT BETWEEN THE CITY OF BLOOMINGTON AND W.M.  
MASTERS, INC. FOR THE STRUCTURED CABLING SYSTEM WITHIN THE US  
CELLULAR COLISEUM AND PEPSI ICE CENTER**

WHEREAS, the City of Bloomington has previously entered into a contract with W.M. Masters, Inc. for the Structured Cabling System within the US Cellular Coliseum and Pepsi Ice Center; and

WHEREAS, for the reasons set forth in a staff report dated 2006 it was necessary to include additional data/voice/wireless or coaxial cable drop locations, additional cable runs to support both the in-house video camera feed and the loading dock area connections to in-house camera locations, and physical installation of a small number of wall-mount computer terminals; and

WHEREAS, it is the finding of the City Council that the decision to perform the work described in the August 28, 2006 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 \$14,768 in the contract between the City of Bloomington and W.M. Masters, Inc. for the Structured Cabling System within the US Cellular Coliseum and Pepsi Ice Center be approved.

PASSED this 28<sup>th</sup> day of August, 2006.

ADOPTED this 29<sup>th</sup> day of August, 2006.

Stephen F. Stockton  
Mayor

ATTEST:

Tracey Covert  
City Clerk

**Motion by Alderman Huette, seconded by Alderman Gibson that the Change Order to the contract with W.M. Masters, Inc. in the amount of \$14,768 be approved, and the Resolution adopted.**

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

**Ayes: Aldermen Crawford, Huette, Schmidt, Finnegan, Gibson, Hanson, Matejka 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 ninth partial payment to Kone, Inc. in the amount of \$18,391.70 on a contract amount of \$176,057 of which \$171,245 will have been paid to date for work certified as 97% complete for the Design/Build of the US Cellular Coliseum. Completion date - April 2006.
2. The eleventh and final payment to Commercial Floor Covering in the amount of \$50,860.50 on a contract amount of \$313,799 of which \$313,799 will have been paid to date for work certified as 100% complete for the Design/Build of the US Cellular Coliseum. Completion date - April 2006.
3. The twentieth and final payment to Stark Excavating, Inc. in the amount of \$379,817.80 on a contract amount of \$3,630,526 of which \$3,630,526 will have been paid to date for work certified as 100% complete for the Design/Build of the US Cellular Coliseum. Completion date - April 2006.
4. The twenty-eighth partial payment to Johnston Contractors, Inc. in the amount of \$116,924.51 on a contract amount of \$3,541,592 of which \$3,526,386.87 will have been paid to date for work certified as 99.57% complete for the Design/Build of the US Cellular Coliseum. Completion date - April 2006.
5. The eleventh and final payment to IPC Inc. in the amount of \$504,226.49 on a contract amount of \$4,627,059 of which \$4,627,059 will have been paid to date for work certified as 100% complete for the Design/Build of the US Cellular Coliseum. Completion date - April 2006.
6. The thirteenth partial payment to Felmley Dickerson in the amount of \$45,334.45 on a contract amount of \$764,057 of which \$725,854.15 will have been paid to date for work certified as 95% complete for the Design/Build - Misc. Metals of the US Cellular Coliseum. Completion date - April 2006.
7. The fourteenth partial payment to Felmley Dickerson in the amount of \$33,817.55 on a contract amount of \$676,351 of which \$642,533.45 will have been paid to date for work certified as 95% complete for the Design/Build - General Trades of the US Cellular Coliseum. Completion date - April 2006.
8. The fourth partial payment to Wayne Dalton of Peoria in the amount of \$17,274.60 on a contract amount of \$131,322 of which \$118,189.80 will have been paid to date for work certified as 90% complete for the Design/Build of the US Cellular Coliseum. Completion date - April 2006.

9. The fifth and final payment to Otto Baum Co., Inc. in the amount of \$6,720.60 on a contract amount of \$43,725 of which \$43,725 will have been paid to date for work certified as 100% complete for the Design/Build of the US Cellular Coliseum. Completion date - April 2006.
10. The fifth and final payment to Pipeworks, Inc. in the amount of \$9,780 on a contract amount of \$68,730 of which \$68,730 will have been paid to date for work certified as 100% complete for the Design/Build of the US Cellular Coliseum. Completion date - April 2006.
11. The eighth and final payment to IPC Inc. in the amount of \$148,996.60 on a contract amount of \$1,259,818 of which \$1,259,818 will have been paid to date for work certified as 100% complete for the Design/Build of the US Cellular Coliseum Parking Garage. Completion date - April 2006.
12. The fifth and final payment to Kelly Glass in the amount of \$10,330 on a contract amount of \$103,304 of which \$103,304 will have been paid to date for work certified as 100% complete for the Design/Build of the US Cellular Coliseum Parking Garage. Completion date - April 2006.
13. The third and final payment to Associated Constructors Co., Inc. in the amount of \$4,303 on a contract amount of \$43,030 of which \$43,030 will have been paid to date for work certified as 100% complete for the Design/Build of the US Cellular Coliseum Parking Garage. Completion date - April 2006.
14. The third and final payment to McDaniel Fire Systems in the amount of \$6,504 on a contract amount of \$19,968 of which \$19,968 will have been paid to date for work certified as 100% complete for the Design/Build of the US Cellular Coliseum Parking Garage. Completion date - April 2006.
15. The tenth and final payment to D & H Electric & Heating Co. in the amount of \$11,315.55 on a contract amount of \$113,160 of which \$113,160 will have been paid to date for work certified as 100% complete for the Design/Build of the US Cellular Coliseum Parking Garage. Completion date - April 2006.
16. The nineteenth and final payment to Johnston Contractors, Inc. in the amount of \$7,508.53 on a contract amount of \$366,005 of which \$366,005 will have been paid to date for work certified as 100% complete for the Design/Build of the US Cellular Coliseum Parking Deck. Completion date - April 2006.
17. The eleventh partial payment to Felmley Dickerson in the amount of \$52,070.45 on a contract amount of \$885,780 of which \$820,237.55 will have been paid to date for work certified as 93% complete for the Design/Build - Concrete, Excavating, and Foundation of the US Cellular Coliseum Parking Deck. Completion date - April 2006.

18. The seventh partial payment to Felmley Dickerson in the amount of \$805 on a contract amount of \$15,200 of which \$11,884 will have been paid to date for work certified as 78% complete for the Design/Build - Doors, Frames, and Hardware of the US Cellular Coliseum Parking Deck. Completion date - April 2006.
19. The seventh and final payment to Phillips Swager Associates Inc. in the amount of \$1,700 on a contract amount of \$22,400 of which \$22,400 will have been paid to date for work certified as 100% complete for the Pre-Design of Police Dispatch Center. Completion date - July 2006.
20. The twenty-seventh partial payment to New World Systems in the amount of \$16,050 on a contract amount of \$671,523 of which \$558,232.26 will have been paid to date for work certified as 83% complete for the Police and Fire Computer Aided Dispatch System. Completion date - July 2006.
21. The twenty-eighth partial payment to New World Systems in the amount of \$5,259.74 on a contract amount of \$671,523 of which \$563,492 will have been paid to date for work certified as 84% complete for the Police and Fire Computer Aided Dispatch System. Completion date - July 2006.
22. The twenty-ninth partial payment to New World Systems in the amount of \$2,800 on a contract amount of \$671,523 of which \$566,292 will have been paid to date for work certified as 84% complete for the Police and Fire Computer Aided Dispatch System. Completion date - July 2006.
23. The fourth partial payment to APACE Architects & Design in the amount of \$3,942.50 on a contract amount of \$214,950 of which \$23,972.50 will have been paid to date for work certified as 11% complete for the Design of Fire Station #5. Completion date - May 2008.
24. The third partial payment to Testing Services Corporation in the amount of \$5,465.55 on a per ton and hour contract of which \$10,986.55 will have been paid to date for work certified as ongoing for the 2006-2007 Asphalt & Portland Concrete Plant Inspection and Lab Testing. Completion date - July 2007.
25. The first partial payment to Rowe Construction in the amount of \$274,650 on a contract amount of \$710,000 of which \$274,650 will have been paid to date for work certified as 38.7% complete for the 2006-2007 General Resurfacing. Completion date - October 2006.
26. The fifth partial payment to Laesch Electric, Inc. in the amount of \$37,731 on a contract amount of \$118,963.11 of which \$113,426 will have been paid to date for work certified as 95% complete for the Airport Road at College Avenue Traffic Signals. Completion date - September 2006.

27. The third partial payment to McLean Regional Planning Commission in the amount of \$6,885.80 on a contract amount of \$275,471.99 of which \$204,835.91 will have been paid to date for work certified as 74% complete for the Pinnacle Mapping Technologies, Inc. a/k/a aerial photography. Completion date - April 2007.
28. The second partial payment to Farnsworth Group in the amount of \$4,524.07 on a contract amount of \$10,000 of which \$5,361.57 will have been paid to date for work certified as 54% complete for the Ireland Grove Road Design QA/QC. Completion date - January 2007.
29. The eleventh partial payment to Foth & Van Dyke/Daily Division in the amount of \$2,878.53 on a contract amount of \$339,497 of which \$231,650.21 will have been paid to date for work certified as 68% complete for the Mitsubishi Motorway Study Design and Specifications. Completion date - August 2006.
30. The tenth partial payment to Farnsworth Group in the amount of \$36,246.35 on a contract amount of \$168,400 of which \$135,063.35 will have been paid to date for work certified as 80% complete for the Lincoln Street - Bunn to Morrissey. Completion date - November 2006.
31. The ninth partial payment to Farnsworth Group in the amount of \$12,440.20 on a contract amount of \$203,300 of which \$119,075.50 will have been paid to date for work certified as 59% complete for the Constitution Trail - Grove to Hamilton. Completion date - November 2006.
32. The fifteenth partial payment to Clark Dietz, Inc. in the amount of \$12,507.78 on a contract amount of \$330,000 of which \$292,950.72 will have been paid to date for work certified as 89% complete for the Hamilton Road - Timberlake to Main Street. Completion date - December 2006.
33. The fifth partial payment to Stark Excavating, Inc. in the amount of \$112,938.12 on a contract amount of \$1,399,893.75 of which \$518,204.92 will have been paid to date for work certified as 37% complete for the Euclid Avenue - Oakland to Washington. Completion date - November 2006.
34. The seventh partial payment to Clark Dietz, Inc. in the amount of \$476.88 on a contract amount of \$140,000 of which \$59,334.90 will have been paid to date for work certified as 42% complete for the Locust - Colton CSO Study. Completion date - January 2007.
35. The ninth partial payment to Farnsworth Group in the amount of \$3,380.30 on a contract amount of \$284,520 of which \$165,286.88 will have been paid to date for work certified as 58% complete for the Kickapoo Force Main Design, Property Surveys and Brokaw Road Surveys. Completion date - November 2006.

36. The second partial payment to Stark Excavating, Inc. in the amount of \$166,212 on a contract amount of \$838,844.50 of which \$349,575 will have been paid to date for work certified as 42% complete for the Lafayette-Maple Sanitary Relief Sewer. Completion date - October 2006.
37. The second partial payment to Deneen Brothers Farms, LLC in the amount of \$54,189.47 on a contract amount of \$312,132 of which \$147,119.19 will have been paid to date for work certified as 47% complete for the St. Patrick's Church of Merna Sanitary Sewer. Completion date - August 2006.
38. The eleventh and final payment to Associated Constructors Co., Inc. in the amount of \$140,294.50 on a contract amount of \$1,130,884 of which \$1,130,884 will have been paid to date for work certified as 100% complete for the Design Build of the US Cellular Coliseum. Completion date - April 2006.

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

**Alderman Huette questioned Payment 11. The eighth and final payment to IPC Inc. in the amount of \$148,996.60 on a contract amount of \$1,259,818 of which \$1,259,818 will have been paid to date for work certified as 100% complete for the Design/Build of the US Cellular Coliseum Parking Garage. Completion date - April 2006. It was noted that IPC was Innovative Precast Solutions.**

**Motion by Alderman Huette, seconded by Alderman Gibson that the payments be approved.**

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

**Ayes: Aldermen Crawford, Huette, Schmidt, Finnegan, Gibson, Hanson, Matejka and Purcell.**

**Nays: None.**

**Motion carried.**

**The following was presented:**

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Rejection of Request for Qualifications for Building/Design Services

Proposals were received by the City Clerk on Wednesday, August 16, 2006 until 2:00 p.m. for Building/Design Services (animal quarantine/hospital). Only one bid was received by the City Clerk from Edwards Associates, Bloomington. It is City policy in situations where only one bid is received to have the bid opened and read at the Council Meeting.

Staff requests that the City Council reject the Request for Qualification and authorize staff to resolicit the Request for Qualifications for Building/Design Services (animal quarantine/hospital).

Respectfully,

Tracey Covert  
City Clerk

Tom Hamilton  
City Manager

**Alderman Schmidt questioned this item. She noted that only one RFQ, (Request for Qualification) had been received. Dean Kohn, Director – Parks & Recreation, addressed the Council. Staff needed to make a determination whether to work with an architect or a building design firm for this project. The City would develop better language and resolicit the project.**

**Motion by Alderman Huette, seconded by Alderman Gibson that the Request for Qualification be rejected and staff be authorized to resolicit the Request for Qualifications for Building/Design Services (animal quarantine/hospital).**

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

**Ayes: Aldermen Crawford, Huette, Schmidt, Finnegan, Gibson, Hanson, Matejka 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 Approve a Professional Services Contract for the Design of a Small Water Main Extension Project

Plans have been submitted for a water main extension to run south on the west side of Towanda Barnes Road, from the area of GE Road and Towanda Barnes Road to front the lots being developed. The balance of the property on the west side of Towanda Barnes Road to the south of this development is Central Illinois Regional Airport (CIRA) property and will probably not be developed for years to come.

Directly east of the CIRA property, across Towanda Barnes Road is the new development, Harvest Pointe Subdivision. Since part of the development agreement with the Harvest Pointe developers is to provide a second water main connection into the development, the small water main extension will align with the street that will provide the northern entrance into Harvest Pointe from Towanda Barnes Road.

This proposed water main extension, when connected to the northern entrance of the Harvest Pointe Subdivision will also reinforce the water system to the south of IL Route 9 as it will provide a connection from GE Road, through Harvest Pointe Subdivision, to IL Route 9 and eventually south from IL Route 9 to Oakland Avenue (that water main extension is set to be built this year as well).

Staff respectfully requests that Council waive the formal bidding process and approve a contract with the Farnsworth Group, Inc. at a cost not to exceed \$5,500 for consulting work to design the water main, prepare the necessary documents for permit applications and prepare the easement documents. Payment for this work will be made with Water Department Transmission and Distribution Division, Operations and Maintenance Funds, Other Professional and Technical Services (X50120-70220).

Respectfully,

Craig M. Cummings  
Director of Water

Tom Hamilton  
City Manager

**RESOLUTION NO. 2006 - 114**

**A RESOLUTION WAIVING THE FORMAL BIDDING PROCESS AND  
AUTHORIZING A PROFESSIONAL SERVICES CONTRACT WITH FARNSWORTH  
GROUP, INC. FOR THE DESIGN OF A SMALL WATER MAIN EXTENSION  
PROJECT IN AN AMOUNT NOT TO EXCEED \$5,500**

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

1. That the bidding process be waived and a Professional Services Contract with Farnsworth Group, Inc. be approved for the Design of a Small Water Main Extension Project in an amount not to exceed \$5,500.

Adopted this 28<sup>th</sup> day of August, 2006.

Approved this 29<sup>th</sup> day of August, 2006.

Stephen F. Stockton  
Mayor

ATTEST:

Tracey Covert  
City Clerk

#### AGREEMENT FOR ENGINEERING SERVICES

AGREEMENT is effective this \_\_\_\_\_ day of \_\_\_\_\_ in the year 2006, between Farnsworth Group, Inc., hereinafter referred to as FGI, of 2709 McGraw Drive, Bloomington, IL 61704 and The City of Bloomington of 401 ½ S. East Street, Bloomington, IL 61701 hereinafter referred to as the CLIENT.

The scope of Services to be provided under this agreement is as follows:

A. Water main Design

Farnsworth Group will design approximately a 900 foot extension of the proposed 16" water main from the south edge of Hawthorne Commercial Park to the point of future connection to the water main with Harvest Point Subdivision. Also included are modified EPA permit applications to include this water main with the Hawthorne Commerce Park Fifth water main application. The preliminary estimate of construction costs for these improvements is \$111,330.00.

B. Easement Plat

Farnsworth Group will prepare an easement plat showing both temporary working easements as needed on Central Illinois Regional Airport Authority property for the water main described in Section A above. Also included in this easement plat are negotiations with the Airport Authority and attendance at an Airport Authority Board Meeting for this easement approval.

The fee for the above described services will be: Section A: Payment for services described in Section A above will be on a time and material basis according to the attached fee schedule not to exceed \$4,200.00. Section B: Payment shall be on a time and material basis with the attached fee scheduled not to exceed \$1,000.00.

This Agreement with the attached General Conditions represent the entire and integrated Agreement between the CLIENT and FARNSWORTH GROUP, INC. and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both CLIENT and FARNSWORTH GROUP, INC.

Farnsworth Group, Inc.

City of Bloomington

Donald L. Adams, P.E.  
Principal

Stephen F. Stockton  
Mayor

(GENERAL CONDITIONS AND SCHEDULE OF CHARGES ON FILE IN CLERK'S OFFICE)

**Motion by Alderman Huette, seconded by Alderman Gibson that the formal bidding process be waived, the contract with Farnsworth Group, Inc. be approved in an amount not to exceed \$5,500, the Mayor and City Clerk authorized to execute the necessary documents, and the Resolution adopted.**

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

**Ayes: Aldermen Crawford, Huette, Schmidt, Finnegan, Gibson, Hanson, Matejka 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 Food and Beverage Vendors for the Cultural District

Requests for Proposals for food and beverage service within the Bloomington Cultural District were received until 11:00 a.m., Friday, July 21, 2006 at the office of the City Clerk. The following firms submitted proposals:

The Chateau                      Bloomington, IL  
Times Past Inn                    Bloomington, IL

Twelve (12) companies were sent notification of this project. Four (4) companies received the design plans/proposal package from the City Clerk and two 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. Staff estimates an annual costs between \$5,000 - \$10,000 for providing food and beverages to the contracted artists, casts, crews and other functions. The Chateau was chosen because of the wider range of food and beverage selections. The Chateau also has the staffing capabilities to provide concurrent services for the back and front of house, pre and post functions in the patron lounges, and ballroom areas. Staff respectfully requests that Council accept the Proposal from The Chateau and the Purchasing Agent be authorized to issue a purchase orders for services. 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

**Motion by Alderman Huette, seconded by Alderman Gibson that the Bloomington Cultural District contract with The Chateau as the preferred provider for food and beverage services be accepted and the Purchasing Agent be authorized to execute the necessary documents.**

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

**Ayes: Aldermen Crawford, Huette, Schmidt, Finnegan, Gibson, Hanson, Matejka and Purcell.**

**Nays: None.**

**Motion carried.**

**The following was presented:**

To:                      Honorable Mayor and Members of the City Council

From:                    Staff

Subject:                Waive Formal Bid Process and Analysis of Quotations for Pole and Drape Units for the Bloomington Center for the Performing Arts

Requests for Quotations for Pole and Drape units for the Bloomington Center for the Performing Arts, (BCPA), at 110 E. Mulberry Street were requested from five (5) companies. Three (3) quotations were received and have been reviewed by staff for the requested quantity, quality and compliance with the quotation. The following firms submitted proposals:

Carrot-Top Industries	Hillsborough, NC	\$6,195.00 including shipping
Beautiful Displays	Carbondale, IL	\$8,532.00 without shipping
Camelback Displays	Spring, TX	\$7,658.50 without shipping

Staff respectfully requests that Council accept the quotation submitted by Carrot-Top Industries, in the amount of \$6,195 and further, that the Purchasing Agent be authorized to issue a purchase order for same. Payment for this project will come from account X21100-72620 of the Cultural District budget.

Respectfully,

C. Bruce Marquis  
Executive Director

Tom Hamilton  
City Manager

**RESOLUTION NO. 2006 - 115**

**A RESOLUTION WAIVING THE FORMAL BIDDING PROCESS AND  
AUTHORIZING THE PURCHASE OF POLE AND DRAPE UNITS FROM CARROT-  
TOP INDUSTRIES AT A PURCHASE PRICE OF \$6,195**

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 Pole and Drape Units from Carrot-Top Industries at a Purchase Price of \$6,195.

Adopted this 28<sup>th</sup> day of August, 2006.

Approved this 29<sup>th</sup> day of August, 2006.

Stephen F. Stockton  
Mayor

ATTEST:

Tracey Covert  
City Clerk

**Motion by Alderman Huette, seconded by Alderman Gibson that the formal bid process be waived, the quotation for pole and drape units from Carrot-Top Industries be accepted in the amount of \$6,195, the Purchasing Agent authorized to issue a Purchase Order for same, and the Resolution be adopted.**

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

**Ayes: Aldermen Crawford, Huette, Schmidt, Finnegan, Gibson, Hanson, Matejka 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 Dennison Corporation

On April 3, 2006, Council approved the purchase of a replacement service truck for the Fleet Management Department in the amount of \$52,056. This vehicle was purchased using the State of Illinois Joint Purchasing Contract. Dennison Corporation holds this contract.

When the final billing was prepared and received, there was a \$257 increase in the purchase price. This was due to a miscommunication in the price of one option, a power take off to drive the hydraulic system required for the proper operation of the truck.

Staff respectfully recommends that Council approve the payment of an additional \$257 to Dennison Corporation for a total purchase price of \$52,323 for this vehicle. Funds for this purchase are available in the Equipment Replacement Fund F16150-72130.

Respectfully,

Daniel Augstin  
Director of Fleet Management

Kim Nicholson  
Purchasing Agent

Tom Hamilton  
City Manager

**Motion by Alderman Huette, seconded by Alderman Gibson that the Change Order be approved.**

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

**Ayes: Aldermen Crawford, Huette, Schmidt, Finnegan, Gibson, Hanson, Matejka and Purcell.**

**Nays: None.**

**Motion carried.**

**The following was presented:**

To: Honorable Mayor and Members of the City Council  
 From: Staff  
 Subject: Change Order #14 to the Contract with P.J. Hoerr, Inc. for the Renovation of the Bloomington Center for the Performing Arts

P.J. Hoerr, Inc. has requested the following change orders to their contract for work associated with the renovation of the Bloomington Center for the Performing Arts, (BCPA). These change orders were reviewed by staff, who found them to be acceptable. The total amount of these change orders is \$28,604.

#154 Provide additional work on existing elevator cylinder hole	\$22,568.00
#155 Provide new sidewalk at stage door area	<u>6,036.00</u>
	\$28,604.00

Total this Change Order	\$28,604.00
Revised contract	<u>11,541,424.53</u>
New Total Amount	\$11,570,028.53

This work is outside the existing contract of P.J. Hoerr. There is a need to redrill the existing elevator cylinder hole to accept a longer piston, casing and shaft liner and to straighten the shaft. There is a need to replace the sidewalk area where the old storage tanks were removed.

This change order amount will be added to the guaranteed bid price and will be paid for out of the renovation contingency fund.

Contingency Fund:	\$600,000.00
Total Change Orders to date:	\$581,828.53
Contingency Balance:	\$ 18,171.47

Staff respectfully recommends that Council approve this change order to the contract with P.J. Hoerr, Inc. in the amount of \$28,604.00. Payment for this work will come from account X21100-72620 of the Cultural District budget.

Respectfully,

C. Bruce Marquis  
Executive Director

Tom Hamilton  
City Manager

**RESOLUTION NO. 2006 - 116**

**A RESOLUTION AUTHORIZING A CHANGE ORDER IN THE AMOUNT OF \$28,604  
IN THE CONTRACT BETWEEN THE CITY OF BLOOMINGTON AND, P.J. HOERR,  
INC. FOR THE RENOVATION OF THE BLOOMINGTON CENTER FOR THE  
PERFORMING ARTS**

WHEREAS, the City of Bloomington has previously entered into a contract with P.J. Hoerr, Inc. for the Renovation of the Bloomington Center for the Performing Arts; and

WHEREAS, for the reasons set forth in a staff report dated August 28, 2006, there was a need to redrill the existing elevator cylinder hole to accept a longer piston, casing and shaft liner and to straighten the shaft, and replace the sidewalk area where old storage tanks were removed; and

WHEREAS, it is the finding of the City Council that the decision to perform the work described in the August 28, 2006 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 \$28,604 in the contract between the City of Bloomington and P.J. Hoerr, Inc. for the Renovation of the Bloomington Center for the Performing Arts be approved.

PASSED this 28<sup>th</sup> day of August, 2006.

ADOPTED this 29<sup>th</sup> day of August, 2006.

Stephen F. Stockton  
Mayor

ATTEST:

Tracey Covert  
City Clerk



**Alderman Purcell questioned this item. He cited the \$22,000 cost for additional elevator work. He also questioned when the need for this work was discovered. Bruce Marquis, Cultural District's Executive Director, addressed the Council. The existing building had two (2) elevators. A brand new passenger elevator will be added to the front lobby area. The \$22,000 would be spent to refurbish the two (2) existing elevators, (freight and performers). The elevator shaft was unlined which allowed for corrosion to occur. The boring was not perpendicular. This work required a specialized drilling machine. The boring was done to a depth of forty feet, (40'). This work will insure the safe and reliable operation of the elevators.**

**Motion by Alderman Huette, seconded by Alderman Gibson that the Change Order to the contract with P.J. Hoerr for the Renovation of the BCPA in the amount of \$28,604 be approved, and the Resolution adopted.**

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

**Ayes: Aldermen Crawford, Huette, Schmidt, Finnegan, Gibson, Hanson, Matejka 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 Farnsworth Group for the Design of the Transmission Water Mains to Lake Bloomington

On April 26, 1999, Council approved a contract with the Farnsworth Group, to design several phases of the replacement transmission mains from Lake Bloomington to the Ft. Jesse Pumping Station at a cost not to exceed \$458,000.

On February 26, 2001, Council approved a change order to Farnsworth Group in the amount of \$55,472 to modify their design to accommodate the work that the State of Illinois was doing at the Interchange of Veterans Parkway and I-55 northeast of Normal.

On March 10, 2003, Council approved a change order to Farnsworth Group in the amount of \$355,000 to modify their design to accommodate additional I-55/Veterans Interchange construction conditions, to design two sludge lines from the Water Treatment Plant to the sludge lagoons, and to account for changes that occurred along Pipeline Road since the project began, such as development and housing projects.

This project consists of the following phases:

Division A - A 400,000 gallon elevated storage tank to be constructed at the intersection of Veterans Parkway and I-55.

Division B - The portion of the new 36" transmission main from Northtown Road in Normal northward to County Road 2350N.

Division C - A new 36" transmission main from the Ft. Jesse Road Pump Station to Northtown Road. This Division also includes the modifications required by the Illinois Department of Transportation at the new Interchange of Veterans Parkway with I-55.

Division D - A new 36" transmission main from County Road 2350N to the Water Treatment Plant, including a new 24" water main to tie into the existing 24" main east of the tee intersection on north Pipeline Road.

Division E - The System Control And Data Acquisition (S.C.A.D.A.) portion of the contract which provides a system for controlling the operation of the new transmission main and the two remaining older transmission mains.

Division F - Realignment of transmission main at Shepard Road due to Veterans/I-55 interchange project.

Divisions A, B, C & F are complete. Division D and E are still in the design and easement acquisition phase. The City of Bloomington is paying for the cost of this transmission line construction with low interest loan money from the I.E.P.A.

Since the change order was approved in March 2003, additional design considerations have been added to the project. The Village of Hudson water feed and high service pumps were analyzed to determine the effect of various pipeline pressure conditions on the Village's system. An analysis of the Water Plant sludge lines was conducted, it was determined a third new sludge line was necessary, additional surveying was necessary to analyze various alignments. Additional analysis of operational alternatives for SCADA is necessary.

Farnsworth Group contract and amendments have been approved as follows:

Apr. 26, 1999	P.O. 6342/15433	\$ 458,000.00	Original
Feb. 26, 2001	P.O. 20115/42542	\$ 55,472.00	Change 1
Mar. 10, 2003	P.O. 57839	\$ 355,000.00	Change 2
	Current Total	\$ 868,472.00	
Aug. 28, 2006		\$ 209,216.73	Change 3 (Proposed)
	Proposed Total	\$1,077,688.73	

To complete this design, including all the changes that have been encountered, staff has negotiated an amendment to the existing contract with the Farnsworth Group in the amount of \$209,216.73 to pay for this additional work.

Staff respectfully requests that Council approve an amendment to the design agreement for the Water Transmission Main Improvements in the amount of \$209,216.73 to the Farnsworth Group with money to be paid with Water Depreciation Funds. (X50200-72540)

Respectfully,

Craig M. Cummings  
Director of Water

Tom Hamilton  
City Manager

**RESOLUTION NO. 2006 – 117**

**A RESOLUTION AUTHORIZING A CHANGE ORDER IN THE AMOUNT OF  
\$209,216.73 IN THE CONTRACT BETWEEN THE CITY OF BLOOMINGTON AND  
THE FARNSWORTH GROUP FOR WATER TRANSMISSION MAIN  
IMPROVEMENTS**

WHEREAS, the City of Bloomington has previously entered into a contract with the Farnsworth Group for Water Transmission Main Improvements; and

WHEREAS, for the reasons set forth in a staff report dated August 28, 2006, a third new sludge line was necessary, additional surveying was necessary to analyze various alignments and additional analysis of operational alternatives for System Control and Data Acquisition is necessary; and

WHEREAS, it is the finding of the City Council that the decision to perform the work described in the August 28, 2006 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 \$209,216.73 in the contract between the City of Bloomington and the Farnsworth Group for Water Transmission Main Improvements be approved.

PASSED this 28<sup>th</sup> day of August, 2006.

ADOPTED this 29<sup>th</sup> day of August, 2006.

Stephen F. Stockton, Mayor

ATTEST:

Tracey Covert, City Clerk

**Motion by Alderman Huette, seconded by Alderman Gibson that a Change Order to the contract with the Farnsworth Group for the Water Transmission Main Improvements in the amount of \$209,216.73 be approved, and the Resolution adopted.**

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

**Ayes: Aldermen Crawford, Huette, Schmidt, Finnegan, Gibson, Hanson, Matejka 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 Lewis, Yockey & Brown, Inc. for the Lafayette-Maple Sanitary Relief Sewer Design and Property Surveys

On August 25, 2003, Council approved an agreement with Lewis, Yockey & Brown, Inc. to design the Lafayette-Maple Sanitary Relief Sewer for an amount not to exceed \$77,500.

The original agreement called for civil engineering services to design a sanitary relief sewer. Property surveys, legal descriptions, title work, and plats were not included in the original scope, but were to be billed on a time and material basis.

The relief sewer is now under construction by Stark Excavating, Inc. Lewis, Yockey and Brown, Inc. has submitted a bill for additional services rendered that exceeds the original contract by \$70,416.27. Since the construction is not complete there could be some additional miscellaneous charges.

Original	8/25/2003	\$77,500.00
Change Order 1	8/28/2006	\$72,500.00
New Contract Total		\$150,000.00

Staff respectfully recommends that the City Council approve a change order in an amount not to exceed \$72,500, the Mayor and City Clerk be authorized to execute the necessary documents,

and the Resolution be adopted. Funds for this additional work will be made with Sewer Depreciation Funds (X52200-72550).

Respectfully,

Douglas G. Grovesteen  
Director of Engineering

Tom Hamilton  
City Manager

**RESOLUTION NO. 2006 - 118**

**A RESOLUTION AUTHORIZING A CHANGE ORDER IN THE AMOUNT OF \$72,500  
IN THE CONTRACT BETWEEN THE CITY OF BLOOMINGTON AND LEWIS,  
YOCKEY AND BROWN, INC., FOR THE LAFAYETTE-MAPLE SANITARY RELIEF  
SEWER DESIGN AND PROPERTY SURVEYS**

WHEREAS, the City of Bloomington has previously entered into a contract with Lewis, Yockey and Brown, Inc., for the Lafayette-Maple Sanitary Relief Sewer Design and Property Surveys; and

WHEREAS, for the reasons set forth in a staff report dated August 28, 2006 it was necessary to perform additional property surveys, legal descriptions, title work, and plats that were not part of the original scope of the contract; and

WHEREAS, it is the finding of the City Council that the decision to perform the work described in the August 28, 2006 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 \$72,500 in the contract between the City of Bloomington and Lewis, Yockey and Brown, Inc., for the Lafayette-Maple Sanitary Relief Sewer Design and Property Surveys be approved.

PASSED this 28<sup>th</sup> day of August, 2006.

ADOPTED this 29<sup>th</sup> day of August, 2006.

Stephen F. Stockton, Mayor

ATTEST:

Tracey Covert, City Clerk

**Alderman Huette questioned this item. He specifically cited the unforeseen obstacle. Doug Grovesteen, Director of Engineering, addressed the Council. The City was unsure of the sewer's location. Generally, staff has surveys, legal descriptions, and plats for reference. This neighborhood has been difficult to find survey information. Brian Barnes, Finance Director, also addressed the Council. Staff knew that there would be unforeseen cost with this project. In the future, staff will provide the Council with advanced notice.**

**Motion by Alderman Huette, seconded by Alderman Gibson that a Change Order to the contract with Lewis, Yockey and Brown, Inc., for the Lafayette-Maple Sanitary Relief Sewer Design and Property Surveys in the amount of \$72,500 be approved, and the Resolution adopted.**

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

**Ayes: Aldermen Crawford, Huette, Schmidt, Finnegan, Gibson, Hanson, Matejka and Purcell.**

**Nays: None.**

**Motion carried.**

**The following was presented:**

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Renewal of Agreement with Temporary Employment Services, i.e. Express Personnel Services, for School Crossing Guards

Express Personnel Services entered into a one (1) year contractual agreement with the City on August 27, 2001 to provide school crossing guard services at ten (10) locations. An updated contract was approved for the 2005-06 school year with the option of renewing the contract for two (2) more terms of one (1) year each. There is no cost increase for the 2006-07 school year.

The cost of this temporary service has been budgeted through Other Contractual Services (G15110-70990) in the amount of \$105,000. This amount does not reflect an increase in the cost.

Staff respectfully recommends that Council approve the renewal of the agreement with Express Personnel and authorize the Mayor and City Clerk to execute the necessary documents.

Respectfully,

Roger J. Aikin  
Police Department

Tom Hamilton  
City Manager

**Motion by Alderman Huette, seconded by Alderman Gibson that the Agreement with Express Personnel Services for School Crossing Guards be renewed and the Mayor and City Clerk authorized to execute the necessary documents.**

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

**Ayes: Aldermen Crawford, Huette, Schmidt, Finnegan, Gibson, Hanson, Matejka and Purcell.**

**Nays: None.**

**Motion carried.**

**The following was presented:**

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Intergovernmental Agreement with the County of McLean for Traffic Signals at Towanda Barnes Road and Oakland Avenue Intersection

The McLean County Highway Department has conducted a traffic signal warrant analysis for the intersection of Towanda Barnes Road and Oakland Avenue. The analysis showed that traffic signals are warranted at this location. The north and south approaches to the intersection, on Towanda Barnes Road, are maintained by the County. The west approach, Oakland Avenue, is maintained by the City. The east approach, TR 1300 N, is currently maintained by Old Town Township but is anticipated to become a City owned within the next ten years.

Staff has negotiated an agreement with McLean County to share the cost of designing and constructing the necessary intersection improvements. The agreement stipulates that the County will be the lead agency on the project and that all costs be shared equally. Preliminary cost estimates for the project are:

Design	\$60,000
Right of way	\$40,000
Construction	\$300,000

This project is not currently budgeted in the City's five year plan. It is anticipated that funds for design and right-of-way may be needed in the current fiscal year, however, the construction funds can be inserted during the next budget process for inclusion in the 2007-2008 fiscal year.

The Agreement includes an update of the Master Agreement Table to amend "Exhibit A" of the "Intergovernmental Agreement for Maintenance of Traffic Control Devices" approved in September, 2002. The revised table adds the Towanda Barnes Road & Oakland Avenue Intersection to the list and changes the cost sharing for the intersection of Towanda Barnes Road & Ireland Grove Road from 100% County to 50% County, 50% City.

Staff respectfully requests that Council approve the Intergovernmental Agreement with the County of McLean for Traffic Signals at Towanda Barnes Road and Oakland Avenue Intersection, and that the Mayor and City Clerk be authorized to execute the necessary documents.

Respectfully,

Douglas G. Grovesteen  
Director of Engineering

Tom Hamilton  
City Manager

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF BLOOMINGTON  
AND THE COUNTY OF MCLEAN FOR TRAFFIC SIGNALS AT TOWANDA BARNES  
ROAD AND OAKLAND AVENUE**

WHEREAS, Article VII, Section 10 of the Illinois Constitution and the Illinois Intergovernmental Cooperation Act, 5 ILCS 220 Al et.seq., permit and encourage local governments to enter in Intergovernmental Agreements to obtain or share services or to exercise combine or transfer powers and functions, and;

WHEREAS, the City of Bloomington, hereinafter called "City", is a municipal corporation and the County of McLean, hereinafter called "County", is a body corporate and politic, and;

WHEREAS, it is in the best interest of the public health, safety and welfare that traffic studies are performed at intersections of high volume, and;

WHEREAS, the City and County Engineering Departments have performed an Engineering Study at the intersection of Towanda Barnes Road and Oakland Avenue, and;

WHEREAS, Traffic Control Signals are now warranted at the intersection of Towanda Barnes Road and Oakland Avenue, and;

WHEREAS, THE City and County agree that the cost of construction and maintenance for the Traffic Control Signals at the intersection of Towanda Barnes Road and Oakland Avenue should be shared equally, and, now:



THEREFORE, be it hereby mutually agreed as follows:

1. The City and the County agree to have the necessary preliminary engineering performed.
2. To proceed with the construction of the traffic control signals and associated necessary work.
3. The construction shall be budgeted for the summer of 2007, and shall be performed as soon as all approvals are complete after May 1, 2007.
4. The County shall be the lead agency, and shall enter into the Engineering Agreement for an Intersection Design Study (IDS), the Traffic Signal Design, and Intersection Design, take bids, enter into the Contract with the concurrence of the City, and supervise the construction of the project.
5. The City shall reimburse the County for Fifty percent (50%) of all costs associated with the project as work progresses, including all engineering, construction, and right-of-way (ROW) costs as incurred.
6. It is also hereby mutually agreed to amend "Exhibit A" of the Intergovernmental Agreement for Maintenance of Traffic Control Devices of September 2002, as hereby attached.

APPROVED:

ATTEST:

Stephen F. Stockton  
Mayor  
City of Bloomington

Tracey Covert  
City Clerk

August 29, 2006

Michael F. Sweeney  
Chairman  
McLean County Board

Peggy Ann Milton  
McLean County Clerk

THE LIST OF SIGNALIZED INTERSECTIONS WITHIN THE CORPORATION

THE LEVEL OF MAINTENANCE REFERS TO THE TRAFFIC SIGNAL MAINTENANCE PROVISIONS IN EXHIBIT B

EXHIBIT A  
MASTER AGREEMENT TABLE  
BLOOMINGTON

Loc No	Intersection	MAINTENANCE		ENERGY	
		County%	City%	County%	City%

## Level

141 Towanda Barnes Road Ireland Grove Road	50	50	50	50	1
142 Towanda Barnes Road General Electric Road	50	50	50	50	1
143 Towanda Barnes Road Fort Jesse Road	50	50	50	50	1
144 Towanda Barnes Road Oakland Avenue	50	50	50	50	1

Approved: September, 2002

Revised: September, 2006

**Motion by Alderman Huette, seconded by Alderman Gibson that the Intergovernmental Agreement with the County of McLean for Traffic Signals at Towanda Barnes Road and Oakland Avenue Intersection 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 Crawford, Huette, Schmidt, Finnegan, Gibson, Hanson, Matejka and Purcell.**

**Nays: None.**

**Motion carried.**

**The following was presented:**

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Agreement Between the City and the Illinois Department of Natural Resources, (IDNR) for the Inspection and Maintenance Plan for the Skunk Creek Floodway Area at 607 Truckers Lane and an Agreement Between the City and JXE-Peterbilt for the Inspection and Maintenance of the Skunk Creek Floodway Area at 607 Truckers Lane

On April 24, 2006, Council approved a Development Agreement with Bloomington PB LLC for the extension of Truckers Lane to serve the JXE-Peterbilt facility proposed at 607 Truckers

Lane. The JXE-Peterbilt site is adjacent to Skunk Creek and includes portions of the creek flood plain and flood way. In order to develop the site, JXE-Peterbilt has requested to reshape the flood plain and flood way. The Illinois Department of Natural Resources, Office of Water Resources (IDNR-OWR) must grant a permit for this work. As a condition of the permit, the IDNR-OWR has requested that the City adopt a Resolution agreeing to the "Inspection and Maintenance Plan for the Skunk Creek Compensatory Floodway Excavation Area" at the JXE-Peterbilt Service & Sales Facility at 607 Truckers Lane.

City staff has negotiated an "Inspection & Maintenance Agreement" with JXE-Peterbilt whereby JXE-Peterbilt will perform the annual maintenance required of the City by the DNR.

Staff respectfully requests that Council approve the "Inspection & Maintenance Agreement" with JXE-Peterbilt, adopt the Resolution approving the "Inspection and Maintenance Plan for the Skunk Creek Compensatory Floodway Excavation Area" required by the IDNR-OWR and that the Mayor and City Clerk be authorized execute the necessary documents.

Respectfully,

Douglas G. Grovesteen  
Director of Engineering

Tom Hamilton  
City Manager

(AGREEMENT AND RESOLUTION NO. 2006 - 119 ON FILE IN CLERK'S OFFICE)

**Motion by Alderman Huette, seconded by Alderman Gibson that the Inspection & Maintenance Agreement with JXE-Peterbilt be approved, the Mayor and City Clerk authorized to execute the necessary documents, and the Resolution adopted.**

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

**Ayes: Aldermen Crawford, Huette, Schmidt, Finnegan, Gibson, Hanson, Matejka and Purcell.**

**Nays: None.**

**Motion carried.**

**The following was presented:**

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Professional Services Agreement with Farnsworth Group for the Division Street Combined Sewer Overflow Elimination Phase II

Staff negotiated a proposed contract with Farnsworth Group to provide professional services for the design of the Division Street Combined Sewer Overflow (CSO) Elimination Project in March of 2004. Construction of the project was completed by George Gildner, Inc. with the elimination the CSO on Division Street near the intersection with Mason Street.

After the elimination of the CSO, and during a recent rainfall event, it was discovered that excessive inflow into the combined sewer had not been completely eliminated by the initial phase of design and construction. Instead, it was discovered that a 15 inch combined sewer flowing from Seminary to Division along Main Street was discharging into the 18 inch sewer at the intersection of Main and Division Street, thereby overwhelming the 18 inch sewer on Division Street.

Staff negotiated a proposed contract with Farnsworth Group to provide professional services for the design of the Division Street CSO Elimination Phase II. This project will eliminate the storm water flows into the 15 inch combined sewer along Main Street including the intersections of Seminary and Main, Rigdewood and Main, Emerson and Main, Kelsey and Main, Division and Main, and Emerson and Center.

Staff has reviewed the proposal from Farnsworth Group to provide civil engineering and surveying services on a time and material basis for a total fee not to exceed \$47,500 and finds it acceptable.

As all items are in order, staff respectfully recommends that Council approve a contract with Farnsworth Group to provide civil engineering and surveying services for a total time and material fee not to exceed \$47,500 and that the Mayor and City Clerk be authorized to execute the necessary documents. Funds for this project will be made with Storm Water Depreciation Funds (X55200-72550).

Respectfully,

Douglas G. Grovesteen  
Director of Engineering

Tom Hamilton  
City Manager

**Agreement for Engineering Services for Construction of Improvements to  
City of Bloomington, Illinois  
Division Street CSO (011) Elimination Phase II**

This AGREEMENT, made this \_\_\_\_ day of \_\_\_\_\_ 2006 by and between the CITY OF BLOOMINGTON, P.O. Box 3157, Bloomington, Illinois 61702-3157, hereinafter referred to as the OWNER, and FARNSWORTH GROUP, INC., 2709 McGraw Dr., Bloomington, Illinois 61704, hereinafter referred to as the ENGINEER.

The OWNER intends to eliminate the Division Street CSO (#011); requiring the separation of storm and sanitary sewers in the area southeast of Division Street, bounded on the south by

Seminary Avenue and on the east by University Street; new storm sewers are to be constructed on Main, Emerson and Division Streets with inlets and leads being changed over to the new system; and the sizes of piping as determined by City staff; herein after referred to as the PROJECT. The ENGINEER agrees to perform the various professional engineering services required by the OWNER for design and construction of said improvements as specified herein.

WITNESSETH:

That for and in consideration of the mutual covenants and promises between the parties hereto, it is hereby agreed:

SECTION A- SCOPE OF ENGINEERING SERVICES

1. Construction Contract Documents

The ENGINEER shall prepare construction contract documents including plans and specifications for a new storm relief sewer on Main, Emerson and Division Streets.

The work by the ENGINEER shall include the following tasks and services:

- a. Topographic survey, field survey of existing utilities for preparation of plans and specifications along storm sewer routes.
- b. Engineering design services including storm sewer plan and profile.
- c. Construction documents. Preparation of construction plans and specifications complete for competitive bidding including contract forms, general conditions, technical specifications and bidding documents in conformance with City, State and Federal Standards. The ENGINEER shall review progress with the OWNER at 50 percent and 90 percent completion and shall provide two sets of review documents at each review point.
- d. Preparation of budget cost estimate for the PROJECT.
- e. Provide one set of reproducible plans and specifications prior to bidding.
- f. Provide all the plan sheets in CAD file. The City will accept CAD graphics file in the Microstation “.DGN” format. All the level assignments shall be consistent with (DOT's standard.

2. Bidding Phase Assistance

The ENGINEER shall be prepared to provide the following services during bidding if directed by the OWNER:

- a. Provide interpretations of the contract documents and prepare addenda as required by the OWNER during bidding period.

b. Attend pre-bid conference with representative of the OWNER and other interested parties.

### 3. Construction Phase

The ENGINEER shall be available to assist the OWNER during construction with such services as may be requested from the OWNER. Services which may be provided include:

- a. Attendance at pre-construction meeting.
- b. Interpretation of the intent of the drawings and specifications.

The ENGINEER will provide services during the construction phase only as specifically authorized by the OWNER in accordance with Section C-3.

### 4. Other Services

The ENGINEER shall be prepared to provide the following additional services as the OWNER so directs.

- a. Provide record drawings on mylar to OWNER based upon construction field measurement information to be provided by OWNER. The ENGINEER shall not be held responsible for the accuracy of record drawings prepared based upon field data provided by the OWNER.
- b. Other as directed by the OWNER.

## SECTION B - OWNER'S RESPONSIBILITIES

The OWNER shall:

1. Designate in writing a person to act as the OWNER's representative with respect to the ENGINEER's services. Such person shall have complete authority to transmit instructions, receive information, and interpret and define the OWNER's policies and decisions with respect to materials, equipment, elements and systems pertinent to the ENGINEER's circumstances.
2. Provide full information as to OWNER's requirements for the project.
3. Assist the ENGINEER by placing at his disposal all available information pertinent to the project including previous reports and any other data relative to the project.
4. Guarantee access to and make all provisions for the ENGINEER to enter upon public and private property as required for the ENGINEER to perform its services.
5. Examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by the ENGINEER, and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of the ENGINEER.

6. Provide such legal, accounting, independent cost estimating and insurance counseling services as may be required for the PROJECT.
7. Give prompt written notice to the ENGINEER whenever the OWNER becomes aware of any defect in the PROJECT or changed circumstances which may alter the scope of service specified herein.
8. Furnish or direct the ENGINEER to provide necessary additional services as required by changed conditions.
9. Furnish approvals and permits from all governmental authorities having jurisdiction over the project and such approvals and consents from others as may be necessary for completion of the project except those permits specifically noted in Section A which the ENGINEER is required to obtain.
10. Publish all notices which may be required.
11. Provide or direct the ENGINEER to provide all soil borings and associated field geotechnical engineering services required for the Project.
12. Provide construction inspection and submit as-built information to ENGINEER.
13. Bear all costs incidental to compliance with the requirements of this Section B.

#### SECTION C – COMPENSATION

The owner agrees to compensate the ENGINEER for performing the services specified in Section A - SCOPE OF SERVICES according to the following terms:

1. For Section A.1 - Construction Contract Documents, the OWNER shall pay a fee based upon time-and-expenses actually incurred with a not to exceed amount of \$47,500.00.
2. For Section A.2 — Bidding Phase Assistance, Section A.3 — Construction Phase, Section A.4 - Other Services the OWNER shall pay a fee based upon time-and-expenses actually incurred.

The ENGINEER shall invoice the OWNER approximately monthly for all such additional services which may be requested by the OWNER. The invoice shall identify those services rendered by the ENGINEER. The fee for services performed during calendar year 2004 shall be as specified in Exhibit A. The fee for services in subsequent years shall be based upon a fee schedule to be negotiated and specified in a subsequent amendment to this contract.

#### SECTION D - COST ESTIMATES

1. Since the ENGINEER has no control over the cost of labor, materials or equipment, or over the construction contractor(s) methods of determining prices, or over competitive bidding or

market conditions, his opinions of probable project cost or construction cost provided for herein are to be made on the basis of its experience and qualifications and represent its best judgment as a design professional familiar with the construction industry. The ENGINEER cannot and does not guarantee that proposals, bids or the construction cost will not vary from opinions of probable cost prepared by it.

#### SECTION E - ENGINEER'S AUTHORITY AND RESPONSIBILITY

1. The ENGINEER shall not guarantee the work of any construction Contractor or Construction Subcontractor, shall have no authority to stop work, shall have no supervision or control as to the work or persons doing the work, shall not have charge of the work, shall not be responsible for safety in, on or about the job site or have any control of the safety or adequacy of any equipment, building component, scaffolding, supports, forms or other work aids, and shall have no duties or responsibilities imposed by the Structural Work Act. All documents, including drawings and specifications furnished by ENGINEER pursuant to this AGREEMENT, are instruments of its services in respect of the work. They are not intended or represented to be suitable for reuse by OWNER or others on extensions of this work, or any other work.
2. The ENGINEER's undertaking the construction observation and guidance work specified in Section A - Scope of Services shall not relieve the contractor of the obligation to perform the work in conformity with the drawings and specifications and in a workmanlike manner, shall not make the ENGINEER an insurer of the Contractor's performance, and shall not impose upon the ENGINEER any obligation to see that the work is performed in a safe manner.
3. Neither the OWNER nor the ENGINEER shall delegate its duties under this AGREEMENT without written consent of the other.
4. Neither party shall hold the other responsible for damages or delay in performance caused by the acts of God, strikes, lockouts, accidents, or other events beyond the control of the other or the others employees and agents.
5. In the event any provision of this AGREEMENT shall be held to be invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provision, term, condition, or covenant shall be construed by the other party as a waiver of a subsequent breach of the same by the other party. Such waivers must be in writing and shall be so limited by said AGREEMENT signed by both parties.

#### SECTION F - WORK PRODUCT - REUSE OF DOCUMENTS

The work product of the ENGINEER resulting from the AGREEMENT for Engineering Services shall be deemed the property of the ENGINEER until payment in full for such services has been made. Thereafter, the OWNER shall have the use of such data established by such product; however, such use shall be limited to the OWNER and OWNER's contractors and subcontractors and not assignable or transferable to any third party, unless authorized by the ENGINEER. The liability of the ENGINEER for such work product shall be solely limited to the OWNER and shall be restricted as provided in Section D hereof, and there shall be no liability on the part of



the ENGINEER to third Parties, unless such work product is authorized for use by such third parties by written agreement of the ENGINEER. The ENGINEER shall be allowed to review all documents with any third party by way of a conference prior to use. Written approval for reuse shall not be given by the ENGINEER until after this meeting has taken place. Any unauthorized reuse without specific written verification or adaptation by ENGINEER will be at OWNER'S sole risk, and without liability of ENGINEER and OWNER shall indemnify and hold harmless ENGINEER from all claims, damages, losses, and expenses, including attorney's fees, arising out of or resulting there from. Any such conference, verification, or adaptation will entitle ENGINEER to further compensation at rates to be agreed upon by OWNER or THIRD PARTY and ENGINEER.

#### SECTION G – CHANGES

1. The OWNER may, at any time by written order, make changes within the general scope of this AGREEMENT in the services or work to be performed. If such changes cause an increase or decrease in the ENGINEER's cost of or time required for, performance of any City of services under this AGREEMENT, whether or not changed by any order, an equitable adjustment shall be made and this AGREEMENT shall be modified in writing accordingly on a basis to be mutually agreed upon.
2. Any claim of the ENGINEER for adjustment under this clause must be asserted in writing within thirty (30) days from the date of receipt by the ENGINEER of the notification of change unless the OWNER grants a further period of time before the date of final payment.
3. No services for which an additional compensation will be charged by the ENGINEER shall be furnished without the written authorization of the OWNER.
4. This AGREEMENT may be terminated at any time by either party upon ten (10) days written notice to the other party. Upon termination, the OWNER shall compensate the ENGINEER for all services rendered prior to receipt of such written notice, together with reimbursable expenses then due and the ENGINEER will turn over to the OWNER any work that has been completed without further liability and subject to the terms of Section F - Work Product - Reuse of Documents of this AGREEMENT.

#### SECTION H - SUCCESSORS AND ASSIGNS

OWNER and ENGINEER each binds themselves and their partners, successors, executors, administrators and assigns to the other party of this AGREEMENT and to the partners, successors, executors, administrators and assigns of such other party, in respect of all covenants of this AGREEMENT. Except as above neither OWNER nor ENGINEER shall assign, sublet or transfer its interest in this AGREEMENT without the written consent of the other. Nothing herein shall be construed as giving any rights or benefits hereunder to anyone other than the OWNER and ENGINEER.

IN WITNESS WHEREOF, the parties hereto have made and executed this AGREEMENT as of the day and year first above written.

OWNER:

CITY OF BLOOMINGTON, ILLINOIS

By: Stephen F. Stockton  
MayorAttest: Tracey Covert  
City Clerk

ENGINEER:

FARNSWORTH GROUP, INC.

By: Steve Meyers  
PrincipalAttest: Stephen Himmell  
Principal

(GENERAL CONDITIONS AND SCHEDULE OF CHARGES ON FILE IN CLERK'S OFFICE)

**Alderman Purcell questioned this item. He questioned the change from a fifteen foot (15') to an eighteen foot (18') pipe. He expressed his opinion that due to the CSO, flooding problems should have been foreseen. Doug Grovesteen, Director of Engineering, addressed the Council. He noted that this item involved three (3) blocks. City staff was not aware that they were a part of this system. It was discovered after the first big rain. These blocks would be separated from the CSO. He estimated the cost at less than \$300,000. He hoped to be able to use land west of the sidewalk. He acknowledged that this item was unbudgeted. Payment would be made with Storm Water Management dollars.**

**Motion by Alderman Huette, seconded by Alderman Gibson that the contract with Farnsworth Group to provide civil engineering and surveying services for the Division Street CSO Elimination Phase II be approved in an amount not to exceed \$47,500, and the Mayor and City Clerk authorized to execute the necessary documents.**

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

**Ayes: Aldermen Crawford, Huette, Schmidt, Finnegan, Gibson, Hanson, Matejka and Purcell.**

**Nays: None.**

**Motion carried.**

**The following was presented:**

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Acquisition of Property from Larry Bozarth -- E 1200 North Road

The City needs to acquire a part of the Larry Bozarth farm on Ireland Grove Road to extend water and sewer force mains to the Grove at Kickapoo Creek Subdivision and for future right of way for Ireland Grove Road. The City needs the south 50 feet of Bozarth's property which contains 1.54 acres. There are no improvements on this property.

Mr. Bozarth will convey the property for a cash payment of \$40,000.00 and the following noncash consideration and added terms of sale: 1.) the City will construct Constitution Trail on the south side of Ireland Grove Road; 2.) the City will not construct a sidewalk adjacent to the Bozarth property as part of the roadway improvements; 3.) there will be no construction easement; 4.) excess earth from excavation will be given to Bozarth; 5.) the City will provide a 12" water service connection with a fire hydrant; 6.) the City will extend one residential water service to Bozarth property line and charge "in-town" water rates for that service; 7.) there will be no manholes in any of the sewer force mains traversing the property being conveyed; 8.) Bozarth may continue to farm the area of the right of way property until City improves Ireland Grove Road and fences shall be reinstalled at the existing location and remain in that location until Ireland Grove Road is widened; 9.) City will mow the right of way property with the same frequency as it mows other City right of way; 10.) City will provide Bozarth with one field entrance and allow access onto future Ireland Grove Road; 11.) the right of way will be surveyed and monumented; and 12.) the City will pay a maximum of \$1,000.00 of legal fees incurred by Bozarth in relation to the conveyance.

Staff believes that the price offered fairly compensates Mr. Bozarth for the taking and recommends approval of the payment and other terms of the sale.

Respectfully,

Hannah R. Eisner  
Deputy Corporation Counsel

Tom Hamilton  
City Manager

**Motion by Alderman Huette, seconded by Alderman Gibson that the acquisition of right of way from Larry Bozarth in the amount of \$40,000.00 be approved and the twelve points regarding the terms of sale.**

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

**Ayes: Aldermen Crawford, Huette, Schmidt, Finnegan, Gibson, Hanson, Matejka and Purcell.**

**Nays: None.**

**Motion carried.**

**The following was presented:**

To: Members of the City Council

From: Liquor Commission

Subject: Application of Habitat for Humanity of McLean County for an Limited Liquor (LB) License

The Bloomington Liquor Commissioner Steven Stockton called the Liquor Hearing to hear the application of Habitat for Humanity of McLean County for a Limited Liquor License, (LB) that would allow the sale of beer and wine at the Vrooman Mansion located at 701 E. Taylor Street, on September 7, 2006. Present at the hearing were Liquor Commissioner Steven Stockton, Hannah Eisner, Deputy Corporation Counsel, and Kim Chickering, Applicant representative.

Commissioner Stockton requested that the Applicant explain the plan for this event. Ms. Chickering explained that Habitat for Humanity is having a fund raiser at the Vrooman Mansion at 701 E. Taylor Street, from 5:30 p.m. to 8:30 p.m. on Thursday, September 7, 2006. The event is by invitation only and is limited to 100 guests. There will be a recommended donation to be paid at the door. Habitat was given thirty-six (36) bottles of wine and plans to serve the wine along with hor d'oeuvres to the people who attend. There will be no other alcohol served.

Based on the above, the Liquor Commission recommends that an LB license for Habitat for Humanity of McLean County be approved for the fund raiser on September 7, 2006 from 5:30 to 8:30 p.m., at the Vrooman Mansion at 701 E. Taylor Street.

Respectfully,

Hannah R. Eisner  
Deputy Corporation Counsel

Tom Hamilton  
City Manager

**Motion by Alderman Huette, seconded by Alderman Gibson that an LB license for Habitat for Humanity of McLean County be created for a fund raiser to be held on Thursday, September 7, 2006 from 5:30 to 8:30 p.m., at the Vrooman Mansion which is located at 701 E. Taylor Street.**

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

**Ayes: Aldermen Crawford, Huette, Schmidt, Finnegan, Gibson, Hanson, Matejka and Purcell.**

**Nays: None.**

**Motion carried.**

**The following was presented:**

August 28, 2006

643

To: Honorable Mayor and Members of the City Council  
From: Staff  
Subject: Text Amendment to Chapter 6 to Allow Beer Tasting with a Package License

In December, 2003, Council passed an Ordinance amending Chapter 6 to allow package liquor stores to offer wine tasting on the premises. The Ordinance allowed only wine tasting and did not include spirits or beer. Given the wide variety of beers now available on the market, license holders desire to offer beer tasting for their customers.

Staff prepared a proposed text amendment to the City Code that would make beer and spirit tasting possible and submitted it to the Liquor Commission for review. The amendment simply adds beer to the types of alcohol that may be sampled at a tasting and makes no other changes to the existing Ordinance. The current code restricts the number of tastings that can be held during a week, the hours and the amounts of wine that may be served. All of the restrictions apply equally to beer, therefore it was not necessary to add any further limitations. The Liquor Commission approved the proposed amendment at its meeting on August 14th and directed staff to place it before Council for consideration.

Staff respectfully recommends the Council approve the Text Amendment and that the Ordinance be passed.

Respectfully,

Hannah R. Eisner  
Deputy Corporation Counsel

Tom Hamilton  
City Manager

**ORDINANCE NO. 2006 - 89****AN ORDINANCE AMENDING BLOOMINGTON CITY CODE CHAPTER 6**

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

SECTION 1. That a portion of Bloomington City Code Chapter 6, Section 1, be amended to read as follows (additions are indicated by underlining; deletions are indicated by strikeouts):

Beer and Wine Tasting: A supervised presentation of beer and wine products to the public, offered free of charge or for a fee, in which small quantities of beer and wine are served for consumption on the premises as a sample of the product being sold by the license holder and which meets the following conditions:

A Samples of beer are offered in amounts of 2 ounces or less and samples of wine are offered in amounts of 1 ounce or less.

- B. A maximum of two tastings may be conducted during any week.
- C. Three hour maximum duration for each tasting.
- D. No tasting after 9:00 o'clock p.m.
- E. Beer and wine samples poured by the licensee, an employee of licensee or a licensed Registered Tasting Representative.

SECTION 2. That Bloomington City Code Chapter 6, Section 7A, be amended to read as follows (additions are indicated by underlining; deletions are indicated by strikeouts):

(11) Class "PA" (Package Sales - All Types of Alcoholic Liquor) primary licenses authorize the retail sale on the specified premises of all types of alcoholic liquor only in original packages for consumption only off of the premises and for consumption of beer and wine on the premises in conjunction with a beer and wine tasting as defined in Section 1.

(12) Class "PB" (Package Sales - Beer and Wine Only) primary licenses authorize the retail sale on the specified premises only of beer and wine in the original packages for consumption only off of the premises and for consumption on the premises in conjunction with a beer and wine tasting as defined in Section 1.

SECTION 3. Except as provided herein, the Bloomington City Code, as amended, shall remain in full force and effect.

SECTION 4. The City Clerk shall be, and she is hereby directed and authorized to publish this Ordinance in pamphlet form as provided by law.

SECTION 5. 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 6. This Ordinance shall take effect immediately upon passage and approval.

PASSED this 28<sup>th</sup> day of August, 2006.

APPROVED this 29<sup>th</sup> day of August, 2006.

APPROVED:

Stephen F. Stockton  
Mayor

ATTEST:

Tracey Covert  
City Clerk

**Motion by Alderman Huette, seconded by Alderman Gibson 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 Crawford, Huette, Schmidt, Finnegan, Gibson, Hanson, Matejka and Purcell.**

**Nays: None.**

**Motion carried.**

**The following was presented:**

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Petition of the City of Bloomington for Approval of a Final Plat for the Resubdivision of Lots 1, 2 and 3 of Citizens Addition Subdivision

On January 24, 2004, Council approved the acquisition of a parking lot located at the southwest corner of the intersection of Lumber and West Grove Street, immediately south of the former Beich Candy building. The site consisted of three separate lots, all zoned R-1C, High Density Single Family Residence District.

The purpose of the acquisition of this site, as explained in the Council memo of January 24, 2004, was to resubdivide the three (3) lots into two (2), to partner with a local agency to construct two single family dwellings, which upon completion, would be sold to low/moderate income households who meet HUD income guidelines.

This resubdivision will allow the City to move forward with the plans for redevelopment as indicated above. Staff respectfully requests that Council approve the Final Plat of the Resubdivision of Lots 1, 2 and 3 of Citizens Addition Subdivision and the Ordinance passed.

Respectfully,

Mark Huber  
Director of PACE

Tom Hamilton  
City Manager



**PETITION FOR APPROVAL OF FINAL PLAT WITH WAIVER OF PRELIMINARY PLAN**

State of Illinois )  
 )ss.  
County of McLean )

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

Now comes the City of Bloomington hereinafter referred to as your petitioner, respectfully representing and requesting as follows:

1. That your petitioner is the owner of the freehold or lesser estate therein of the premises hereinafter legally described in Exhibit A which is attached hereto and made a part hereof by this reference;
2. That your petitioner seeks approval of the Final Plat for the subdivision to be known and described as Resubdivision of Lots 1, 2, & 3 Citizen’s Addition which Final Plat is attached hereto and made a part hereof;
3. That your petitioner also seeks approval of the following exemptions or variations from the provisions of Chapter 24 of the Bloomington City Code, 1960, as amended: 3.5.6 Waiver of Preliminary Plan;
4. That your Petitioner hereby dedicates to the public, all public right-of-way and easements shown on said Final Plat.

WHEREFORE, your petitioner prays that said Final Plat for the Resubdivision of Lots 1, 2 & 3 Citizen’s Addition submitted herewith be approved with the exemptions or variations as requested herein.

Respectfully submitted,

By: Hannah Eisner,  
Deputy Corporation Counsel

**ORDINANCE NO. 2006 - 90****AN ORDINANCE APPROVING THE FINAL PLAT OF THE RESUBDIVISION OF  
LOTS 1, 2 & 3 CITIZEN'S ADDITION**

WHEREAS, there was heretofore filed with the City Clerk of the City of Bloomington, McLean County, Illinois, a Petition for approval of the Final Plat of the Resubdivision of Lots 1, 2 & 3 Citizen's Addition, legally described in Exhibit A attached hereto and made a part hereof by this reference; and

WHEREAS, said Petition requests the following exemptions or variations from the provisions of the Bloomington City Code-1960, as amended: Section 3.5.6 Waiver of Preliminary Plan; and

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

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

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

1. That the Final Plat of the Resubdivision of Lots 1, 2, & 3 Citizen's Addition and any and all requested exemptions and/or variations be, and the same is hereby approved, and all dedications made therein are accepted.
2. That this Ordinance shall be in full force and effective as of the time of its passage and approval.

PASSED this 28<sup>th</sup> day of August, 2006.

APPROVED this 29<sup>th</sup> day of August, 2006.

Stephen F. Stockton  
Mayor

ATTEST:

Tracey Covert  
City Clerk

**EXHIBIT A**

Lots 1, 2, and 3 in Citizen's Addition to Bloomington in the W ½ of the SE ¼ of Section 5, Township 23 North, Range 2 East of the Third Principal Meridian, McLean County, Illinois.

**Motion by Alderman Huette, seconded by Alderman Gibson that the Final Plat be approved and the Ordinance passed.**

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

**Ayes: Aldermen Crawford, Huette, Schmidt, Finnegan, Gibson, Hanson, Matejka and Purcell.**

**Nays: None.**

**Motion carried.**

**The following was presented:**

To: Honorable Mayor and Members of the City Council  
From: Staff  
Subject: Petition from Hershey Center, LLC, Requesting Approval of a Final Plat for Hershey Plaza Subdivision, 4<sup>th</sup> Addition

Hershey Plaza Subdivision Fourth Addition is located along the east side of North Hershey Road at Eastland Drive and consisting of two lots. The Petitioner is requesting approval of a Final Plat for the Hershey Plaza Subdivision Fourth Addition.

Staff has reviewed the Petition and the Final Plat and find it in conformance with the Preliminary Plan approved by City Council on July 26, 1999. Various Tap On Fees are required by the Agreement prior to recording of the Final Plat.

As all items are in order, Staff respectfully recommends that Council approve the Petition and adopt an Ordinance approving the Final Plat for Hershey Plaza Subdivision Fourth Addition subject to the Petitioner paying the required tap on fees prior to recording of the plat.

Respectfully,

Douglas G. Grovesteen  
Director of Engineering

Tom Hamilton  
City Manager

**PETITION FOR APPROVAL OF FINAL PLAT**

State of Illinois                                    )  
  )ss.  
County of McLean                                )

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

Now comes Hershey Center, LLC, an Illinois Limited Liability Company hereinafter referred to as your petitioner, respectfully representing and requesting as follows:

1. That your petitioner is the owner of the freehold or lesser estate thereinof the premises hereinafter legally described in Exhibit A which is attached hereto and made a part hereof by this reference, of is a mortgagee or vendee in possession, assignee of rents, receiver, executor (executrix), trustee, lessee or other person, firm or corporation or the duly authorized agents of any of the above persons having proprietary interest in said premises.
2. That your petitioner seeks approval of the Final Plat for the subdivision of said premises to be known and described as Hershey Plaza Subdivision, 4<sup>th</sup> Addition.
3. That your petitioner also seeks approval of the following exemptions or variations from the provisions of Chapter 24 of the Bloomington City Code, 1960: all those listed in the approved preliminary plan, if any.
4. That the Final Plat substantially conforms to the Preliminary Plan of said subdivision theretofore approved by the City Council.
5. That your Petitioner hereby dedicates to the public, all public rights of way and easements shown on said Final Plat.

WHEREFORE, your petitioner prays that said Final Plat for the Hershey Plaza Subdivision 4<sup>th</sup> Addition Subdivision submitted herewith be approved with the exemptions or variations as requested herein.

Respectfully submitted,

Hershey Center, LLC  
By: Sandra J. Bettis

**ORDINANCE NO. 2006 - 91**

**AN ORDINANCE APPROVING THE FINAL PLAT OF THE HERSHEY PLAZA  
SUBDIVISION 4<sup>TH</sup> ADDITION**

WHEREAS, there was heretofore filed with the City Clerk of the City of Bloomington, McLean County, Illinois, a Petition for approval of the Final Plat of the Hershey Plaza Subdivision 4<sup>th</sup> Addition, legally described in Exhibit A attached hereto and made a part hereof by this reference; and

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

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

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

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

1. That the Final Plat of the Hershey Plaza Subdivision 4<sup>th</sup> Addition and any and all requested exemptions and/or variations be, and the same is hereby approved.
2. That this Ordinance shall be in full force and effective as of the time of its passage and approval.

PASSED this 28<sup>th</sup> day of August, 2006

APPROVED this 29<sup>th</sup> day of August, 2006.

Stephen F. Stockton  
Mayor

ATTEST:

Tracey Covert  
City Clerk

**EXHIBIT A**

A Part of Lot 8 and all of Lot 9 in Hershey Plaza Subdivision 2<sup>nd</sup> Addition, according to the Plat thereof recorded as Document No. 2000-11815, being a part of the NW ¼ of Section 1, Township 23 North, Range 2 East of the Third Principal Meridian, City of Bloomington, McLean County, Illinois, more particularly described as follows:

Commencing at the southeast corner of Lot 8 in Hershey Plaza Subdivision 2<sup>nd</sup> Addition; thence N. 18°-18'-02"E. 131.66 feet on the easterly line of said Lot 8 to the Point of Beginning on the north line of the South 125 feet of said Lot 8; thence N.90°-00'-00"E. 37.99 feet on the west line of said Lot 8; thence northwesterly on the west line of said Lot 8 and the west line of Lot 9 in said Hershey Plaza Subdivision 2<sup>nd</sup> Addition 77.64 feet on a tangential curve concave to the southwest having a radius of 95.00 feet, central angle of 46°-49'-38" and a chord of 75.5 feet bearing N.23°-24'-49"W. feet from the last described course to the southwest corner of said Lot 9 on the northerly right of way line of Castleton Drive as dedicated in said Hershey Plaza Subdivision 2<sup>nd</sup> Addition; thence N.41°-11'-16"E. 44.08 feet on the westerly line of said Lot 9; thence N.00°-17'-34"E. 189.00 feet to the northwest corner of said lot 9; thence S.89°-42'-26"E. 372.55 feet to the northeast corner of said Lot 9; thence S.18°-18'-02"W. 344.99 feet to the Point of Beginning, containing 105,884.75 square feet/2.43 acres, more of less, with assumed bearings given for description purposes only.

**Motion by Alderman Huette, seconded by Alderman Gibson that the Final Plat be approved and the Ordinance passed.**

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

**Ayes: Aldermen Crawford, Huette, Schmidt, Finnegan, Gibson, Hanson, Matejka and Purcell.**

**Nays: None.**

**Motion carried.**

**The following was presented:**

To: Members of the City Council

From: Staff

Re: Retain Outside Counsel to Prosecute Repair/Demolish Litigation on The Coachman

Staff has been directed to file a Repair/Demolish lawsuit to compel the repair The Coachman. While this is the type of case that would ordinarily be handled by the City's Legal Department, the circumstances of this situation make it advisable to refer it to outside counsel. Prosecution of the case will be quite time consuming causing extensive staff time away from other matters. Additionally, the Legal Department staff has a history with the owner that could interfere with

the ability to pursue the case as effectively as someone who has had no previous dealings with the owner.

Staff recommends the engagement of Amy Mobley for this purpose. She is an attorney in private practice and comes well recommended. Ms. Mobley is very interested in taking this case. Staff has a high regard for her work and believes it is in the best interest of the City to retain her. Ms. Mobley would charge \$180 per hour for her time and \$65 per hour for her staff. Court time is billed at \$200 per hour. She would require an initial retainer of \$1,500. Statements and billings will be submitted monthly for her services. There are funds available in account G11710-70010 for these services.

Respectfully,

Hannah R. Eisner  
Deputy Corporation Counsel

Tom Hamilton  
City Manager

#### **CLIENT - ATTORNEY AGREEMENT**

Scope of Engagement: The City of Bloomington acting through its authorized agents, the City Manager and the Corporation Counsel, hereinafter referred to as "City", is the Client. City hereby engages Leighton & Mobley, LLC, Attorneys and Counselors at Law, the Firm together with its members, associates and staff hereinafter referred to as "Attorney", to represent and to provide legal counsel services for us: (a) to represent and advise us in resolving the pending dispute with the owners of that certain real property known as the Coachman Motel, including prosecuting a lawsuit to demolish and/or repair and/or quiet title or otherwise negotiate a settlement to accomplish the City's goal of repairing and/or demolishing the improvements thereon; and (b) to provide other services we later request. Attorneys advice naturally must rely on the extent and quality of information Client and other professional advisors provide. For purposes of this engagement, City's principal points of contact are Hannah Eisner and Laura Hall. Client specifically authorizes Attorney to discuss confidential and/or privileged matters with the Mayor, the City Manager, Mark Huber, each member of the City Council, the Corporation Counsel and Counsel's subordinates and staff; and others that the City subsequent designates. Client expects Attorney to use best efforts to advise and counsel, realizing that final decisions are Client's to make. No specific results are guaranteed. Matters may arise that require actions outside the scope of this agreement. If that happens, Attorney will recommend a course of action and discuss any alternatives as necessary at that time. Client and Attorney shall use best efforts to cooperate with each other, notify each other of any change in contact information, and respond promptly to each other's questions and requests.

Disbursements: The disbursements of the Attorney for costs such as expedited delivery, filing fees, non-routine long distance telephone calls and faxes, supplies required for the representation, travel outside of McLean County, Illinois and any other costs are separate from the charge for attorney's fees. Costs will be billed and are payable upon receipt of the bill.

Fees: The principal factors in determining fees are usually value delivered and time expended; however, the difficulty or novelty of the matter, time limitations and other pressures involved in performing services, particular expertise and experience of the lawyers who work on the matter, and results obtained are also considered. The City's rates for services of specific lawyers are:

Amy L. Mobley - \$200 for court time and \$180 for other services;

G. Timothy Leighton - \$250 for court time and \$230 for other services; other attorneys - \$150  
staff - \$65

Attorney shall hold these rates constant through December 31, 2007. Further rate changes will be communicated to Client in time for City review and approval in its ordinary course of business.

Work subject to hourly billing is billed in tenth-of-an hour increments. Client understands that consultations with Client or with any third party relating to this representation, in person or by electronic means, shall be considered part of the representation and Client will be billed and will pay for this time. Travel time not otherwise paid is billed at half the hourly rate. Good faith estimates for particular projects will be provided upon request. It is possible that the total charged to the City for fees and costs may exceed \$7,500 if the matter goes to trial. However, should it be anticipated that the fees and costs for this matter exceed \$7,500, both Attorney and Client understand that said amounts would be subject to City Council approval. Following approval by the City Council, the City shall remit \$1,500 to Attorney as an advance for initial fees and expenses. Attorney shall submit monthly bills to Client. Client will advise Attorney of any special billing requirements. Fees and costs are due when billed. Attorney acknowledges the City's process for review and approval that typically involves a 60 day cycle; balances after 90 days are subject to the greater of 0.5% or \$5 per month. Client is responsible for all collection costs, including time spent for collection billed at the regular engagement rate. Attorney may accept any payment without limitation or prejudice notwithstanding any restrictive endorsement by Client which Client hereby repudiates; unless otherwise agreed, payments are applied first to interest, then costs, and then fees.

E-Mail: Client acknowledges that the firm makes extensive use of e-mail and other technological support for Client service, and authorizes e-mail correspondence and transmission of documents unless specifically directing me not to do so. E-mail privacy is not guaranteed. We will use encryption and/or passwords when directed and provided with passwords.

Copies: During the representation, Attorney will supply Client with copies of all substantive correspondence. You should keep a copy of all of the documents. After the matter is closed, you may obtain copies of your file by paying our standard photocopy charges and a minimum fee to compensate for time necessary to duplicate the file. Due to storage constraints, you are authorizing that the file may be destroyed following ten years after the matter is closed.

By executing this Agreement, Client acknowledges it has adhered to all its procedural requirements. The individual signing this Agreement on behalf of the City is expressly authorized to bind the City in this matter. The City through its authorized agents and



representatives has read this fee agreement, and on behalf of The City of Bloomington, understands, agrees, and accepts all of the terms.

The City of Bloomington (A Municipal Corporation)

Date: September 13, 2006

By: Todd Greenburg, Its Corporation Counsel

ATTEST:

Date: September 13, 2006

By: Tracey Covert  
Its City Clerk

Name of Principal Contact: Mark Huber  
Title of Principal Contact: Director, Dept. of Planning and Code Enforcement  
Phone of Principal Contact: 309-434-2446  
Address: 109 East Olive Street, Bloomington, IL 61701  
e-mail address mhuber@cityblm.org

**Alderman Schmidt questioned this item and the desired outcome. Todd Greenburg, Corporation Counsel, addressed the Council. The statute involved called for the repair or demolition of the building. The court would make the final decision and recommend one course of action. Alderman Schmidt questioned pursuing this issue with an outside attorney. She believed that the City had written enough code violations. There must be a different avenue for the City to pursue. She cited condemnation as an example. Mr. Greenburg noted that the City had dealt with this issue for some time. The City at one point attempted to negotiate a purchase of the property. The City wanted to avoid the appearance of being vindictive. He cited the amount of staff time which would be needed. He believed retaining outside counsel would be more efficient. Alderman Schmidt noted the number of repair orders. She questioned if this action would move this issue along or be another set back. Mr. Greenburg stated that when an individual does not obey the City's repair orders, the City takes him/her to court.**

**Mayor Stockton questioned the cost for this item. Mr. Greenburg noted that the contract included language regarding a not to exceed cost of \$7,500. Any amounts over this figure would require the Council's approval. He expressed his opinion that the fee was reasonable. He cautioned the Council that if the case went to trial additional time would be involved.**

**Motion by Alderman Matejka, seconded by Alderman Hanson to suspend the rules to allow someone to speak.**

**Motion carried.**

Judy Stearns, 306 E. Locust, addressed the Council. She questioned this \$7,500 investment. Mr. Greenburg noted that this figure covered attorney's fees. The City planned to use state statute to compel the owner to repair or demolish the building. The City will apply for a Court Order. The owner will have the opportunity in court to present a defense. Once the Court Order is issued, the owner must comply or be found in contempt. He restated that the City attempted to negotiate a purchase of the property. This approach would present a fresh look at the issue. He also restated his belief that it would be the most efficient way to reach resolution.

Ms. Stearns questioned the outcome of the code violations. Mr. Greenburg noted that this information would be presented in court. The court would determine a value for the property versus the code violation costs. Ms. Stearns questioned the City's selection of this particular building. She cited other buildings in the City. Mr. Greenburg addressed work loads and the Council's and staff's discretion of where to focus its efforts.

Mayor Stockton acknowledged that the City was open to input from its citizens. Ms. Stearns cited the City's nuisance abatement ordinance. The City should file liens and take property. Mr. Greenburg stated that the City did not have the authority to take property. Only the court has this power.

Susie Curtis, 1502 N. Lee St., addressed the Council. She spoke as the Northwest Neighborhood Association's President. She cited the Coachman's history. She expressed her opinion that court proceedings would take forever. She questioned if there were any time limits. Mr. Greenburg stated that the City had been in negotiations with this property's owner for the past year. A key question was investment in repairs, if the City would seek demolition. Nuisance abatement decisions were up to the court. Ownership has not been transferred. He hoped that the City was close on this property. He estimated a time line of 180 days.

Ms. Curtis questioned court action. She cited the existing code violations and any outstanding water bill balance. Mr. Greenburg noted that he did not know the current status.

Mayor Stockton questioned if Ms. Curtis was opposed to the City's pursuit of court action. Ms. Curtis responded negatively. She again questioned if there was a time limit. Mr. Greenburg restated that it would be court proceeding. Ms. Curtis expressed her opinion that the building should be demolished.

Andrew Colburn, 412 E. Monroe St., addressed the Council as the property owner. He expressed his opinion that he had complied with the majority of the repair plan. A time line had been established for repairs. He had been instructed to not repair the building. He believed that the City planned to purchase the building. He stated that he was not negligent. He planned to repair the building. He had accepted the City's offer and retained an architect. He had until September 11, 2006. He planned to wait for the next code violation before hiring an attorney. The outstanding water bill would be taken care of at the closing. No payment for water would be made until that time. Mayor Stockton

stated that the City had no knowledge of this and also had no plan of purchasing the building. Mr. Colburn stated that he had been waiting on an appraisal which has taken months. The purchase price for the property must address its value. He noted the outstanding debt. The City claimed to have sent him a letter in January 2006. He did not receive it. This letter requested an appraised value. He had submitted a request to the City for assistance with this property. Mr. Greenburg informed the Council that staff had worked with Mr. Colburn's attorney regarding the sale of this property. He expressed his belief that Mr. Colburn's attorney was aware that the City would not purchase same. Code violations against this property exist. The City, at staff's discretion, has voluntarily agreed to hold off on filing additional code violations. The Council had given staff direction to move forward and file with the courts.

Alderman Huette described the \$7,500 as an unfortunate investment. This would be the first step to commence the court proceedings.

Wes Newport, 609 N. Mason St., addressed the Council. He expressed his concern regarding the length of time involved. He added his belief that this issue could be resolved in a reasonable time frame. He questioned retaining outside counsel. He recommended that the City hire additional staff. He noted his discomfort with this item. He questioned how much longer would it be for this issue to be resolved. Mayor Stockton noted that the City was also anxious to have this issue resolved. Requests for additional manpower would require a review of staffing needs.

Charles Williams, 1325 E. Empire St., addressed the Council. He was speaking on behalf of the Lafayette Apartments, 410 E. Washington St. The City's rental housing inspection had just been completed. The building received an A rating. He noted his investment in his property. The Coachman was the adjacent structure. He described its appearance as appalling. He expressed his support for the retention of outside counsel. Mr. Greenburg noted that nuisance abatement was separate from repair and/or demolish. Mr. Williams cited his forty (40) years of experience. The Coachman was a lost cause. Mr. Greenburg stated that the property's ownership would not change. Mr. Williams expressed his interest in having a good neighbor.

Motion by Alderman Purcell, seconded by Alderman Matejka to return to order.

Motion carried.

Alderman Matejka noted the media coverage of this property during the winter months. There were plenty signals that there were serious issues with this property.

Alderman Schmidt questioned the normal time period. Mr. Greenburg noted that if this issue was not resolved voluntarily, a trial would take eighteen to twenty-four, (18 – 24), months. Alderman Schmidt questioned City inspection of this property. Mr. Greenburg noted that inspections can be done to determine if a building is safe for occupancy. Alderman Schmidt believed that there were unfit units at the Coachman.

**Mayor Stockton stated that the City would continue its code enforcement responsibility. Alderman Schmidt requested that the City also continue its nuisance abatement enforcement.**

**Motion by Alderman Crawford, seconded by Alderman Schmidt that an agreement with Amy Mobley for legal services to institute repair/demolish litigation with respect to the Coachman be approved in an amount not to exceed \$7,500, 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 Crawford, Huette, Schmidt, Finnegan, Gibson, Hanson, Matejka 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 Brady Homes Requesting Approval of a Special Use Permit to Allow Mini-Warehouses on Lot 5 of the Lafayette Park Planned Unit Development, east of 800 East Lafayette Street and west of 1529 and 1531 Julie Drive in a B-2, General Business Service District (Ward # 1)

**BACKGROUND INFORMATION:**

Adjacent Zoning

north: B-2 - General Business Service District  
south: M-1 - Manufacturing District  
east: R-1C - Single Family Residence District  
west: B-2 - General Business Service District

Adjacent Land Uses

north: vacant land  
south: construction company office  
east: single family dwellings  
west: a single family dwelling

The property in question is a 0.429 acre (106' x 178.44') vacant tract now being proposed as a site for small mini-warehouses. One 20' x 110' mini-warehouse building containing a total of eleven (11) storage cubicles is proposed for this site. These will be 10' x 20' cubicles containing 200 square feet per cubicle. Eleven (11) parking spaces will be constructed due east of this building along the west side of Brady Court, a private street. A 20 foot wide, four foot high landscaped berm topped with a buffer screen of evergreen trees at least four feet in height will be developed along the east property line, and a buffer screen of evergreen trees will be planted along the west property line to the west of the proposed mini-warehouse building.

The Zoning Code stipulates the following standards and conditions for Mini-Warehouses as a Special Use:

(1) **Minimum Fencing/Screening Requirements:** A six (6) foot high fence shall be required around the perimeter of the lot to be used as a mini-warehouse. Said fence shall be constructed of decorative concrete block or wire mesh with opaque slats interwoven into the wire mesh to provide an opaque screen. A landscaping strip, twenty (20) feet in width, shall be provided along all street frontages and along borders where a mini-warehouse site abuts any residence district.

(2) **Minimum Lot Area:** Two (2) acres

(3) **Minimum Lot Width:** One hundred (100) feet

(4) **Minimum Yard Requirements:**

Front: Twenty (20) feet

Side: Twenty (20) feet

Rear: Twenty (20) feet

(5) **Maximum Height:** Thirty-five (35) feet or two (2) stories, whichever is lower.

(6) **Minimum Off-Street Parking:**

(a) One (1) space for each ten (10) storage cubicles, equally distributed throughout the storage area;

(b) Two (2) spaces for the mini-warehouses manager's office;

(c) One (1) space for every twenty-five (25) cubicles to be located at the manager's office for the use of prospective clients.

(7) **Maximum Floor Area:** No storage cubicle shall have a gross floor area greater than five thousand (5,000) square feet.

(8) **On-site Circulation and Driveway widths:**

(a) All one-way driveways shall provide for one (1) ten (10) foot wide parking lane and one (1) fifteen (15) foot wide travel lane. Traffic direction and parking shall be designated by signing or painting;

(b) All two-way driveways shall provide for one (1) ten (10) foot wide parking lane and two (2) twelve (12) foot travel lanes;

(c) The parking lanes may be eliminated when the driveway does not serve storage cubicles.

(9) **Additional Requirements:** Fire protection shall be provided to meet the City Fire Prevention Code (Chapter 17 of the Bloomington City Code.)

The staff's review of the petition and site plan for this case resulted in the following observations:

- The six (6) foot high fence required around the perimeter of the lot to be used as a mini-warehouse site is not shown on the site plan (*variance requested*).
- The required landscaping strip, 20 feet in width, will be provided along the east side of this site next to the R-1C Single Family District as required.
- The 0.429 acre lot size does not comply with the two acre minimum lot area requirement (*variance requested*).
- The lot width does exceed the minimum requirement of 100 feet.
- With exception of the 12 foot setback from the west lot line, the other building setbacks for the proposed building do exceed the minimum requirement of 20 feet. (*variance requested*)  
The proposed building will be only one story in height.
- The 11 parking spaces proposed does comply with the minimum required for mini-warehouses in this case where no manager's office is proposed.
- No storage cubicle will have a gross floor area greater than 5,000 square feet.
- On site circulation on the proposed Brady Court will accommodate two-way travel.
- Fire protection will have to be provided to meet the City Fire Prevention Code.

#### BOARD OF ZONING APPEALS' PUBLIC HEARING:

The Board of Zoning Appeals opened a public hearing on this petition on Wednesday, July 19, 2006 and continued that public hearing until its next regular meeting on Wednesday, August 16, 2006 so that the Board could conduct a separate public hearing on the petitioner's request for the following variances in Case Z-26-06:

1. A variance to delete the six foot high perimeter fence requirement;
2. A variance of the two acre minimum lot area requirement in order to allow mini-warehouses as a special use on a 0.429 of an acre lot; and
3. A variance of the 20 minimum side yard requirement in order to allow mini-warehouses to be 12 feet from the west lot line.

No one presented testimony in favor of or in opposition to Case SP-09-06 at the July 19, 2006 public hearing. Notices of the July 19, 2006 public hearing were mailed to the owners of 42 properties in this neighborhood. The following persons presented testimony in favor of SP-09-06 at the August 16, 2006 hearing:

- Mr. William C. Wetzel, Attorney at Law, Suite 400, 115 West Jefferson Street;
- Mr. Bill Hayes, 26463 Pleasant Hill Road, Lexington; and
- Mr. Phil Bussman, Brady Homes, 2201 Eastland Drive, Suite 4.

Mr. Wetzel, legal counsel for Brady Homes, presented brief testimony arguing for the approval of the three variances cited above and the special use permit for the mini-warehouses. Mr. Hayes, owner of Knob Hill Nursery & Landscaping, testified that he will be moving his nursery and landscaping business to the land to the north of the site in question and will provide operational management services for this mini-warehouse site on behalf of Brady Homes. Mr. Hayes stated that each cubicle renter will be given the key for the lock for the cubicle that they are renting. Mr. Bussman testified that this site will be visually screened from adjacent residential uses.

No one presented testimony in opposition to Case SP-09-06 at the August 16, 2006 public hearing. The Board of Zoning Appeals noted for the record the receipt of a letter dated July 10, 2006 in opposition to the special use permit for mini-warehouses in Case SP-09-06 from Roger A. Brucker and Mary Brucker, 1107 West Miller St., the owners of 810, 812, 814, and 816 East Lincoln St.

BOARD OF ZONING APPEALS' RECOMMENDATION:

After having given due consideration to the testimony presented on August 16, 2006, the Board of Zoning Appeals, by a vote of 4 to 0 granted the following variances requested:

1. A variance to delete the six (6) foot high perimeter fence requirement;
2. A variance of the two acre minimum lot area requirement in order to allow mini-warehouses as a special use on a 0.429 acre lot; and
3. A variance of the 20 minimum side yard requirement in order to allow mini- warehouses to be 12 feet from the west lot line.

After having given due consideration to the testimony presented on August 16, 2006, the Board of Zoning Appeals, by a vote of 4 to 0 recommended Council approval of this petition in Case SP-09-06 for a Special Use Permit to allow mini-warehouses on Lot 5 of the Lafayette Park Planned Unit Development

STAFF RECOMMENDATION:

Staff concurs with the Board of Zoning Appeals and recommends Council approval of this petition in for a Special Use Permit to allow mini-warehouses on Lot 5 of the Lafayette Park Planned Unit Development.

Respectfully,

Kenneth Emmons  
City Planner

Tom Hamilton  
City Manager

**PETITION FOR A SPECIAL USE PERMIT FOR PROPERTY LOCATED AT:  
LOT 5 OF THE LAFAYETTE PARK PLANNED UNIT DEVELOPMENT**

State of Illinois                                    )  
  )ss.  
County of McLean                                 )

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

Now comes Brady Homes hereinafter referred to as your petitioner, respectfully representing and requesting as follows:

1. That your petitioner is the owner of the freehold or lesser estate therein of the premises hereinafter legally described in Exhibit A, which is attached hereto and made a part hereof by this reference, or is a mortgagee or vendee in possession, assignee of rents: receiver, executor (executrix); trustee, lease, or any other person, firm or corporation or the duly authorized agents of any of the above persons having proprietary interest in said premises;
2. That said premises presently has a zoning classification of B-2 under the provisions of Chapter 44 of the Bloomington City Code, 1960;
3. That under the provisions of Chapter 44, Section 7, 30 (K) of said City Code Mini Warehouses are allowed as a special use in a B-2 zoning district;
4. That the establishment, maintenance, or operation of said special use on said premises will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;
5. That said special use on said premises will not be injurious to the use and enjoyment of other property in the immediate vicinity of said premises for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood;
6. That the establishment of said special use on said premises will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the B-2 zoning district;
7. That the exterior architectural treatment and functional plan of any proposed structure on said premises will not be so at variance with either the exterior architectural treatment and functional plan of the structures already constructed or in the course of construction in the immediate neighborhood or the character of the applicable district, as to cause a substantial depreciation in the property values within the neighborhood adjacent to said premises;
8. That adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided to said premises for said special permitted use;



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

10. That said special permitted use on said premises shall, in all other respects, conform to the applicable regulations of the B-2 zoning district in which it is located except as such regulations may, in each instance, be modified by the City Council of the City of Bloomington pursuant to the recommendations of the Bloomington Board of Zoning Appeals.

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

Respectfully submitted,

Phil Bussman  
Brady Homes

**ORDINANCE NO. 2006 - 92****AN ORDINANCE APPROVING A SPECIAL USE PERMIT FOR A  
MINIWAREHOUSE FOR PROPERTY LOCATED AT: LOT 5 OF THE LAFAYETTE  
PARK P.U.D.**

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 Miniwarehouse 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(K) of the Bloomington, City Code, 1960; and

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

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

1. That the Special Use Permit for a miniwarehouse 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 28<sup>th</sup> day of August, 2006.

APPROVED this 29<sup>th</sup> day of August, 2006.

Stephen F. Stockton  
Mayor

ATTEST:

Tracey Covert  
City Clerk

**EXHIBIT A**

LAFAYETTE PARK PUD – DESCRIPTION OF PROPERTY ALONG LAFAYETTE

A part of Lot 20 in County Clerk's Subdivision of Hunt's Subdivision of the East Half of the Southeast Quarter of Section 9, Township 23 North, Range 2 East of the Third Principal Meridian, McLean County, Illinois, more particularly described as follows: Beginning at the Southeast Corner of said Lot 20. From said Point of Beginning, thence west 106.00 feet along the South Line of said Lot 20 to a point lying 224.00 feet east of the Southwest Corner thereof; thence north 178.44 feet along a line which is parallel with the West Line of said Lot 20 and which forms an angle to the left of 87°-56'-22" with the last described course' thence east 105.80 feet along a line which is parallel with said South Line and which forms an angle to the left of 90°-02'-38" with the last described course to the East Line of said Lot 20; thence south 174.71 feet along a line which forms an angle to the left of 90°-00'-00" with the last described course to the Point of Beginning, containing 0.429 acre, more or less.

**Alderman Gibson informed the Council that he had visited the subject property. He had also spoken with the neighbors. He noted that the required minimum lot size was two (2) acres. This site was less than half (1/2) an acre. He also noted the requested variances. The proposed petition was problematic to the neighbors. It was not aesthetically pleasing and there were also traffic concerns.**

**Mark Huber, Director – PACE, addressed the Council. He noted that this petition was heard before the Zoning Board of Appeals. He described the case as unusual. The subject property was the site of a PUD, (Planned Unit Development). The petition involved a small building which would house eleven (11) miniwarehouses. This PUD contained over two (2) acres. It had been divided into individual lots for the purpose of building ownership. He agreed that it was not a good match to the City Code. He noted that the Petitioner would install a berm on the property's east side.**

**Mayor Stockton questioned other uses for the building. Mr. Huber cited the property's B – 2, General Business Service District. There are restrictions upon the property. There also were a number of options. Mayor Stockton stated that it was staff's opinion that this use would not create a disturbance to the adjoining neighbors.**

**Alderman Gibson stated that this request did not meet the requirements. It was an empty lot. He cited the fact that the adjacent residential properties have small yards. Warehouses allow twenty-four (24) hour access. He believed that individuals would host parties there. The property is located on Lafayette St. It would be a disturbance to the neighborhood. Mr. Huber stated that access from Lafayette St. would be from a private street which would serve the PUD.**

**Alderman Huette questioned if this petition would meet the code if it was a single lot. Mr. Huber restated that this request was to place a miniwarehouse in a PUD. A Special Use was required. The PUD has already been approved by the Council. He restated that the site was unusual.**

**Alderman Schmidt questioned if anyone was present who wanted to speak to this item. Mr. Huber informed the Council that a meeting was held with the neighbors who had numerous questions.**

Mayor Stockton noted that warehouses were allowed in this zoning district. Mr. Huber added in conjunction with an office. He informed the Council that a landscaping business would be placed on this site. Mayor Stockton questioned access to the warehouses. Mr. Huber believed that there would be roll up doors. It would be miniwarehouses used for storage.

Alderman Purcell questioned notification. Mr. Huber noted that the neighbors have had contact with PACE staff. There might be inappropriate use of the property. There might also be opportunities for abuse. The City and the property owner must be vigilant.

Alderman Gibson questioned if there would be any changes to Lafayette St. Mr. Huber responded negatively.

Motion by Alderman Matejka, seconded by Alderman Huette to suspend the rules to allow someone to speak.

Motion carried.

Phil Bussman, 40 Ashland Ct., addressed the Council on behalf of Lafayette PUD. He provided information about the berm. Additional options included a fence and/or trees on the other side of same. He acknowledged the possibility for noise/nuisance. He believed that there were ways to address same. Mayor Stockton questioned this petition. Mr. Bussman was employed by Brady Homes. This warehouse would be a place of business. A nursery (landscaping) business was the primary tenant.

Alderman Matejka noted that a fence represented one (1) of the requested variances. Mr. Bussman noted the variance was for a perimeter fence with a gate. The fence would provide some privacy for the neighbors. Alderman Matejka questioned if this variance could be amended to install a fence on the only the property's west side.

Alderman Gibson stated that his questions had been answered.

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

Motion carried.

Motion by Alderman Matejka, seconded by Alderman Gibson the Special Use be approved and the Ordinance passed contingent upon a six (6) foot high perimeter fence be required along the west side of lot five (5.)

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

Ayes: Aldermen Crawford, Huette, Schmidt, Finnegan, Gibson, Hanson, Matejka and Purcell.

Nays: None.

**Motion carried.****The following was presented:**

To: Members of the City Council

From: Liquor Commission

Subject: Application of Tjolo's Corporation, d/b/a Show Me's Restaurant, located at 517 N. Main St., requesting an RAS liquor license which would 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 Stephen F. Stockton called the Liquor Hearing to consider the application of Tjolo's Corporation, d/b/a Show Me's Restaurant, located at 517 N. Main St., requesting an RAS liquor license which would allow 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 Stephen Stockton, Rich Buchanan, Marabeth Clapp, Mark Gibson and Steve Petersen; Hannah Eisner, Deputy Corporation Counsel, and Julie Phillips, Deputy City Clerk; Brian Novotny, owner/operator and Applicant representative; Merrick Hayes, Applicant's attorney; and Ron Cote, President Show Me's Restaurants.

Commissioner Stockton noted that the City Council directed the Liquor Commission to again review this application in order to discuss some of the various issues surrounding it such as: 1.) is Show Me's a restaurant or a bar; 2.) the impact of the restaurant on the downtown area; 3.) is the rooftop beer garden a Liquor Commission issue to address, or a zoning and/or contractual issue; 4.) the theme of the restaurant, and any other possible issues.

Commissioner Stockton indicated that one Commissioner had driven to the Springfield restaurant to tour that facility. Other commissioners had toured the apartments adjacent to the proposed restaurant, as well as had contact with both Fred Wollrab, the owner of the adjacent property, and Mr. Novotny, owner/operator and Applicant representative.

Commissioner Clapp requested that the Applicant describe the theme of the restaurant. She had not heard of Show Me's Restaurant's prior to this application. She had researched the restaurant.

Merrick Hayes, the Applicant's attorney indicated that Ron Cote, President Show Me's Restaurant, had some material that he would like to provide the Commission. Mr. Cote handed the Commission two (2) letters written on behalf of the restaurant, and copies of the restaurant's menu. He stated that Show Me's is a Florida theme restaurant, with a lot of televisions, and sports, and described the uniforms worn by the waitresses as "pretty". He noted that the waitresses uniforms consisted of T-shirt's, shorts, and gym shoes. The T-shirts had the Show Me's logo on the front and slogan's on the back such as "Best Tails in Town" with a depiction of shrimp tails. The uniform colors may match college or professional sports teams, and may have slogans consistent with those of the team represented.

Commissioner Clapp questioned if there were any themes that included the waitresses using hoola hoops etc. Mr. Cote indicated that he was not aware of any restaurants that used them in their themes. Commissioner Clapp questioned if there were any type of entertainment that could be deemed lewd. Mr. Cote responded in the negative.

Mr. Cote referred to a letter he had provided the Commission that was written by the Mayor of the City of Carbondale. It was a letter of recommendation which noted that Show Me's Restaurant was based on food sales. Show Me's is a restaurant.

Commissioner Peterson questioned whether the Fairview Heights Show Me's Restaurant was similar to the proposed Bloomington location. Mr. Cote responded negatively. The proposed location was most comparable to The Landing restaurant in St. Louis, MO.

Commissioner Buchanan noted that he had visited the Show Me's web site, and viewed a gallery of pictures. He noted that the pictures on the web site showed girls in bikinis as opposed to uniforms. He questioned whether the employees wore anything other than the stated uniforms. Mr. Cote responded in the negative. The web site pictures were taken from a fundraiser volleyball game that some of the employees had participated in.

Commissioner Stockton requested that Mr. Cote elaborate on the charitable work that Show Me's Restaurants were involved in. Mr. Cote stated that the Show Me's Restaurants hosts an annual Golf Tournament to raise funds/awareness for Downs Syndrome. In 2005, the Show Me's Restaurants raised \$100,000 in cash to donate to the Downs Syndrome Foundation. Show Me's Restaurants have donated products to other charitable organizations. Show Me's Restaurants sell pink paper shorts and the funds received are donated to the Susan G. Koman Cancer Walk Campaign. Mr. Cote also noted that the Show Me's Restaurant has a lot of family business. Children's meals are served on frisbees.

Mr. Cote reiterated again that Show Me's is a restaurant, and noted other letters provided to the Commission that addressed issues of security. He noted that Show Me's sold well over 10,000 hot wings on the last Super Bowl Sunday.

Commissioner Stockton read a letter from Show Me's accountant that noted the liquor sales versus the food sales at the various Show Me's Restaurants as follows:

The Landings	70% food	30% liquor
Fairview Heights	68% food	32% liquor
Springfield	65% food	35% liquor
St. Charles	61% food	39% liquor
O'Fallen	60% food	40% liquor

Commissioner Stockton read a letter written on behalf of Show Me's from the Mayor of Fairview Heights. The letter provided strong credibility to the Show Me's Restaurant located in this city. It had opened in 1990, and the city had experienced no problems with the establishment.

It noted that the restaurant staff assisted the police department regarding any suspicious behaviors noted at the restaurant.

Additionally, Commissioner Stockton read a letter provided by a food supplier that supplied the Fairview Heights establishment. The letter noted that the restaurant offered great food and value. The restaurant's food supply purchases rivaled those of surrounding restaurants.

Commissioner Stockton referenced a diagram of the rooftop patio, and noted that Mr. Novotny would have an opportunity to discuss the plans.

Commissioner Buchanan inquired as to how the proposed location's number of seats compared with the other restaurant locations. Mr. Cote responded that there would be approximately 100 seats, similar to the Fairview Heights location that seated approximately 88.

Commissioner Gibson inquired if the other locations also had an outside seating area. Mr. Cote responded that all of the locations had an outside seating area with the exception of the Springfield restaurant. He noted that the restaurant's business slows during the summer months, due to customers' preference for being outside. He indicated that having an outdoor seating area helped boost sales during the summer months.

Commissioner Gibson questioned whether the rooftop patio at this location was considered essential to the overall success of the proposed restaurant. Mr. Cote indicated that until the restaurant was opened it would be difficult to determine. He based his opinion that the rooftop patio (outside eating area) would be beneficial on his experience with the other restaurants. He noted that the three (3) months of usage makes a difference.

Commissioner Peterson noted that the rooftop patio appeared to have seating for roughly twenty-five (25) patrons. He questioned how this compared with the other restaurants. Mr. Cote responded that it was about the same as the other locations. Commissioner Peterson questioned if the proposed restaurant's patio would have the same operating hours as the other restaurants. Mr. Cote responded affirmatively, noting that the patios usually close around 11:00 p.m. Commissioner Peterson questioned when the patio opened. Mr. Cote responded that the patios normally experience large lunch crowds. Area employees who work indoors like the opportunity to have their lunch in an outside environment.

Commissioner Buchanan questioned if there would be outside bar service at the proposed location. Mr. Cote indicated that the other locations had bar service inside the restaurants and drinks are brought from inside to the tables on the patios. He was not certain whether there would be outside bar service at the proposed location.

Commissioner Stockton informed the applicant that he had been contacted by the local media and questioned regarding the term "show me" in the restaurant's name. It was his understanding that the term "show me" in the restaurant's name was referencing Missouri, the "Show Me State".

Mr. Cote affirmed, noting that his father-in-law had made up the name, they really liked it, and his wife used Missouri's license plates as a model for the restaurant's logo.

Commissioner Stockton questioned the reference made by "tails" in the restaurant's logo. Mr. Cote indicated that it was a humorous way to reference lobster tails, shrimp tails etc.

Commissioner Clapp inquired if Mr. Cote regarded this logo as demeaning to the girls that wore the shirts that had the "tails" logo on the back. Mr. Cote responded that it was a matter of opinion, and that the employees had never complained. He noted that most of his employees are college students who work part time while earning full time pay.

Commissioner Stockton noted that he had received several phone calls from citizens and that he had not had complaints regarding the theme of the Show Me's Restaurants. There had been questions regarding dollar bills attached to the ceilings. Mr. Cote responded that this practice had began with the very first restaurant opening. At his "soft opening" only close friends and family members attended. They had written such things as "good luck" and "best wishes for success" on them and attached them to the ceiling. They have been there ever since and have become a tradition at the other restaurants.

Commissioner Stockton requested that Mr. Novotny, owner/operator and Applicant representative describe the rooftop patio. Mr. Novotny addressed the Commission. When he began this venture it was coincidental that he found this particular building. It did not fit in with the scheme of the Downtown area. He believed that the building had potential and bought it before giving it a second thought. He renovated the upstairs as living space, but knew that he wanted to operate a restaurant in the remainder of the building. He began looking into the restaurant business and quickly found that in order to do it right he would need funding.

At that time he spoke with former Mayor Judy Markowitz, and she encouraged him to apply for a liquor license. He applied, and received approval for a liquor license, however, he did not know what to do next. He began looking for investors, and it took him some time to tie everything together.

It was at that time that he began a business plan with Joe Kahn, who had operated an Italian Restaurant in Peoria for several years. Mr. Kahn's business was not a franchise business, and neither he nor Mr. Kahn were certain how their businesses would work together. Mr. Kahn suggested that he look into franchising a Show Me's Restaurant, and he later met with Mr. Cote. He had looked into other franchises, but found that they were too expensive.

Mr. Novotny noted that Show Me's Restaurants have had zero failed franchises. He envisioned a successful business relationship, as well as a budget fit. He has a solid contract. There was somewhat of a risqué element to the uniforms, however, he would be working with Mr. Cote to avoid making mistakes.

Mr. Hayes inquired as to the investment for the franchise. Mr. Novotny stated that it was over \$430,000, closer to \$500,000. He noted that the investment did not include the purchase price of the real estate. The total investments would reach nearly a million.



Mr. Novotny referenced the diagram of the patio that was provided to the Commission. The diagram included the adjacent apartments. Of the windows of the adjacent apartments, one (1) window is a living room, all of the other windows are hallway windows. He did not anticipate noise as being a problem, as there would be no live music.

Commissioner Stockton noted a barrier shown on the diagram. He inquired as to the height of the barrier. Mr. Novotny stated that it would be around eight (8) feet high as to block the neighbors view of the patio. He noted that the west side of the patio would have a 48 inch parapet. City code requires 36 inches, however the plan is to install a 48 inch one.

Commissioner Stockton inquired if the stairwell would be enclosed. Mr. Novotny replied that that only the stairwell would be enclosed, that the roof would slope with the stairwell, and that there would be a door leading onto the patio. The stairwell would not block any windows, and based on conversation with his attorney, the enclosed stairwell would not be considered a second story on the building.

Commissioner Stockton reminded Mr. Novotny that the recently passed smoking ordinance prohibited smoking within fifteen feet (15') of a non smoking area. Mr. Novotny replied that he was willing to accept and adhere to City Code. Commissioner Stockton indicated that the ordinance would require that no smoking be allowed within fifteen (15) of the enclosed stairwell.

Commissioner Stockton read letters that he had received from the adjacent apartment owners citing their concerns regarding the proposed rooftop patio. Mr. Novotny responded that he was aware of, and understood the concerns of the owner. He noted that the idea of the rooftop patio came from his experience in Manhattan, New York, where a friend owns an apartment that overlooks a restaurant rooftop patio. He liked the idea, and believed that the same would be well received in Bloomington. He noted that there would be seating for twenty-five (25) customers on the rooftop patio for approximately three (3) months of the year, and that by not allowing this part of his business plan, there was the potential to break the business. Additionally, it would take away the opportunity for citizens who would enjoy eating on a rooftop patio overlooking the Downtown. He stated that there were people of all backgrounds that have an interest in moving into the Downtown. Some may love the atmosphere provided by a rooftop patio overlooking the Downtown.

Commissioner Stockton inquired as to what Mr. Novotny believed his total percentage of food sales would be. Mr. Novotny replied that he believed well over fifty percent (50%). Commissioner Stockton inquired if Mr. Novotny believed that if the restaurant were to remain open as long as the bars were open (1:00 a.m.) if his revenue would still come from mostly food sales. Mr. Cote addressed the Commission and indicated that the existing Show Me's Restaurants have a tremendous amount of late night food sales.

Commissioner Peterson noted that the Downtown has a large population of college age people in the area. The area bars do not have room for all of them. He inquired how the applicant would handle the "overflow" of people not able to enter the other establishments. Mr. Cote replied that the restaurant seats would be filled before any overflow. Commissioner Peterson questioned

whether it was Mr. Cote's belief that most people coming to the Show Me's Restaurant would be there to eat. Mr. Cote replied affirmatively.

Commissioner Buchanan inquired if the wait staff were required to sign any type of contract that would inhibit them from complaining, or imply that they were required to put up with lewd misconduct by the customers. Mr. Cote replied that there was no such contract, but that there is an employee handbook. Show Me's Restaurants have not experienced these types of issues, but if so would not be tolerated, and handled appropriately.

Mr. Hayes questioned if Mr. Cote had ever had a request for a liquor license denied. Mr. Cote replied that he had not, and added that the corporation had actually turned down more requests for franchises than it has applied for liquor licenses.

Commissioner Stockton noted that at the previous Commission hearing to review this application, the Commission noted that one of the adjacent apartment owners had requested that visual and sound barriers be put into place if the rooftop patio were to be approved.

Mr. Novotny stated that he had been in contact with the resident, noting that a compromise was not an option with this resident. He had already compromised, and reminded the Commission that this location is zoned B - 3, Central Business District.

Mr. Cote stated that the applicant had agreed to close the rooftop patio earlier than the remainder of the restaurant, as well as keep the music turned down. He questioned how a visual barrier would be conducive to the apartment owner, as their view would not be of the Downtown, but of a glass block wall.

Commissioner Stockton noted that he could envision the advantages of outdoor dining. This proposed rooftop patio is much different than a sidewalk cafe. The City had recently passed a sidewalk cafe ordinance. He questioned if the location of the stairway was set.

Mr. Novotny indicated that an architectural firm came up with the best and least invasive location for the stairwell, as to not obstruct the adjacent apartment windows. This structure has also been approved by the City's Building Safety Division. He had already paid \$25,000 in architect fees, the layout was set.

Mr. Hayes informed the Commission that he would answer any questions regarding the contract between Mr. Novotny and Mr. Wollrab, the adjacent apartment building owner. He requested that the Commission affirm its previous recommendation. It had been made clear what the business plan was.

Mr. Hayes noted that the City had invested \$20 million in the Cultural District. This proposed restaurant is a private investment from the private sector. The proposed restaurant, with the emphasis on food, would be used by patrons of the Cultural District.

Commissioner Buchanan noted that the issue of the contract between Mr. Novotny and Mr. Wollrab had been raised, and questioned the interest the Commission may have in the contract.

Commissioner Stockton noted that although the issue of the contract had been raised, he was unsure that there was any weight of such private contract on the Commission. It may not have any relevance, however, it would not hurt to know what was contained in same. Commissioner Buchanan expressed his interest in what the contract said regarding the use of the roof, and whether it prohibited the use of the roof as a patio. Mr. Hayes indicated that section four (4) of the contract limits the building to being one story, meaning that a second story could not be constructed on the building. Commissioner Peterson inquired as to when the contract had been prepared. Mr. Hayes replied in May, 2005.

Commissioner Stockton opened the meeting to public comments regarding this application.

Rich Marvel, attorney for WBNS Group, 115 W. Jefferson, addressed the Commission. He noted that his client was only interested in this application due to opposition to the roof top patio. He discussed the history of the applicant's liquor applications. The applicant's previous application had been approved contingent upon there being no commercial activity on exterior of the building. There had been agreements reached between Mr. Novotny and Mr. Wollrab based upon the condition placed upon the previous liquor license. Mr. Marvel indicated that his client believed that use of the roof as a rooftop patio pushed the establishment into more of a tavern than a restaurant. Mr. Marvel noted that the Commission should be consistent. He requested that the Commission acknowledge the agreement between Mr. Novotny and his client based upon the City Council's previous liquor license approval with the condition that there be no commercial activity on the outside of the building, including a roof top patio.

Commissioner Stockton noted that conditions placed upon a liquor license could be lifted and/or changed. Mr. Marvel replied that he understood. The Commission is aware that the Downtown is changing, more towards entertainment. He questioned if the Commission should use a liquor license as a means of controlling or opposing the use of a building. Mr. Marvel stated that there were differences between zoning issues. He noted that when a preliminary plan is approved, the property owner is held to the plan. He stated that a liquor license is a privilege, not a right.

Commissioner Buchanan inquired what Mr. Marvel's client interpreted "no commercial activity on the outside of the building" to mean. Mr. Marvel responded that his client interpreted it to mean that there would be no food, drinks, or roof top patio on the outside of the building. Commissioner Stockton inquired if the client would be opposed to a sidewalk cafe.

Mr. Marvel replied negatively. Commissioner Peterson questioned if there were no room for compromise, and if his client would be willing to send away a viable business with proven success. Mr. Marvel responded that his client had invested a tremendous amount of money in the Downtown, and that Mr. Novotny did not have any initial communication with his client regarding a business plan.

Commissioner Gibson questioned Mr. Novotny regarding his plans for the existing second story. Mr. Novotny responded that he had already rehabilitated the existing second story as his personal residence and office space. Commissioner Gibson inquired if Mr. Novotny believed that the roof top patio was the most viable option. Mr. Novotny responded that it was his belief that this was the most viable option, providing the best view of the Downtown for his patrons.

Mr. Cote addressed the Commission and noted that the patios are generally more quiet than the inside of the restaurants.

Alderman Karen Schmidt, Ward Six (6), addressed the Commission. She had made the motion for Tjolo's initial liquor license application with the condition that there be no commercial activity on the outside of the building. She stated that by that motion, she meant no roof top patio be allowed. She noted that the motion itself was not specific enough. She noted that Alderman Hanson had given voice to the need for discussion of the future of the Downtown.

Commissioner Buchanan questioned how a plan or vision for the Downtown would make the decision to grant liquor licenses any easier. Alderman Schmidt replied that there are different sectors of the Downtown, and that by having a plan or a vision, it may make planning easier for the different sectors.

Commissioner Gibson stated that the Commission should be consistent. The Commission easily granted expansion for establishments such as Daddios and Fat Jacks. The Commission could not selectively lean on establishments with proven track records.

Ron Frazier, 413 N. Center St. addressed the Commission. He stated that he is a Downtown resident. He is awakened nearly every night by noise coming from the street. He did not believe that a roof top patio would cause problems. He believed that more restaurants would be good for the Downtown. It was his hope that the restaurants would draw a different mix of people.

Ward Waller, 216 N. Center St. addressed the Commission. He thanked the applicants for their interest and investment in the Downtown. He noted that the drawing of the roof top patio showed seating for forty-seven (47) people. The applicants had stated that there would be seating for twenty-five (25). He questioned if the applicant would be willing to limit the number of seats as a compromise. He expressed his concern regarding noise traveling from the roof top patio affecting more than just the adjacent property.

Mr. Hayes assured the Commission that the applicant was willing to compromise and would look for ways to reduce the impact on the adjacent apartments.

Commissioner Stockton closed the public comment and polled the Commission on issues of concern. He inquired if any of the Commissioners had any objections regarding the theme of the restaurant, or if there were concerns that the establishment would operate more as a tavern than a restaurant. There were no objections. Commissioner Stockton indicated that the only remaining issue was the roof top patio.

He noted that the Commission could reverse its previous recommendation and recommend against the creation of the license, or regulate the layout and/or use of the patio. He reviewed the restrictions previously recommended, e.g. sight and sound barriers and suggested additional ones, such as reconfiguring the patio and restricting the seating within a certain distance of the common wall. Other suggestions could be 1.) time limits, both as to the hours and/or sales of alcohol; 2.) non smoking; 3.) music could be prohibited, and 4.) capacity could be limited.

Commissioner Buchanan noted that if not for the roof top patio he would recommend the creation of this license without reservation. He expressed his disappointment that the Applicant had not offered any real compromise. The Commission never has enough objective information in order to be sure that there would not be problems with any license. His overall feeling for this application was good. He believed that this establishment would succeed and that the patio would not be excessively loud.

Based on the above, the Liquor Commission recommends to the City Council that that the application by Tjolo's Corporation, d/b/a Show Me's Restaurant, located at 517 N. Main 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 be created upon compliance with all applicable health and safety codes with the following conditions: 1.) the Commission reserves the right to impose tavern ("T") liquor license rules after 8:00 p.m., if the nature of the environment so justifies; 2.) the Commission reserves the right to regulate the environment's surrounding openings, (French Doors) with regard to music and sound baffling; 3.) said openings must be closed by midnight or anytime live or amplified music is offered; 4.) the Commission reserves the right to regulate the use of the patio dining area to include the time of use, the use of music, the time for liquor sales, and sound/visual baffling/barrier; 5.) the patio dining area may not be occupied after 11:00 p.m. and 6.) the total occupancy on the patio may not exceed thirty (30) people.

Respectfully,

Stephen F. Stockton  
Chairman of Liquor Commission

**Mayor Stockton introduced this item. The Liquor Commission held hearings in July and August regarding this application. Over four (4) hours had been dedicated to this application. There were several issues with same. He cited that the theme and the wait staff uniforms were not illegal. Questions have been raised regarding whether this establishment would be a bar or a restaurant. Evidence had been submitted which documented that at other Show Me's locations approximately seventy percent (70%) of all revenue comes from food sales. Therefore, Show Me's qualifies as a restaurant under the City Code. He acknowledged that it might appear to be a tavern during the late night hours. He encouraged the Council to review the conditions that the Commission had placed upon the application. He addressed the impact upon the Downtown. The Commission did not consider the agreement between adjacent property owners. He reviewed the conditions recommended by the Commission. He addressed the roof top patio. There would be no outdoor commercial activity. He cited recent changes by the City, (sidewalk cafes and the smoking ban).**

**Alderman Schmidt informed the Council that a meeting was held on August 27, 2006. It was attended by Brian Novotny, Fred Wollrab, and dozens of Downtown residents. The focus was compromise. A request was made that Mr. Novotny assume the apartment leases to the south as long as the business was open. Concerns were raised**

about noise. A request was made to move the patio to the north side of the building. She cited an alley and parking lot which was currently owned by Mr. Wollrab.

Alderman Finnegan had also met with Mr. Novotny and Mr. Wollrab who was accompanied by his attorney. He offered general support for this item. If Show Me's was a tavern in reality, then the City should not grant it a liquor license. He questioned if it might become one after 8:00 p.m. He added that the patio should close between 10:00 and 11:00 p.m. He recommended that it be screen with an eight foot, (8') fence.

Mayor Stockton noted that any restaurant may become a tavern later in the evening. He noted that food sales may drop below fifty percent (50%) after a certain hour. Alderman Finnegan restated that if food sales exceeded liquor sales then there should not be any problems. Mayor Stockton added that if liquor sales exceeded fifty percent (50%) than a restaurant license would not be valid.

Alderman Matejka addressed the Downtown. He cited the overtime costs in the Police Department within same late nights on the weekends. He encouraged additional restaurants within the Downtown not additional taverns.

Alderman Finnegan found the conditions to be confusing, (applying tavern rules). Mayor Stockton responded that safeguards were needed to keep underage persons out. Alderman Finnegan questioned if assurances were provided regarding the percentages of food and alcohol sales. Mayor Stockton stated that by ordinance if over fifty percent (50%) of sales were derived from alcohol than the establishment is a tavern. He cited the limited late night hours and concerns raised regarding underage persons.

Alderman Schmidt cited the past agreement. Mayor Stockton stated that these situations might occur at any restaurant. The possibility increased during the late night hours.

Alderman Crawford encouraged the Council to think in terms of annual sales. He also did not want another tavern in the Downtown.

Alderman Schmidt expressed her opinion that a plan was needed for the Downtown. The City should not encourage drinking. Mayor Stockton addressed another issue, (Reality Bites). Questions were raised regarding Friday nights at midnight and possible remedies. He cited that the license holder could voluntarily choose to close earlier. Alderman Schmidt restated her belief that the Council needed to develop a plan. She acknowledged that it would be difficult. Mayor Stockton stated that a moratorium on taverns would not impact this application. The application was for a restaurant license. The Commission reviewed liquor licenses based upon complaints received.

Alderman Gibson supported granting a restaurant license. He noted his awareness that it might become a tavern late at night.

Alderman Hanson requested that the Council schedule a Work Session to address this application. One of the biggest hurdles was the patio. The Council needed to address this issue now. The patio would hold seven (7) tables, (twenty to thirty people). The use of same would be limited by the weather. He questioned the impact of the patio on Mr. Novotny's business plan. The City should address this issue in the future.

Alderman Schmidt stated that Alderman Hanson raised interesting questions. She questioned management of a roof top patio. The patio would close at 11:00 p.m. She believed that there were a number of management issues.

Alderman Hanson believed that the easiest way to move forward was to remove the roof top patio. This item could be addressed in the future. The Council may need to hold a hearing regarding commercial development within the Downtown.

Mayor Stockton cited the City's \$50 million investment in two (2) entertainment centers within the Downtown. There had been a number of suggestions. One recommended that a bar area be designated. Others included requiring restaurants to close earlier, banning certain themes, no national chain restaurants, and outdoor dining restrictions. He noted the need for balance. The City needed to consider the impact.

Alderman Purcell noted that outdoor dining was allowed in the Downtown.

Alderman Schmidt stated her concern regarding noise dispersal.

Alderman Gibson stated that there would be noise within the Downtown. The City was attempting to revitalize same. The City will have to make allowances for noise. He encouraged the Council not to look for a problem before it occurred.

Alderman Crawford stated that the Downtown used to be in his Ward. Taverns have been an issue. He cited the overtime costs within the Police Department for the Thursday, Friday, and Saturday night Downtown patrols. He noted the unique combination of uses within the Downtown.

Alderman Schmidt noted that there were different levels of enthusiasm. She would not exclude outdoor dining. There were two (2) existing businesses which offered same.

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

Motion carried.

Mayor Stockton stated that each speaker would be allotted three (3) minutes.

Merrick Hayes, 202 N. Center St., addressed the Council. He provided the Council with background information. This application appeared before the Liquor Commission on July 12, 2006. The hearing lasted one and a half, (1½) hours. The application was

placed on the Council's July 24, 2006 meeting agenda. It was sent back to the Commission for an additional hearing on August 9, 2006. That hearing lasted for three and a half, (3½) hours. Individuals who were opposed to this application were present. The Commission unanimously recommended same to the Council. He noted the various conditions which also addressed patio use. The issue was ownership rights versus neighborhood concerns. Show Me's would be located in part of the old Copy Shop with an addition, (new construction). Mr. Novotny had made a \$500,000 commitment. He noted the City's \$50 million investment in the Downtown. Show Me's was not new. It was a small chain of restaurants. There were currently ten (10) restaurants located in Missouri, Illinois, and Indiana. He addressed the percentage of sales for food versus alcohol. Food sales would be greater than sixty percent (60%). He anticipated that Show Me's primary sales would be food, (seventy percent). He addressed the meeting between Mr. Novotny and Mr. Wollrab. Efforts have been made. A letter had been sent to Mr. Wollrab's attorney. These efforts have not been received well. He urged the Council to create the liquor license.

Erick Stock, 515 N. Main St., addressed the Council in opposition to this application. He was an adjacent apartment resident. He had submitted a letter to the City. His opposition was limited to the roof top patio. A similar request was denied two (2) years ago. He acknowledged that there were inconveniences to living Downtown. He believed that there needed to be a line.

Ron Cote, 3732 Ridgeview, Edwardsville, IL, addressed the Council. He was the President of Show Me's. Show Me's had been in business for sixteen (16) years. He was present to answer any questions and/or address any concerns. He had submitted a letter from the firm's accountant. Data was presented regarding food versus alcohol sales. He compared Show Me's to the Landings, located in St. Louis, MO. He also had submitted a letter from Show Me's food supplier which addressed sales. In addition, there was a letter from the Mayor of Fairview Heights. There had been no issues at other Show Me's locations. The patio would hold seven (7) tables and be in use for approximately three (3) months a year. The summer tended to be the slower months for restaurants. He did anticipate that there would be late night food sales. Based upon the investment, the patio was key.

Alderman Schmidt expressed her opinion that late night dining would vary by location. Mr. Cote expressed his opinion that the patio could be secured. There were dumpsters located in the alley. The roof top would offer a better view. There was senior citizen apartments located adjacent to the Fairview Heights restaurant. There had not been any issues. Alderman Schmidt questioned if the view to the east would be changing.

Alderman Finnegan questioned the patio. Mr. Cote stated that there would be five to six (5 – 6) umbrella tables which would be taken down at night. Mayor Stockton restated that the current recommendation would require that the patio close at 11:00 p.m. Mr. Cote cautioned that restaurant's patrons might still be dining at that hour. Food is what Show Me's does best. Show Me's offered great pricing on food.



Alderman Hanson questioned the effect of hard times on business owners. The roof top patio would allow diners to see into the adjacent apartment's living space. He also questioned the impact of thirty (30) people dining outside on the building's roof. Mr. Cote noted that the restaurant's main building would offer 100 seats. Show Me's slowest restaurants all lack patio dining.

Alderman Hanson did not believe that the patio would break the business plan. He cited the impact upon the adjacent apartment dwellers. He expressed his concerns regarding safety and security. He was not sure if the Council was on the same page and ready to move forward on this application. Mr. Cote offered to block the view into the adjacent apartments. He noted that Mr. Novotny would also reside in the building. He restated the investment in this business.

Alderman Schmidt questioned if Mr. Cote was aware of the Council's past actions. Mr. Cote restated that Show Me's would be a restaurant. He did not believe that there would be any noise issues. He understood the Council's concern. Alderman Schmidt invited Mr. Cote to visit the Downtown at 1:00 a.m. on a Friday night. Mr. Cote cited St. Louis' efforts at the Landings. It was located in a similar area.

Alderman Purcell questioned Show Me's investment. Mr. Cote stated \$850,000 to \$1 million.

Alderman Finnegan addressed the roof top patio. He did not believe that the roof line would offer a more attractive view. Mr. Cote noted that currently this was an empty space. Show Me's would address screening.

Alderman Hanson restated that Show Me's should go forward without the patio. He believed that the restaurant would be successful without same. Mr. Cote stated that he was not sure if he would risk the money.

Alderman Matejka stated that there were other alternatives. He addressed the other side of the building. It was a difficult job to balance competing needs. He noted that numerous attempts have been made with no response.

Alderman Schmidt noted the future Festival Park. The Bloomington Center for the Performing Arts would be opening in September 2006. She believed that business owners would be interested in their building's east side facade. She encouraged Show Me's to be a part of the solution.

Allison Bailey, 103 S. Vale St., addressed the Council in opposition to this application. She cited discussions regarding tavern licenses. She had moved out of the Downtown over safety issues. She expressed her concern regarding Show Me's sexist theme. She reminded the Council of the City's Not in Our Town program.

Mayor Stockton noted that after all of the discussions Show Me's would be a restaurant license. Alderman Finnegan suggested that the building's east side would be a

better location for the patio. Alderman Schmidt cited three (3) compromises which had been presented: 1.) swap current residence; 2.) patio area be located behind the restaurant; and 3.) parking lot located north of the building be leased by Mr. Novotny, (currently Mr. Wollrab has leased same to Butch Thompson).

Brian Esposito, 408 E. Taylor St., addressed the Council in support of this application. He currently resided in the Douglas St. Apartments. He frequented Downtown businesses. A change may be coming to the east. The roof top patio would offer a great view. He has patronized Show Me's at its other locations. He encouraged all to visit Show Me's other restaurants. He noted that individuals keep referring to Show Me's as a bar. The Downtown needed more restaurants. He questioned the concerns raised about patrons drinking after certain hours. He noted the City's \$50 million investment in same. He also questioned the City's plan for the Downtown. He thanked the Mayor and Council for their time and encouraged them to approve this application.

Rich Marvel, 115 W. Jefferson St., addressed the Council in opposition to this application. He was an attorney with the WBNS Group. The adjacent property owner cited the residential apartments. In May 2004, a license was created for a restaurant which would offer fine Italian dining. No commercial activity would have been allowed on the building's exterior. He cited an agreement between the property owners. One factor to consider when creating a liquor license was neighborhood impact. He expressed his interest in seeing businesses develop and become successful within the Downtown. Mr. Wollrab was the first to start investing in the Downtown. He had been a good neighbor. The Council needed to balance both interests: the impact of a roof top patio upon the adjacent apartments

Brian Novotny, 517 – 519 N. Main St., addressed the Council in support of this application. He requested additional time to address them. This application had appeared before the Commission two (2) times. It had been approved both times. The Commission listened to over three and half hours (3½) of testimony. The Pantagraph contained an editorial in support of his application for a liquor license. Mr. Cote failed to mention that there were three (3) Show Me's restaurants in Illinois. There had not been any opposition to these applications. All of the requests for liquor licenses had been approved. The Show Me's franchise was developing. He reviewed the packet which had been prepared for the Commission and also presented to the Council.

Alderman Finnegan questioned the plan to screen the windows, (adjacent apartment building). He also questioned patio noise. Mr. Novotny stated that the patio was important. There were a number of screening ideas. He cited glass blocks with landscaping or just landscaping. The screening must also act as a buffer. He had contacted Mr. Wollrab and had not received a response as of this time. He had requested a wish list. He did not believe that Mr. Wollrab was interested in a compromise. Mayor Stockton requested additional detail. Mr. Novotny cited planter boxes. He suggested a height of seven feet (7') for the plantings along the south wall. There would be a three foot (3') buffer between the plants and the adjacent wall. Mayor Stockton questioned lighting. Mr. Novotny noted that the patio would cover 1,000 square feet. It would hold six to seven

(6 – 7) tables and offer seating for thirty (30). He planned to create a buffer. Patrons would be seated and food would be served.

Alderman Finnegan restated Mr. Novotny's intention to install screening. He requested that music be eliminated. Mr. Novotny stated that he would comply with all stipulations from the City.

Alderman Hanson stated that the Council would like to see Mr. Novotny be successful. However, he did not believe that the roof top patio was necessary. He encouraged the Council to move forward on this item. The roof top patio could be addressed in the future. Mr. Novotny was unsure if Show Me's would move forward without a liquor license and without the patio. He would look to Mr. Cote for guidance. Alderman Hanson restated his opposition to the outdoor patio. The City did not have a Downtown plan. Any plan should consider the use of roof tops. The City might be willing to compromise on outdoor venues at some point in the future. He added that currently there were two (2) Show Me's restaurants which did not offer outdoor dining. Mr. Novotny cited the risk level. His parents were supporting him in this business venture. He hope for a 100% chance for success.

Alderman Hanson questioned the business plan. He questioned the additional food service and revenue from the roof top patio. Mr. Novotny noted that people like to eat outdoors. The patio would be critical during the slower summer months. It would not be open twelve (12) months a year. He could not address the noise factor as he had no experience. He was uncertain as to the noise level. He had resided in the Downtown for the past three to four (3 – 4) months.

Mayor Stockton stated that the City could change the conditions which are placed upon the patio. He questioned if Mr. Novotny would be willing to accept this risk. Mr. Novotny responded affirmatively. He was a life long resident of the City. He planned to spend his working years here.

Marlene and Harold Gregor, 107 W. Market St., addressed the Council in opposition to this application. They had spoken in support of a moratorium on Downtown taverns. Their residence was located west of Show Me's. Their home offered a roof top patio. They cited the impact of a commercial roof top patio upon the Downtown's residents. They expressed their support for a restaurant. The roof top patio was an issue because of the noise. They added their support for a compromise which would place the patio to the east of the building overlooking the future Festival Park. The patio should have earlier closing hours with no amplified music. They encouraged the Council to vote against the roof top patio.

Alderman Finnegan agreed that there might be a good deal of noise generated by outdoor dining. Ms. Gregor believed that they would be forced to keep their windows closed due to the noise generated by the patio. Alderman Finnegan stated that individuals would be having a meal. He was having difficulty picturing all of this noise. Ms. Gregor stated that noise was contagious. Mr. Gregor noted Mr. Cote's and Mr. Novotny's

presentations. Show Me's had two (2) restaurants that did not offer outdoor dining. They claimed that these two (2) restaurants were the lowest performers. He suggested that Show Me's take a trial and error approach to its Bloomington store. Show Me's could open and try it without the patio.

Ward Waller, 216 N. Center St., addressed the Council. He had attended the August 27<sup>th</sup> meeting. He expressed his concern regarding the roof top patio. He believed that Show Me's would be a restaurant. The Council would be setting a precedent if it approved the roof top patio. Sound had a better chance of being absorbed at the ground level. He addressed Show Me's theme. Commissioner Clapp had expressed her concern regarding the wait staff and the roof top patio. Show Me's should open without the patio. The Downtown needed guidance from the City.

Alderman Finnegan stated that individuals would look up and see the four foot (4') privacy fence. Mr. Waller addressed a sidewalk café.

Alderman Purcell believed that a roof top patio would be successful. Mr. Waller supported roof top terraces for residents. The restaurant's patrons would not be interested in the adjacent apartment dwellings. Mr. Cote did not attend yesterday's meeting. He noted that the south lot line was a zero lot line. There were sixteen (16) condominiums units at the Landings. Additional units were under construction. The Fairview Heights' restaurant was located in a former restaurant. Mr. Waller added that no speakers should be allowed on the patio. He restated his concern that a precedent would be set.

Charles Carr, 304 E. Baker, addressed the Council in support of this application. He noted that individuals had expressed their concern regarding noise. He questioned how thirty (30) people in the Downtown dining would contribute the existing noise level. He noted the recommendation to move the patio to alley located to the east of the building. Mr. Novotny does not own it. He questioned who would pay for same. The college students have been cited for contributing to the Downtown's noise level. No one had presented any facts to support their concerns regarding noise. The roof top patio would offer a relaxing setting for thirty (30) people to have dinner.

Alderman Finnegan questioned what factors contributed to the noise level within the Downtown. Mr. Carr agreed that sound traveled. There was street noise in the Downtown. The various uses within the Downtown need to coexist. Show Me's would be in a great location. He cited the impact the college students had on the Downtown.

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

Motion carried.

Alderman Matejka cited the investment others had made in the Downtown. He believed that Mr. Novotny was sincere. Alderman Matejka would not support a patio at this time.

Alderman Hanson cited the Council's charge. The Downtown was a multi use area. He agreed that there was noise in the Downtown. He requested a Work Session to discuss patios within the Downtown.

Alderman Schmidt requested that the Downtown be viewed as part of the Main St. Corridor study. Mayor Stockton noted that the Downtown was not within the scope of this study. He noted that the Camiros report was ten (10) years old. There needed to be a coordinate effort on the Downtown.

Alderman Crawford cited the smoking ban. He believed that patrons would pop up to the roof top for a smoke. The smoking ban was moving patrons outside. He questioned the side effects of the smoking ban. Mayor Stockton added that the sidewalk cafe ordinance encourages the use of the outdoors.

Alderman Purcell noted that smoking was allowed in private clubs.

Alderman Finnegan encouraged the Council to accept this application. He believed that the City would be doing a disservice to deny the liquor license. Show Me's could work well in the Downtown. Mr. Novotny was attempting to make his living here. The City may need to address noise management. Mayor Stockton added that Mr. Novotny had offered to screen the patio.

Alderman Purcell understood the concerns raised from his past experience. He was concerned the business would be chased out of the Downtown.

Alderman Matejka cited the Gregors' investment in the Downtown. The Downtown also offered residential spaces. Others have also invested in the Downtown. In the past, the City has tried to maintain a balance between the residential and commercial uses. He recommended that Show Me's open and operate for a period of one to three (1 – 3) years, then reapply for the patio. He hoped that there would be guidelines in the near future.

Alderman Finnegan expressed his opinion that Show Me's would be located in the entertainment section of the Downtown.

Motion by Alderman Matejka to approve the application of Tjolo's Corporation, d/b/a Show Me's Restaurant, located at 517 N. Main 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 be created upon compliance with all applicable health and safety codes with the following conditions: 1.) the Commission reserves the right to impose tavern ("T") liquor license rules after 8:00 p.m., if the nature of the environment so justifies; 2.) the Commission reserves the right to regulate the environment's surrounding openings, (French Doors) with regard to music and sound baffling; 3.) said openings must be closed by midnight or anytime live or amplified music is offered.

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

**Ayes: Aldermen Crawford, Schmidt, Hanson, and Matejka.**

**Nays: Aldermen Huette, Purcell, Finnegan, Gibson, and Mayor Stockton.**

**Motion failed.**

**Alderman Schmidt questioned who would determine adequate screening. Mayor Stockton stated that this issue would fall under the purview of the Commission. The applicant should begin by contacting the Mayor. It could become a business item which would be placed upon a Commission meeting agenda.**

**Motion by Alderman Finnegan, seconded by Alderman Gibson that the application by Tjolo's Corporation, d/b/a Show Me's Restaurant, located at 517 N. Main 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 be created upon compliance with all applicable health and safety codes with the following conditions: 1.) the Commission reserves the right to impose tavern ("T") liquor license rules after 8:00 p.m., if the nature of the environment so justifies; 2.) the Commission reserves the right to regulate the environment's surrounding openings, (French Doors) with regard to music and sound baffling; 3.) said openings must be closed by midnight or anytime live or amplified music is offered; 4.) the Commission reserves the right to regulate the use of the patio dining area to include the time of use, the use of music, the time for liquor sales, and sound/visual baffling/barrier; 5.) the patio dining area may not be occupied after 11:00 p.m; 6.) the total occupancy on the patio may not exceed thirty (30) people, and 7.) that there be no music, live or amplified.**

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

**Ayes: Aldermen Crawford, Purcell, Finnegan, Gibson and Mayor Stockton.**

**Nays: Aldermen Huette, Schmidt, Matejka, and Hanson.**

**Motion carried.**

**Mayor Stockton expressed his opinion that some present at this evening's meeting were disappointed by the Council's vote. He added his hope that Mr. Novotny would work to gain their faith.**

**Doug Grovesteen, Director of Engineering, addressed the Council regarding General Maintenance Resurfacing of City Streets Motor Fuel Tax, (MFT). Rowe Construction submitted a bid in the amount of \$645,103.50. A bid bond was submitted and proof of participation in an apprenticeship program. The Engineer's estimate was \$572,436. This project was included in the FY 2006 – 2007 budget to be financed with MFT funds. Expenditures would be limited to the dollars budgeted. Work would be directed to those streets which would be of greatest benefit. Asphalt was currently at \$80 per ton. The City had negotiated a bid price of \$78 per ton. Last year, the City spent \$65**

per ton. He recommended that the bid be awarded to Rowe Construction in an amount not to exceed \$572,436. Mr. Grovesteen added that a limit would be placed upon the amount of work done. Brian Brakebill, Deputy City Manager, added that the streets would be posted.

**Motion by Alderman Matejka, seconded by Alderman Huette that the bid for General Maintenance Resurfacing of City Street Motor Fuel Tax be awarded to Rowe Construction in an amount not to exceed \$572,436.**

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

**Ayes: Aldermen Crawford, Huette, Schmidt, Finnegan, Gibson, Hanson, Matejka and Purcell.**

**Nays: None.**

**Motion carried.**

(CONTRACT ON FILE IN CLERK'S OFFICE)

**MAYOR'S DISCUSSION: None.**

**CITY MANAGER'S DISCUSSION: None.**

**ALDERMEN'S DISCUSSION: Alderman Schmidt stated that she had attended an event at the Bloomington Center for the Performing Arts, (BCPA). She questioned pedestrian traffic attending events at the BCPA. She cited the ability for pedestrians to cross East St. (US 51N) safely.**

**Alderman Purcell stated that he was anxious to attend an event at the BPCA.**

**Motion by Alderman Matejka, seconded by Alderman Crawford to recess to Executive Session at 10:30 p.m.**

**Motion carried.**

**Motion by Alderman Matejka, seconded by Alderman Schmidt to return to Regular Session and adjourn at 10:55 p.m.**

**Motion carried.**

**Tracey Covert  
City Clerk**

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