

**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, October 23, 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.

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

The following was presented:

To: Honorable Mayor and Members of the City Council
From: Staff
Subject: Opening of One Bid for Community Development Project – 1222 E. Oakland

Bids were received by the City Clerk on October 13, 2006 for a Community Development Project at 1222 E. Oakland. There is \$24,343 budgeted for this item. Only one bid was received by the City Clerk 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 City staff to open the bid at the October 23, 2006 Meeting and present the City Council with a recommendation prior to the end of the Council Meeting concerning award of the bid.

Respectfully,

Tracey Covert
City Clerk

Tom Hamilton
City Manager

Motion by Alderman Matejka, seconded by Alderman Schmidt that bid be opened at the October 23, 2006 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: Opening of One Bid for Sewer Ejection Plumbing at 307 ½ E. Baker

Bids were received by the City Clerk on October 16, 2006 for Sewer Ejection Plumbing at 307 ½ E. Baker. There is \$4,000 budgeted for this item. Only one bid was received by the City Clerk 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 City staff to open the bid at the October 23, 2006 Meeting and present the City Council with a recommendation prior to the end of the Council Meeting concerning award of the bid.

Respectfully,

Tracey Covert
City Clerk

Tom Hamilton
City Manager

Motion by Alderman Matejka, seconded by Alderman Schmidt that bid be opened at the October 23, 2006 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: Opening of One Bid for Sewer Ejection Plumbing at 807 Reintaler

Bids were received by the City Clerk on October 16, 2006 for Sewer Ejection Plumbing at 807 Reintaler. There is \$4,000 budgeted for this item. Only one bid was received by the City Clerk 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 City staff to open the bid at the October 23, 2006 Meeting and present the City Council with a recommendation prior to the end of the Council Meeting concerning award of the bid.

Respectfully,

Tracey Covert
City Clerk

Tom Hamilton
City Manager

Motion by Alderman Matejka, seconded by Alderman Schmidt that bid be opened at the October 23, 2006 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 of April 25, 2005

The Council proceedings of April 25, 2005 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 Matejka, seconded by Alderman Schmidt that the reading of the minutes of the previous Council Meeting of April 25, 2005 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:

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

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

Ayes: Aldermen 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 fifth partial payment to Peace Meal in the amount of \$2,082 on a contract amount of \$25,000 of which \$10,410 will have been paid to date for work certified as 42% complete for the Peace Meal. Completion date – April 2007.
2. The fifth partial payment to Peace Meal in the amount of \$624 on a contract amount of \$7,500 of which \$3,120 will have been paid to date for work certified as 42% complete for the John M. Scott Home Delivered Meals. Completion date – May 2007.
3. The second partial payment to US Cellular Coliseum in the amount of \$95,745.47 on a contract amount of \$3,142,402.80 of which \$881,346.17 will have been paid to date for work certified as 28% complete for the Professional Services. Completion date – May 2007.
4. The forty-third partial payment to Brisbin, Brook, Beynon Architects in the amount of \$3,963.37 on a contract amount of \$1,611,964.52 of which \$1,443,129.66 will have been paid to date for work certified as 90% complete for the US Cellular Coliseum Architects. Completion date – April 2006.
5. The tenth and final payment to Tim Tilton in the amount of \$20,000 on a contract amount of \$131,000 of which \$127,080.96 will have been paid to date for work certified as 97% complete for the Façade Program. Completion date – April 2007.
6. The third partial payment to Ensenberger Condominiums, LLC in the amount of \$400,000 on a contract amount of \$2,228,000 of which \$1,100,000 will have been paid to date for work certified as 49% complete for the Ensenberger Building. Completion date – November 2010.
7. The fourth partial payment to Youth Impact, Inc. in the amount of \$7,500 on a contract amount of \$90,000 of which \$37,500 will have been paid to date for work certified as 42% complete for the Youth Impact. Completion date – April 2007.
8. The thirty-first partial payment to New World Systems in the amount of \$1,524.18 on a contract amount of \$671,523 of which \$589,084.98 will have been paid to date for work

certified as 88% complete for the Police & Fire Computer Aided Dispatch System. Completion date – July 2006.

9. The sixth partial payment to McLean County Health Department in the amount of \$9,015 on a contract amount of \$108,180 of which \$54,090 will have been paid to date for work certified as 50% complete for the Animal Control Shelter Services. Completion date – April 2007.
10. The second partial payment to The Pantagraph in the amount of \$7,832.64 on a contract amount of \$30,000 of which \$9,013.44 will have been paid to date for work certified as 30.04% complete for the 2006-2007 Seasonal Advertising. Completion date – April 2007.
11. The eighteenth partial payment to PJ Hoerr, Inc. in the amount of \$53,782.66 on a contract amount of \$11,574,146.53 of which \$10,863,620.10 will have been paid to date for work certified as 94% complete for the Renovation of the Bloomington Center for the Performing Arts. Completion date – June 2006.
12. The fifteenth partial payment to Terracon Consultants, N.E. Inc. (Dept. 1277) in the amount of \$675 on a per ton and hour contract of which \$121,600.38 will have been paid to date for work certified as ongoing for the 2005-2006 Asphalt & Portland Concrete Plant Inspection and Lab Testing. Completion date – August 2006.
13. The sixth partial payment to Testing Services Corporation in the amount of \$2,559.60 on a per ton and hour contract of which \$16,858.45 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.
14. The fourth partial payment to Ratio Architects, Inc. in the amount of \$12,262.87 on a contract amount of \$135,240 of which \$51,001.50 will have been paid to date for work certified as 38% complete for the Miller Park Playground Renovation. Completion date – May 2007.
15. The seventh partial payment to JG Stewart Contractors in the amount of \$6,282.75 on a contract amount of \$210,000 of which \$111,301.46 will have been paid to date for work certified as 53% complete for the 2006-2007 Sidewalk Replacement and Handicap Ramp Program. Completion date – November 2006.
16. The first partial payment to Rowe Construction in the amount of \$22,900 on a contract amount of \$500,000 of which \$22,900 will have been paid to date for work certified as 5% complete for the MFT General Maintenance Resurfacing. Completion date - December 2006.
17. The fourth partial payment to Rowe Construction in the amount of \$15,476.33 on a contract amount of \$710,000 of which \$595,841.33 will have been paid to date for work

certified as 84% complete for the 2006-2007 General Resurfacing. Completion date - October 2006.

18. The eighth partial payment to Rowe Construction in the amount of \$24,449 on a contract amount of \$341,726.34 of which \$341,500 will have been paid to date for work certified as 99% complete for the Downtown Intersection Improvements. Completion date - November 2006.
19. The third and final payment to Farnsworth Group in the amount of \$4,638.43 on a contract amount of \$10,000 of which \$10,000 will have been paid to date for work certified as 100% complete for the Ireland Grove Road Design Quality Assurance/Quality Control. Completion date – January 2007.
20. The eleventh partial payment to Farnsworth Group in the amount of \$6,644.60 on a contract amount of \$203,300 of which \$126,900 will have been paid to date for work certified as 62% complete for the Constitution Trail – Grove to Hamilton. Completion date – November 2006.
21. The ninth partial payment to Stark Excavating, Inc. in the amount of \$66,256.23 on a contract amount of \$1,399,893.75 of which \$912,542.15 will have been paid to date for work certified as 65% complete for the Euclid Avenue – Oakland to Washington. Completion date – November 2006.
22. The fourth partial payment to Alvord, Burdick & Howson, LLC in the amount of \$9,086.21 on a contract amount of \$29,000 of which \$14,166.21 will have been paid to date for work certified as 49% complete for the Water Department Rate Study. Completion date – December 2007.
23. The eleventh partial payment to Farnsworth Group in the amount of \$18,356.47 on a contract amount of \$295,300 of which \$200,661.34 will have been paid to date for work certified as 68% complete for the Kickapoo Force Main Design, Property Surveys and Brokaw Road Surveys. Completion date – November 2006.
24. The first partial payment to Gildner Plumbing, Inc. in the amount of \$223,117 on a contract amount of \$621,783 of which \$223,117 will have been paid to date for work certified as 35.9% complete for the Fox Creek Road 16” Water Main – Beich to Old Cabintown. Completion date – November 2006.
25. The fifty-eighth partial payment to Farnsworth Group in the amount of \$98,867.01 on a contract amount of \$1,077,688.73 of which \$967,933.02 will have been paid to date for work certified as 90% complete for the Design Transmission Water Main to Lake Bloomington. Completion date – November 2006.
26. The third partial payment to George Gildner, Inc. in the amount of \$12,900 on a contract amount of \$52,158 of which \$52,034 will have been paid to date for work certified as 99% complete for the Oakland Court Storm Sewer. Completion date – October 2006.

27. The sixth partial payment to Stark Excavating, Inc. in the amount of \$15,000 on a contract amount of \$838,844.50 of which \$791,880 will have been paid to date for work certified as 94% complete for the Lafayette-Maple Sanitary Relief Sewer. Completion date – November 2006.
28. The eighth partial payment to Clark Dietz, Inc. in the amount of \$10,674.57 on a contract amount of \$140,000 of which \$70,009.47 will have been paid to date for work certified as 50% complete for the Locust – Colton CSO Study. Completion date – January 2007.

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

Respectfully,

Tom Hamilton
City Manager

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

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

Ayes: Aldermen 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 September, 2006

Audit of the Accounts for the Township Supervisor of General Assistance Fund and General Town Fund for the month of September, 2006 were presented for Audit by the Township Supervisor.

The Audit of these accounts took place on Monday, October 23, 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 Matejka, seconded by Alderman Schmidt that the audit of the bills and payrolls for the Township for the month of September, 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 September, 2006.
2. Monthly Receipt & Expenditure Report, September, 2006.

Respectfully,

Tracey Covert
City Clerk

Tom Hamilton
City Manager

REPORTS ON FILE IN CLERK'S OFFICE

Motion by Alderman Matejka, seconded by Alderman Schmidt 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: Payment for the Demolition of 405 S. Madison

On September 4, 2003, the Building Safety Division condemned the commercial property located at 405 S. Madison Street due to a partially collapsed roof, interior ceiling damage as well as the building's generally unsafe condition. During the last three years, staff has worked with the legal counsel for the owner (now the Oscar Cohen estate) to obtain an environmental review, identifying any environmental concerns that may need to be addressed; determined whether or not the City would be amenable to taking title to the property; determine if the property would be eligible for participation in the Municipal Brownfield grant program through the Illinois Environmental Protection Agency (IEPA); and interview and determine which, if any, engineering firms would be best to write and administer a potential Brownfield grant.

After taking all these steps to address and answer all of the concerns, staff has determined that the property would not easily fit into the Brownfield grant program and it would not be in the best interest for the City to obtain title to the property. However, taking no action was considered to be an unacceptable response, since it would allow a deteriorated and potentially dangerous property to continue to exist.

Staff and the counsel for the Cohen Estate have determined the best remedy for the property would be to remove all asbestos and demolish the building. Staff believes it is in the best interest of the City, the surrounding neighborhood, and property owners to participate in the removal of this structure by providing some financial assistance for the asbestos removal and removal of the building. Since there is a potential for unknown contaminants under ground, staff does not believe that taking ownership of this property is in the best interest of the City.

This proposal is simply a reimbursement of some of the cost to the owner, the Cohen Estate. Staff discussions with the owners have reflected a 50% (\$26,500) participation of this estimated \$53,000 project. Staff is convinced that this investment will go along way toward eliminating a blighted building on the fringe of the Downtown without investing an inordinate amount of resources pursuing other avenues.

At this time, staff respectfully request the Council approve an expenditure of up to \$26,500 to partially reimburse the Cohen Estate, owners of 405 S. Madison for demolition of the existing structure. Funds for this reimbursement will come from account 19110 – 72520.

Respectfully,

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

Tom Hamilton
City Manager

QUESTIONS

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

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

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

Nays: Alderman Schmidt.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Waive the Formal Bidding Process and Purchase One (1) Pick Up Truck for the Water Department Using the State of Illinois Joint Purchasing Contract

The Water Department has budgeted to replace a 1997 Ford Escort which is used by the water meter readers. Due to the change in operations and job duties in this division, staff needs a mid sized pickup truck that can haul tools and equipment.

The vehicle to be replaced, 1997 Ford Escort, does not meet these criteria. It will be reassigned to the Engineering Department where it will replace a 1998 Ford Crown Victoria CVPI which is in need of replacement. The replacement vehicle is available through the State of Illinois Joint Purchasing Contract with Bob Riding of Taylorville, IL holding the contract for this vehicle.

The new truck will be a 2007 Dodge Dakota at a cost of \$16,499. Bob Riding will allow a \$400 trade on the Ford Crown Victoria for a net purchase price of \$16,099. Funds are available in the Equipment Replacement Fund, F50110-72130 for this purchase.

Staff respectfully requests that the formal bidding process be waived and the purchase of one (1) Dodge Dakota from Bob Riding of Taylorville using the State of Illinois Joint Purchasing Contract be approved in the amount of \$16,099.

Respectfully,

Daniel Augstin
Director of Fleet Management

Kim Nicholson
Purchasing Agent

Tom Hamilton
City Manager

RESOLUTION NO. 2006 - 140

**A RESOLUTION WAIVING THE FORMAL BIDDING PROCESS AND
AUTHORIZING THE PURCHASE OF ONE (1) PICK UP TRUCK FOR THE WATER
DEPARTMENT FROM BOB RIDING OF TAYLORVILLE USING THE STATE OF
ILLINOIS JOINT PURCHASING CONTRACT AT A PURCHASE PRICE OF \$16,099**

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 One (1) Pick Up Truck for the Water Department from Bob Riding of Taylorville using the State of Illinois Joint Purchasing Contract at a Purchase Price of \$16,099.

Adopted this 23rd day of October, 2006.

Approved this 24th day of October, 2006.

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Motion by Alderman Matejka, seconded by Alderman Schmidt that the formal bidding process be waived, the purchase of One (1) Pick Up Truck for the Water Department be approved in the amount of \$16,099, the Purchasing Agent authorized to issue a Purchase Order for same and the Resolution adopted.

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

Ayes: Aldermen 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: Waiver Request for a Community Development Block Grant Rehabilitation Loan

Roberta Griffin, mother to Connie Griffin, Division Manager for Code Enforcement, has requested to apply for a Community Development Block Grant (CDBG) funded rehabilitation loan, specifically for accessibility modifications in her home. However, the relationship between Connie and Roberta Griffin constitutes a conflict of interest and is prohibited as per 24 CFR 570.611(b) of the Department of Housing and Urban Development's (HUD) federal regulations.

HUD regulations do allow for exceptions in 570.611(d) (2) (iii). Exceptions may be granted to the provisions of the regulations upon written request of the recipient on a case-by-case basis when certain threshold requirements have been met. These threshold requirements include:

(a) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and

(b) An opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law.

The factor to be considered for exception in this case is that the rehabilitation applicant, Roberta Griffin, is a member of a group or class of low-or moderate income persons intended to be the beneficiaries of the assisted activity (rehabilitation is the assisted activity), and the exception will permit such person to receive the same interests or benefits being made available or provided to the group or class.

Specifically, the City's Rehabilitation Guidelines allow persons whose annual gross income, according to family size, are at or below HUD's approved income guidelines to receive CDBG funded rehabilitation grant/loan. Based on the applicant's family size and annual gross income, she is eligible to receive a CDBG funded rehabilitation grant/loan.

Therefore, staff respectfully requests that the City Council acknowledge and approve the following:

(a) The Council meeting of October 23, 2006 serves as public disclosure of the nature of the conflict.

(b) The Council accepts the opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law.

Respectfully,

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

Tom Hamilton
City Manager

QUESTIONS

Motion by Alderman Matejka, seconded by Alderman Schmidt that Council acknowledges the public disclosure of the conflict in that Roberta Griffin, CDBG rehabilitation applicant, is the mother of Connie Griffin, Division Manager for the Code Enforcement Division, through which the CDBG funded Rehabilitation Program is administered and accepts the legal opinion of J. Todd Greenburg, Corporation Counsel, that Connie Griffin does not have an interest in a contract between Roberta Griffin and the City which is prohibited by state of local law.

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 Purchase 400 MHz Radio System for the Public Service Department

Beginning in January of 2007, the Public Service Department's current radio system will no longer be available. At that time only 400 MHz frequency systems will be available. Staff has

met and discussed the needs of the department in order to continue efficient service to our citizens.

The need for department wide communications and the ability to communicate with the Police Department (BPD) were identified. Currently the Department can only contact the BPD on land lines. The following are situations where direct radio communication with the BPD is essential:

- Major Vehicular Crashes
- Hazardous Spills
- Tornados
- Snow Emergencies
- Special Events
- Parades
- Security or Major Critical Event Situations

Staff has researched the cost of retrofitting the current radio system and found that due to the age of the system and technological advances since this system was acquired, it would be cost prohibitive. In addition, a retrofitted system would not provide the ability for radio communication with BPD.

The BPD is currently using a 400 MHz Motorola system purchased through Supreme Radio Communications and has indicated that this system is very reliable. Staff has received a proposal from Supreme Radio Communications that will provide a complete system that meets all the needs of the department including communication with the BPD. This proposal also provides a \$44,000 multiple unit discount. This system will consist of seventy-six (76) mobile radios, ten (10) hand held portable radios, four (4) control stations, and ten (10) remote desktop controllers.

Staff respectfully requests that Council waive the formal bidding process and approve the purchase a 400mhz system for the Public Service Department in the amount of \$64,530 from Supreme Radio Communications, and that the Resolution be adopted. Funds for this purchase will be made from Equipment Replacement Fund #F16110-72120.

Respectfully,

Rick Clem
Director of Public Service

Tom Hamilton
City Manager

RESOLUTION NO. 2006 - 141

**A RESOLUTION WAIVING THE FORMAL BIDDING PROCESS AND
AUTHORIZING THE PURCHASE OF A 400MHZ RADIO SYSTEM FOR THE PUBLIC
SERVICE DEPARTMENT FROM SUPREME RADIO COMMUNICATIONS, INC. AT
A PURCHASE PRICE OF \$64,530**

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 a 400mhz Radio System for the Public Service Department from Supreme Radio Communications, Inc., at a Purchase Price of \$64,530.

Adopted this 23rd day of October, 2006.

Approved this 24th day of October, 2006.

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

QUESTIONS

Motion by Alderman Matejka, seconded by Alderman Schmidt that the Formal Bidding Process be waived, a 400 MHz Radio System for the Public Service Department be purchased from Supreme Radio Communications, Inc. in the amount of \$64,530, the Purchasing Agent authorized to issue a Purchase Order for same, and the Resolution adopted.

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

Ayes: Aldermen 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 Purchase Paint Striping Equipment

The Public Service Department has scheduled in the FY2006-2007 budget to replace two MB Paint Striper machines for a total not to exceed \$16,000. Staff has requested and received proposals from two local vendors for the replacement of this equipment. Prior to receiving the proposals staff was allowed to conduct a hands on demonstration of the equipment. Staff was satisfied that the equipment met all requirements. Both local vendors submitted proposals for exactly the same brand and model number of equipment as follows:

Two (2) Graco Line Lazer IV 5900 2-Gun Units	<u>Mab Paints</u>	<u>Vogel</u>
	\$9,994	\$10,000
One (1) Graco LineDriver Self-propelled Unit	<u>\$3,699</u>	<u>\$3,750</u>
Total	\$13,693	\$13,750

Both proposals included an \$1,800 credit called Graco Bucks to be used for the purchase of accessory items for use with this equipment. If not included in these proposals staff would be required to purchase the accessory items in addition to the paint striping equipment.

Staff respectfully requests that Council waive the formal bidding process and approve the purchase of two (2) Graco Line Lazor IV 5900 2-Gun Units and one (1) Graco LineDriver Self-propelled Unit from MAB Paints for a total of \$13,693. Funds for this purchase will be paid for from the Fixed Asset Fund #F16230-72140.

Respectfully,

Rick Clem
Director of Public Service

Gary Poland
Supt. of Streets and Sewers

Tom Hamilton
City Manager

RESOLUTION NO. 2006 - 142

A RESOLUTION WAIVING THE FORMAL BIDDING PROCESS AND AUTHORIZING THE PURCHASE OF THE TWO (2) GRACO LINE LAZOR IV 5900 2-GUN UNITS AND ONE (1) GRACO LINEDRIVER SELF-PROPELLED UNIT BE PURCHASED FROM MAB PAINTS FOR THE PUBLIC SERVICE DEPARTMENT AT A PURCHASE PRICE OF \$13,693

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 two (2) Graco Line Lazor IV 5900 2-Gun Units and one (1) Graco LineDriver Self-propelled Unit be purchased from MAB Paints at a Purchase Price of \$13,693.

Adopted this 23rd day of October, 2006.

Approved this 24th day of October, 2006.

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Motion by Alderman Matejka, seconded by Alderman Schmidt that the Formal Bidding Process be waived, the two (2) Graco Line Lazor IV 5900 2-Gun Units and one (1) Graco LineDriver Self-propelled Unit be purchased from MAB Paints in the amount of \$13,693, the Purchasing Agent authorized to issue a Purchase Order for same, and the Resolution adopted.

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

Ayes: Aldermen 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: Request to Renew an Agreement with High Rise Communications

On November 1, 2001, the City and High Rise Communications entered into an agreement allowing the City to install and operate radio communications equipment on the premises at 2630 West Washington Street. That agreement was for five (5) years at a cost of \$200 per month for the five (5) years.

Staff respectfully requests permission to renew the agreement with High Rise Communications for another five (5) years to continue operation of radio communications equipment at 2630 West Washington Street. The fee associated with the new agreement is \$225 per month for the entire five (5) year agreement.

Respectfully,

Roger J. Aikin
Chief of Police

Tom Hamilton
City Manager

THIS SITE LICENSE AGREEMENT ("Agreement") is made and entered into this November 1, 2001 by and between **High Rise Communications** ("Licensor") an Illinois Corporation, P.O. Box 364, Bloomington, IL 61702 and **The City of Bloomington**, ("Licensee"), an Illinois Municipal Corporation, with offices at 109 East Olive Street, Bloomington, IL 61701.

WITNESSETH:

WHEREAS, Licensor is the owner of a federally licensed radio communications site, including tower and equipment housing ("Premises") at 2630 West Washington Street, Bloomington, IL.

WHEREAS, Licensee, for its own interest, desires to install and operate radio communications equipment on the Premises;

NOW, THEREFORE, in consideration of the covenants and agreements hereinafter contained and other good and valuable considerations, the receipt and sufficiency of which are acknowledged by both parties, Licensor and Licensee hereby agree as follows:

1. TERM. Licensor hereby grants a License unto Licensee, for its own interest, to install, maintain, operate, and remove its radio communications equipment ("Equipment"), described in Exhibit "A" attached hereto, on the Premises for a period of five (5) years commencing on November 1, 2006 and ending on October 31, 2011 or on such earlier date upon which said term may expire or be terminated pursuant to any of the conditions or limitations or other provisions hereof, or pursuant to law.

2. RENT. Licensee agrees to pay to in advance monthly Licensor, not later than the first (10th) business day of each month, fixed rental of two hundred (\$225.00) dollars per month for the term of this Agreement, which sum includes the cost of electricity consumed by Licensee's Equipment and backup generator facilities.

3. ACCESS. During the term of this Agreement, Licensee shall have the unrestricted right to enter or leave the Premises where the Equipment is located twenty-four (24) hours a day seven (7) days a week. Licensee will be subject to Licensor's reasonable security procedures and will, if practicable, notify Licensor at least twelve (12) hours in advance of its desire to enter the Premises. Licensor agrees to use its best efforts to restrict unauthorized access to the Premises where Licensees Equipment is located.

4. INSTALLATION AND MAINTENANCE. Any and all cost and expense of installation, operation, maintenance, insurance and removal of Licensee's Equipment shall be borne by Licensee.

5. ADDITIONAL EQUIPMENT. With the prior written consent of Licensor, which Licensor agrees not to unreasonably withhold, delay, or condition, Licensee may add additional equipment to the Premises at a fee to be mutually agreed upon by Licensor and Licensee.

6. INTERFERENCE. Licensee agrees to install Equipment of types and frequencies which will not cause interference to the Premises' television, radio, or electrical equipment. In the event Licensee's Equipment causes such interference, Licensee will attempt to correct and eliminate the interference. If said interference cannot be eliminated within seven (7) days following receipt of written notice from Licensor Licensee shall temporarily disconnect the electrical power and shut down Licensee's interfering Equipment(except for intermittent operation for the purpose of testing). If such interference is not corrected within thirty (30) days, Licensee agrees to remove said interfering Equipment from the Premises and this Agreement will terminate immediately with no further obligations between Licensor and Licensee.

7. PERMITS. Licensee covenants and agrees that it has received all necessary federal, state and local government permits required for the operation of its Equipment and shall maintain said permits in full force and effect throughout the term of this Agreement or any renewal or extension thereof Licensee further agrees that it will comply with all federal, state and local regulations applicable to the operation of its Equipment.

Licensee shall furnish Licensor with copies of the necessary permit(s) issued by the Federal Communications Commission and any other federal, state, or local authority having jurisdiction over the operation of Licensee's Equipment.

8. INSURANCE. Licensee shall obtain at its own cost and expense, and maintain in full force and effect throughout the term of this Agreement and any renewal or extension thereof, a comprehensive general liability insurance policy in an amount of not less than:

Bodily Injury: \$500,000.00 for injury to any one person and \$1,000,000.00 for all injuries sustained by more than one person in any one occurrence.

Property Damage: \$1,000,000.00 for damage as a result of any one accident.

Workman's Comp: As required by the State of Illinois

Licensee agrees to furnish Licensor with certificates of insurance certifying that Licensee has obtained the above specified insurance.

9. INDEMNITY. Licensee covenants and specifically agrees to indemnify and hold Licensor, its parent or affiliated companies, and their officers, agents, employees and assigns harmless and blameless against any and all liability, fees, expenses, costs, suits, threats of suits, claims, judgments, trespasses, damages, executions, levies, or demands, or any loss of whatever nature at law or in equity arising in any way out of the rights or obligations of Licensee under this Agreement.

Licensor covenants and specifically agrees to indemnify and hold Licensee, its parent or affiliated companies, and their officers, agents, employees and assigns harmless and blameless against any and all liability, fees, expenses, costs, suits, threats of suits, claims, judgments, trespasses, damages, executions, levies, or demands, or any loss of whatever nature at law or in equity arising in any way out of the rights or obligations of Licensor under this Agreement.

10. MAINTENANCE. During the term of this Agreement, Licensor shall keep the Premises in good condition and repair. Licensor shall perform at its expense, all necessary maintenance and repair of the Premises, including and without limitation, painting, repainting, marking, and lighting. Licensor shall be responsible for compliance with applicable sections of Part 17, or any successor or similar rule part, of the FCC's Rules and Regulations pertaining to lighting, painting, inspection and maintenance of antenna structures. Licensee shall notify Licensor or any qualified representative or independent contractor designated by Licensor of any actual or possible violations of applicable sections of Part 17, or any successor or similar rule part or any other dangerous or potentially dangerous condition of which Licensee shall have actual or constructive notice.

If, having been given notice from Licensee in accordance with Section 13 herein, Licensor, its qualified representative or independent contractor, fails or refuses to take appropriate action to correct an actual or possible violation of Part 17, or any successor or similar rule part, of the FCC's Rules and Regulations, or to eliminate a dangerous or potentially dangerous condition, Licensee may, in its sole and absolute discretion, terminate this Agreement upon five (5) days notice to Licensor.

11. EQUIPMENT AS PERSONAL PROPERTY. This Agreement shall not in any circumstance be construed as a lease, license or easement on Licensee's Equipment and all Equipment or other property attached to or otherwise brought onto the Premises by Licensee shall at all times remain the personal property of Licensee and shall not be deemed the property of Licensor or a fixture on the Premises.

12. SURRENDER. Upon termination or expiration of this Agreement, Licensee will remove its Equipment within thirty (30) business days and surrender the Premises to Licensor in good condition, ordinary wear and tear excepted.

13. NOTICES. Any notice or demand required or permitted to be given or made hereunder shall be sufficiently given or made by certified mail, with return receipt, in a sealed envelope, postage prepaid or by a nationally recognized overnight courier and addressed to:

Licensor: High Rise Communications, Inc.
PO Box 364
Bloomington, IL 61702
Attn: Rod Sabick

Licensee: City of Bloomington
109 E. Olive
Bloomington, IL 61701

Attn:

Any such notice or demand shall be deemed to have been given or made at the time it is deposited with the United States Post Office. Licensee and Licensor may from time to time designate any other address for this purpose by written notice to the other party.

14. CASUALTY. If the Premises are fully or partially damaged for any reason so as to render the Premises substantially unusable by Licensee for the operation of its Equipment. Licensor or Licensee may terminate this Agreement upon written notice to the non-terminating party as of the date of the casualty. If Licensor or Licensee choose not to terminate this Agreement in the manner provided above and the Premises are in need of repairs or restoration as the result of said casualty. Licensor shall immediately commence and diligently pursue such repairs and restorations. Licensee shall be entitled to an abatement of rent for such time that Licensee is unable to conduct its normal operations as a result of such repairs or restoration. Notwithstanding the foregoing, if said repairs or restoration take more than ninety (90) days from the date of the casualty, for any reason whatsoever, Licensee shall have the right to immediately terminate this Agreement upon providing written notice to Licensor.

15. ASSIGNMENT. Licensee shall be permitted, at any time during the term herein or any renewal or extension thereof, to assign or sublet this Agreement, in whole or in part, to (1) to any parent or subsidiary of Licensee, or subsidiary of Licensee's parent, or of the parent or parents of Licensee's parent corporation (ii) in the event of a merger or consolidation of Licensee with another corporation, or (iii) in the event that Licensee has a public or private offering of its shares pursuant to the Security and Exchange Act of 1934 or any other comparable federal or state securities act.

16. ATTORNEYS FEES. In any proceeding or action brought to enforce the provisions of this Agreement, the prevailing party shall be entitled to recover, in addition to any damages awarded, its reasonable costs and attorneys fees. Neither Licensor nor Licensee shall have the right to recover special, consequential or punitive damages from the other.

17. QUIET ENJOYMENT. Licensor covenants and promises to Licensee that Licensee, upon paying the rent and observing, performing, and keeping all of the covenants herein contained, shall and may lawfully, peacefully, and quietly have, hold, use, and enjoy the Premises.

18. WAIVERS. Failure or delay on the part of Licensee or Licensor to exercise any right, power or privilege hereunder shall not operate as a waiver thereof No waiver under this Agreement shall be effective unless agreed to in writing by both Licensor and Licensee.

19. SEVERABILITY. If any provision of this Agreement is held invalid or unenforceable for any reason, no other provision shall be affected, and this Agreement shall be construed as if such invalid or unenforceable provision had never been contained herein and the remainder enforced in full.

20. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement of the parties hereto and shall supersede all prior offers, negotiations and agreements. No revision of this

Agreement shall be valid unless made in writing and signed by an authorized officer of both Licensor and Licensee.

21. COUNTERPARTS. This Agreement may be executed in one or more counterparts. each of which shall be deemed an original and all of which shall be deemed to be one and the same instrument.

22. JURISDICTION. This Agreement shall be interpreted and enforced in accordance with the laws of Illinois.

IN WITNESS WHEREOF, By Affixing their signatures hereto, the undersigned acknowledge that they have the capacity and authority to enter into the Agreement on behalf of the Licensor and Licensee hereto; that they have read this Agreement and submit to it in its entirety.

LICENSOR:

High Rise Communications, Inc.

By: Rodney M. Sabick
Date: 10/5/06

LICENSEE:

City of Bloomington

By: Stephen F. Stockton
Date: 10/24/06

EXHIBIT "A"
SCHEDULE OF LICENSEE'S EQUIPMENT

QUANTITY	MAKE	MODEL	DESCRIPTION
1	Antenna Specialists	ASP-701	UHF Antenna @ 160'
3	Motorola		UHF receivers
200	Andrew	LDF-5-50A	Transmission Line

Motion by Alderman Matejka, seconded by Alderman Schmidt that the Agreement with High Rise Communications be renewed for a period of five (5) years, in the amount of \$225 per month 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: Change Order for Oakland Court Storm Sewer

In order to avoid damage to an existing tree during construction of this project, it was necessary to change the alignment of the new sewer. The change in alignment required additional storm sewer, additional pavement removal and replacement at an additional cost of \$3,178.

Original Contract	\$52,158.00
This Change Order	3,178.00
Completed Contract	\$55,336.00

Staff respectfully recommends that Council approve this Change Order in the amount of \$3,178 to George Gildner, Inc. for the extra work done on the Oakland Court Storm Sewer project with payment to be made with Storm Water management Funds (X55200-72550) Funds.

Respectfully,

Douglas G. Grovesteen
Director of Engineering

Tom Hamilton
City Manager

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

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

Ayes: Aldermen 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 #1 to the Contract with Zeller Electric for the Installation of a Structured Cabling System at the Bloomington Center for the Performing Arts

In April 2006, Council awarded the Structured Cabling System installation contract for the Bloomington Center for the Performing Arts (BCPA) to Zeller Electric, Inc. of Bloomington in the amount of \$48,913. Zeller Electric has completed the installation to the specifications provided in the original contract.

During the installation process, however, Zeller Electric was asked to provide materials and workmanship above what was called for in the original specifications. These requests came in the form of additional 25 pair of copper cabling between data closets, the addition of a pull string in the conduit between the BCPA and the Learning and Creativity Center which houses the fiber communication cable and the installation of a 3" conduit inside the BCPA to allow for proper routing of the internal data cabling. This will be the first and last change order for this contract as all items have been completed.

Staff has received detailed billing for these change orders totaling \$3,013. Staff has found these charges to be in order and respectfully requests that Council approve this change order in the amount of \$3,013. Funds for this work will be paid for from the Cultural District's Other Capital Improvements (X21100-72620) account.

Respectfully,

Scott Sprouls
Information Services Director

Tom Hamilton
City Manager

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

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

Ayes: Aldermen 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: Amendment to New Housing Construction Loan

In the past, Community Development has worked with several organizations (Area Vocational Center, Youth Build, etc.) to construct new homes for low to moderate income families while

providing hands-on training for the program participants. Community Development Block Grant (CDBG) funds were used to finance these activities. Last year, the Department of Housing and Urban Development (HUD) determined these types of projects were ineligible activities for CDBG funding.

On February 27, 2006, Council approved an interest free construction loan in the amount of \$110,000 for each of two houses located in the new Woodbury Estates Affordable Housing Subdivision, located at 1108 and 1110 Woodbury Place. These construction loans were to be used in lieu of CDBG funding.

Based on the recent completion of the last project with the Area Vocational Center, the City expended approximately \$130,000 in CDBG funds to construct a handicap accessible, energy efficient dwelling (currently "for sale" and appraised at \$127,900).

It has become evident that construction costs have increased dramatically making it necessary to request additional City General Funds to complete the construction of the Woodbury dwellings over the next 7-9 months. Upon completion, these homes will be sold to low to moderate income households and the City General Fund reimbursed. The other dwellings constructed in the subdivision, other than the Habitat homes, are selling in the \$135,000 - \$150,000 range. The City's dwellings should be appraised similarly when completed.

Staff respectfully requests the City Council approve an increase to the original interest free construction loan from the City General Fund from \$110,000 to \$145,000 for each of the two dwellings being built in conjunction with the Area Vocational Center.

Respectfully,

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

Tom Hamilton
City Manager

QUESTIONS

Motion by Alderman Matejka, seconded by Alderman Schmidt that the increase to the interest free construction loan to a maximum of \$145,000 for each of two dwellings in the Woodbury Estates Subdivision, located at 1108 and 1110 Woodbury Place 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: Acquisition of an Easement from Ralph Cody for the Cedar Ridge Subdivision Sewer

The City needs to acquire a permanent and a temporary easement from Ralph Cody to extend and construct a sanitary sewer line to serve the Cedar Ridge Subdivision. Mr. Cody's property is located at the south end of Hendrix Road adjacent to the southeast corner of the subdivision. It is improved with a single family dwelling and a workshop/garage. The easement will be 50 feet in width and will run from the west to the east property line following the existing gravel driveway. There are eight (8) Colorado Spruce trees in the path of the easement that will be removed during construction and two mature hardwood trees that may be damaged.

Mr. Cody has agreed to grant the easement for the following considerations: 1.) \$11,200 for the easement interest and the trees that will be removed; 2.) the installation of a three (3) inch asphalt overlay on driveway following construction; 3.) Mr. Cody be allowed to tap on to the sewer without payment of a tap on fee, and 4.) the City remove the two hardwood trees if they die within five (5) years of completing construction of the sewer.

Staff believes these considerations to be reasonable compensation for the easement and respectfully recommends the Council approve the Agreement, and further that the Mayor and City Clerk be authorized to execute the necessary documents. Funds for this acquisition are available in # X52200-72550 Sewer Depreciation.

Respectfully,

Hannah R. Eisner
Deputy Corporation Counsel

Tom Hamilton
City Manager

AGREEMENT

This AGREEMENT is entered into between the City of Bloomington, a corporate body politic, (hereinafter referred to as "City") and Ralph Cody, (hereinafter referred to as "Owner"). In consideration of the mutual promises contained herein, the parties hereby state and agree as follows:

1. That the parties have entered into an Easement Agreement, dated _____, 2006, with respect to the following described real estate:

TRACT NO. 1:

Lot 1 in the Ben Smith Subdivision in the West Half of the West Half of Section 22, Township 23 North, Range 2 East of the Third Principal Meridian, according to the Plat thereof recorded January 12, 1990, as Document No. 90-607, in McLean County, Illinois.

TRACT NO. 2:

Parcel 1 in the Elizabeth Smith Survey in the West Half of Section 22, Township 23 North, Range 2 East of the Third Principal Meridian, according to the Plat thereof recorded January 7, 1974, as 74-184, except the North 210 Feed thereof, in McLean County, Illinois.

2. That the owner, Ralph Cody, is the legal and sole owner of the above-described real estate.

3. That as, and for consideration for, the Owner entering into the aforementioned Easement Agreement, the City promises and agrees as follows:

A. To compensate Owner \$11,200.00 for approximately 1.04 acres of permanent and temporary easement, which payment includes compensation for 8 Colorado spruce trees that will be removed during construction of the sanitary sewer within the easement area.

B. To allow Owners access to Owner's property during construction.

C. To install sewer at a minimum depth of four feet below surface.

D. During the construction, clearing, trenching and laying of the sewer main, to remove the topsoil, up to a minimum of two feet thickness, and to replace, after completion of the installation of the sewer main, on the area within the permanent easement.

E. To restore any surface area into which the City or its agents dig, excavate or otherwise disturb, to its preexisting condition. The City will repair any damage to underground drainage tiles with SDR 35 PVC pipe of the same diameter following State Standards. Tile repairs are to have granular backfill to support the tile. The City will replace and repair any damage to fences using the same type of materials out of which the fences were originally constructed. The City will replace driveways and entrances with like materials.

F. To provide a 3-inch asphalt overlay in driveway area. Asphalt overlay shall be placed after sewer construction completion and sufficient time has been allowed for settling and compaction. The City will not be responsible for maintenance of asphalt drive.

G. Grantor shall be permitted to connect the existing single family residence to the sanitary sewer to be constructed within the easement being conveyed at such time as sewer service becomes available without payment of a tap on fee.

H. Grantor acknowledges that there is a hackberry and an ash tree located within or near the easement to be conveyed and that the trees may be damaged by the construction activity within the easement area. Grantor agrees to release City from any liability for damage to the

trees, provided however, that City shall be responsible for removing either tree in the event it dies within 5 years of the date sewer construction is complete.

I. This agreement shall be binding upon and inure to the benefit of Grantor's heirs, successors and assigns.

This AGREEMENT is entered into and made dated _____, 2006, between the City of Bloomington and Ralph Cody, and is dated this _____ day of _____, 2006, and signed at McLean County, Illinois.

OWNER: Ralph Cody

City of Bloomington: Stephen F. Stockton

ATTEST:

Tracey Covert

Motion by Alderman Matejka, seconded by Alderman Schmidt that the Agreement be approved 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 part of the Burkhart/Nord Farm for Fox Creek - Scottsdale Road Improvements

The City needs to acquire small piece of property from Paul Kieser for road right of way for construction of Fox Creek Road and a rather sizable temporary easement across the remainder of the Kieser land for working space during construction and placing fill to match the elevation of the new road.

Staff entered into negotiations with Mr. Keiser and reached the following agreement as to the amount of cash and other compensation to be provided for the right of way and temporary easement. The City will exchange some of its property for the right of way. The land to be exchanged is part of property the City purchased from David Kieser. The property going to Paul Kieser consists of two small remnants on the west side of the new road. The City will pay Mr. Kieser \$21,000 for the temporary easement.

Twelve (12) trees mature trees will be removed from the area of the temporary easement and the payment is largely intended to compensate for the loss of those trees. However, the City will be using the property extensively during construction to run equipment and the payment also compensates for the lost use of the land during that time.

Staff prepared a Contract for Sale of Real Estate on these terms and respectfully recommends that Council approve the agreement, and further that the Mayor and City Clerk be authorized to execute the necessary documents. Funds for this acquisition are available in # X40152-72530.

Respectfully,

Hannah R. Eisner
Deputy Corporation Counsel

Tom Hamilton
City Manager

Paul J. Kieser & Karen S. Kieser

City of Bloomington

Address:

Address: **109 E. Olive Street**

City/State/Zip:

City/State/Zip: **Bloomington, IL 61701**

Attorney/Telephone/Fax:

Attorney/Telephone/Fax: **Hannah Eisner**

Street, PO Box:

Street, PO Box: **109 E. Olive Street**

City/State/Zip:

City/State/Zip: **Bloomington, IL 61701**

**CONTRACT FOR EXCHANGE OF REAL ESTATE AND TEMPORARY
CONSTRUCTION EASEMENT**

THIS CONTRACT is entered into between the City of Bloomington, hereinafter referred to as City, and Paul J. Kieser and Karen S. Kieser, hereinafter referred to as Kieser, who agree as follows:

1. **DESCRIPTION:** City and Kieser each own the following described parcels of property shown on the drawings attached hereto as Exhibits A & B:

A. City property

Outlots A & B on the Final Plat of the Blue Ash Subdivision
No. 1. See Exhibit A.

B. Kieser property

Right of Way Parcel:

Part of the Southeast Quarter of the Southwest Quarter of Section 13, Township 23 North, Range 1 East of the 3rd Principal Meridian more particularly described as follows: Commencing at the Northeast corner of the Southeast Quarter of the Southwest Quarter of Section 13, Township 23 North, Range 1 East of the Third Principal Meridian, thence West, 374.15 feet (record dimension); thence South, 486.73 feet (record dimension) to a monument found on the centerline of the Township Road; thence South 57°-29'-46" West, along said centerline 131.33 feet; thence South 57°-17'-19" West, along said centerline 250.21 feet to a railroad spike found on said centerline, said point lying at station 203+88.26 on proposed centerline Blue Ash Court; thence South 00°-24'-16" East, along the West Line extended of the land of the Grantors, 39.04 feet; thence North 57°-17'-19" East, along the North Line of the land of the Grantors, 79.62 feet to the true Point of Beginning; thence continuing North 57°-17'-19" East, along said North Line, 26.86 feet; thence South 00°-24'-16" East, along the East Line of the land of the Grantors, 9.70 feet to a point on curve; thence Westerly, along proposed South Right of Way Line of Blue Ash Court, a curve to the left, convex to the North, with a radius of

100.00 feet and initial tangent bearing South 84°-40'-04" West, a distance of 23.23 feet to the Point of Beginning, containing 100 square feet (0.002 acres), more or less.

Temporary Easement Parcel:

The west 50 feet of the following described tract:

20-13-300-032

City will convey Outlots A & B to Kieser and Kieser will convey the Right of Way Parcel to City and grant City a temporary easement on the Temporary Easement Parcel. The transfer of Outlots A and B to Kieser shall be the sole consideration for the Right of Way Parcel. City shall pay Kieser \$21,000.00, on or before the 31st day of December, 2006 as consideration for the Temporary Easement

2. **EVIDENCE OF TITLE:** Each party will provide the other with written commitment from a title insurance company duly authorized to do business in Illinois, showing title to the property to be conveyed subject only to matters to which this sale is subject by the terms hereof and to the customary exceptions contained in owners policies issued by such company. If written commitment discloses defects in title other than matters to which this sale is subject by the terms hereof and the customary exceptions in such policies, then each shall have until date for delivery of deed to correct such defects.

3. **DEED AND POSSESSION:** City will convey fee simple title to Outlots A & B to Kieser by Warranty Deed and shall deliver possession to the property upon approval of the Final Plat of Blue Ash Subdivision. Kieser will convey fee simple title to the Right of Way Property to City and grant City the temporary easement on or before the 31st day of October, 2006.

4. **INSURANCE:** This Contract is subject to the State of Illinois Uniform Vendor and Purchaser Risk Act (765 ILCS 65/1), which provides, in general, that Seller shall bear the risk of loss until transfer of possession or receipt of deed, whichever occurs first.

5. **TAXES:** (Deleted.)

6. **ENCUMBRANCES:**

A. Mortgages, if any, shall be released within ninety days of the date deed is delivered. The obligation to obtain the mortgage release shall continue until the release is obtained and recorded.

B. Easements and building or use restrictions of record, and zoning and building ordinances, if any, which shall not be considered as rendering title unmerchantable or unacceptable, provided same are not violated by the existing improvements or the use thereof or the proposed use thereof as an electrical transmission substation.

7. **TOXIC OR HAZARDOUS WASTE:** Neither City nor Kieser are aware of any toxic or hazardous waste materials being stored or having been stored on their respective properties or the existence of any underground fuel storage tanks on those properties, and further represent that no notices have been received from the Illinois Environmental Protection Agency or the Illinois Environmental Pollution Control Board or any other governmental entity with regard to a toxic or hazardous waste problem with their property.

8. **WARRANTIES:** Each party provides the following warranties with respect to the property being transferred by that party:

- A. That no work has been done upon, or materials furnished to, the premises which could give rise to a lien under the Illinois Mechanics' Lien Act;
- ~~B. Seller has indefeasible title to all of the personal property to which reference is made in Paragraph 7, and all of said property, together with all appliances and mechanical systems built into the premises are free from security interests or liens other than the lien of any real estate mortgage noted in Paragraph 6 herein;~~
- ~~C. Additional Warranties:~~

9. **ADDITIONAL PROVISIONS:**

- ~~A. Buyer shall assume any assumption or transfer fees incurred as a result of Buyer assuming, or taking subject to, Seller's existing mortgage, and both Seller and Buyer agree to comply with the requirements of the Real Estate Settlement Procedures Act;~~
- B. Words importing the masculine gender include the feminine, words importing the singular number include the plural, and words importing the plural include the singular;
- C. The covenants and agreements herein contained shall extend to and be obligatory upon the heirs, executors, administrators, and assigns of the respective parties;
- D. This contract is contingent upon approval by the Bloomington City Council. Buyer will seek such approval by placing the contract on the agenda for the first regularly scheduled Council meeting following the date Seller executes the contract.*
- E. City shall provide Kieser with 20 semi loads of top soil to be stockpiled within the temporary easement area in a location designated by Kieser.*
- F. The terms of the Temporary Easement shall be as provided in the form of Temporary Easement attached hereto as Exhibit C and incorporated herein by reference.*

G. Kieser may salvage trees from the City's right of way area shown on the drawing attached hereto as Exhibit D. Kieser understands that the trees have been designated to be removed by City's contractor in preparation for construction of Scottsdale Avenue and that Kieser is responsible for making his own arrangements to salvage the trees. City makes no representation as to when the Contractor may remove the trees and Kieser agrees that City has no obligation to preserve the trees or provide Kieser with replacement trees if the trees are removed by the Contractor.

10. **NOTICES, ETC.:** Title commitments, communications or notices with reference to this Contract shall be delivered by or to the parties or their respective attorneys as shown on the first page hereof.

11. **PREPARATION AND APPROVAL:** This Contract was prepared by Hannah Eisner, Buyer's attorney, and approved by _____, _____ attorney.

12. **SETTLEMENT:** Closing shall be held at such place as the parties may agree.

13. **ATTORNEY'S FEES AND EXPENSES:** Should either Seller or Buyer be required to incur attorney's fees, costs and/or other expenses (including expenses of litigation) as a result of the other party's failure to perform any obligation pursuant to the terms of this Contract, then the party so failing to perform shall be liable to the other party for any reasonable attorney's fees, costs, and expenses (including expenses of litigation) incurred by such other party. This provision shall survive closing and delivery of deeds.

IN WITNESS WHEREOF, the parties to these presents have executed several counterparts of this Contract, of equal effect.

City of Bloomington

Paul J. Kieser

Stephen F. Stockton
Mayor

Karen S. Kieser

ATTEST:

Tracey Covert
City Clerk

Motion by Alderman Matejka, seconded by Alderman Schmidt that the Contract for Real Estate be approved 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: Ordinance Amending Chapter 21 Section 900.2 Abatement Notice and Proceeding

Staff proposes to shorten the compliance time and simplify the mailing procedure required to notify a property owner that they must bring their property into compliance with Chapter 21 – Refuse Code, or the City will rectify the situation and charge the property owner for the cost incurred.

Currently the property owner has ten (10) days to abate the violation and this Text Amendment shortens that to seven (7) calendar days. Additionally, staff proposes to change the requirement of Certified Mail to First Class Mail. There really is no reason to mail notice by certified mail and many property owners, when they see a certified letter from the City do not claim it.

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

Respectfully,

Laura Hall
Assistant Corporation Counsel

Tom Hamilton
City Manager

ORDINANCE NO. 2006 - 112

AN ORDINANCE AMENDING BLOOMINGTON CITY CODE CHAPTER 21

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

SECTION 1. That Bloomington City Code Chapter 21, Article IX, Section 900.2, shall be and the same is hereby amended to read as follows (additions are indicating by underlining; deletions are indicated by strikeouts):

The Code Official shall notify and direct, by ~~certified~~ First Class mail, any property owner who violates any provision of this Chapter to abate such violation on his property. If any owner fails to abate said violation on his property within ~~ten (10)~~ seven (7) calendar days from such notice, the Code Official may order the abatement of the violation. The cost thereof shall be charged against the real estate upon which the violation is located and there shall be a lien upon such real estate. In addition to the filing of a lien upon such real estate, the City shall have the authority to collect for the costs by filing a personal collection action against the owner in court.

SECTION 2. That except as provided herein, the Bloomington City Code, as amended, shall remain in full force and effect.

SECTION 3. The City Clerk shall be, and she is hereby directed and authorized to publish this Ordinance in pamphlet form as provided by law.

SECTION 4. 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 5. This Ordinance shall take effect ten (10) days after passage and approval.

PASSED this 23rd day of October, 2006.

APPROVED this 24th day of October, 2006.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

QUESTIONS

Motion by Alderman Matejka, seconded by Alderman Schmidt that the Text Amendment be approved and the Ordinance passed.

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

Ayes: Aldermen 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: Amendment of Chapter 6 Section 4(c) of the Bloomington City Code to Remove United States Citizenship as a Qualification for a Liquor License

Section 4 of the Chapter 6, Alcoholic Beverages, contains a list of conditions or circumstances that automatically disqualify a person from obtaining a liquor license. Subsection (c) disqualifies a person who is not a citizen of the United States. The Illinois Attorney General issued an opinion in 1974 that held a similar provision of the state law unconstitutional because it discriminated on the basis of national origin.

This section of the City's Code was brought to the attention of the Liquor Commissions at a recent hearing on a liquor license application. The application was for a business operated by a husband and wife, only one of whom was a citizen. The applicants had one of the couple apply for the license to meet the criteria of the Ordinance, although this was not the best arrangement for the business. The Commission was advised of the Attorney General's opinion and allowed the application to be amended to include both parties. At the same time, the Commission directed staff to put forth an amendment to remove that prohibition from the City Code.

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 - 113

**AN ORDINANCE AMENDING BLOOMINGTON CITY CODE
CHAPTER 6 SECTION 4**

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

SECTION 1. That Bloomington City Code Chapter 6, Section 4, be amended by adding the following paragraphs to read as follows (additions are indicated by underlining; deletions are indicated by strikeouts):

No such license shall be issued to:

- (a) A person not of legal age or under any legal disability;
- (b) A person not a resident of McLean County;
- ~~(c) A person who is not a citizen of the United States;~~
- (c) ~~(d)~~ A person who is not a good character and reputation in the community in which he resides;
- (d) ~~(e)~~ A person who has been convicted of a felony under the laws of the State of Illinois or any other state or the United States, unless the Commissioner determines, after investigation, that such person has been sufficiently rehabilitated to warrant the public trust;
- (e) ~~(f)~~ A person who has been convicted of being the keeper of or is keeping a house of ill fame;
- (f) ~~(g)~~ A person who has been convicted of pandering or other crime or misdemeanor opposed to decency or morality;
- (g) ~~(h)~~ A person whose license issued under this Ordinance has been revoked for cause;
- (h) ~~(i)~~ A person who at the time of application for renewal of any license hereunder would not be eligible for such license upon a first application;
- (i) ~~(j)~~ A partnership unless all members of the partnership reside within McLean County and all are otherwise qualified to obtain a license;

(j) ~~(k)~~—A corporation, if any official, manager or director thereof or any stockholder or stockholders owning in the aggregate more than five percent of the stock of such corporation, would not be eligible to receive a license hereunder for any reason other than citizenship or residence within the City;

(k) ~~(l)~~—A person whose place of business is conducted by a manager or agent unless said manager or agent possess the same qualifications required of the licensee;

(l) ~~(m)~~—A person who has been convicted of a violation of any Federal or State law concerning the manufacture, possession or sale of alcoholic liquor subsequent to the passage of this Code or shall have forfeited his bond to appear in court to answer charges for any such violation;

(m) ~~(n)~~—A person who does not own the premises for which a license is sought or does not have a lease thereon for the full period for which the license is to be issued;

(n) ~~(o)~~—Any law enforcing public official, any Mayor or Councilman, and no such official shall be interested in any way, either directly or indirectly, in the manufacture, sale or distribution of alcoholic liquor;

(o) ~~(p)~~—Any person, association or corporation not eligible for a state retail liquor dealer's license;

(p) ~~(q)~~—Any person who fails to furnish or falsely furnishes information or who fails to make or falsely makes statements required in the application for license as set forth in this Chapter.

SECTION 2. Except as provided herein, the Bloomington City Code, as amended, shall remain in full force and effect.

SECTION 3. The City Clerk shall be, and she is hereby directed and authorized to publish this Ordinance in pamphlet form as provided by law.

SECTION 4. 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 5. This Ordinance shall take effect immediately upon passage and approval.

PASSED this 23rd day of October, 2006.

APPROVED this 24th day of October, 2006.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

QUESTIONS

Motion by Alderman Matejka, seconded by Alderman Schmidt that the Text Amendment be approved and the Ordinance passed.

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

Ayes: Aldermen 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 the City of Bloomington, IL, a Municipal Corporation, Requesting Approval of an Amendment of Chapter 44, Section 4.60 (b) of the Bloomington City Code by giving the Bloomington Board of Zoning Appeals the Authority to Grant a Special Exception to Re-establish a Lot of Record Previously Combined with an Adjacent Lot in Order to Allow a Single-family Dwelling and Customary Accessory Buildings to be Erected on Said Lot, Notwithstanding a Failure of Such Lot to Meet the Minimum Requirements of Chapter 44 for Lot Area or Lot Width or Both (Case Z-18-06)

BACKGROUND INFORMATION:

Currently, Section 4.60 (b) of the City's Zoning Code reads as follows:

(b) Nonconforming Lots of Record. In any district in which single-family dwellings or two family dwellings are permitted, a single-family dwelling or a two family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Code, notwithstanding limitations imposed by other provisions of this Code. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district/provided that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located.

If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Code, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purpose of this Code, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this Code, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this Code. (Ordinance No. 1982-41)

The following example illustrates the actual application of these Section 4.60 (b) restrictions to two abutting nonconforming lots of record in a R-1C, High Density Single Family District on North Oak Street that are currently in single ownership.

Both 1507 and 1509 North Oak Street are legal nonconforming lots of record because they each contain 5,600 square feet of lot area instead of the 6,600 square foot minimum lot area required by the R-1C zoning regulations, because both lots were legally platted and recorded prior to adoption of the R-1C zoning regulations in 1979. Both lots have the dimensions of 50 feet by 112 feet and are presently under the same ownership. Except for a small storage shed, the lot at 1507 is vacant, while 1509 is the site of a single family dwelling and accessory garage. The citizens owning both lots wish to construct a new single family dwelling and accessory garage at 1507 and can comply with the yard, lot width and other R-1C requirements (except lot area), but are unable to obtain a building permit because both lots are in the same ownership and therefore are now considered to be an “undivided parcel” which cannot be used or sold in a manner which diminishes compliance with lot area requirements. However, if 1507 were in a separate ownership from 1509, then the owner of 1507 could build the single dwelling and accessory garage at 1507. These Section 4.60 (b) restrictions also prevent the current owner of both 1507 and 1509 from selling either lot separately since they are now considered to be an “undivided parcel” even though they were separate legal lots when the plats were recorded.

The intent of these Section 4.60 (b) restrictions is to reduce the number of nonconforming lots that are eligible as potential sites for new residential construction by prohibiting the construction of single family dwellings and two family dwellings on abutting nonconforming lots of record that are in the same ownership. These restrictions have the potential of presenting problems in the future regarding the use and conveyance of abutting nonconforming lots in the same ownership that become an “undivided parcel” according to Section 4.60 (b). The Board of

Zoning Appeals presently does not have the authority to grant any exceptions to these restrictions.

The proposed amendment to Section 4.60 (b) gives the Board of Zoning Appeals the authority to grant a special exception in cases where two or more abutting nonconforming lots of record have become in single ownership and are deemed a single parcel to re-establish a lot of record previously combined with an adjacent lot in order to allow a single-family dwelling and customary accessory buildings to be erected on said lot, notwithstanding a failure of such lot to meet the minimum requirements of said Chapter 44 for lot area or lot width or both, provided that the following conditions are met:

- (1) Granting of the requested exception results in appropriate, compatible development with surrounding residential development;
- (2) The dwelling must be located on a lot of record that is at least forty (40) feet in width; and
- (3) The request meets all other standards and requirements of this Code for said lot other than those applying to lot area or lot width, or both.

PLANNING COMMISSION PUBLIC HEARING:

The Planning Commission held a public hearing on this petition on October 11, 2006 and recommends the same. Mr. Kenneth Emmons, City Planner, recommended that the Planning Commission pass a motion to recommend Council approval of this petition in Case Z-18-06. Mr. Mark Huber, Director of Planning and Code Enforcement, commented that there currently is an unintended restriction that if two lots of record are under one ownership they may not be separately developed if the current standards are not met, such as minimum size or width. However, if the lots of record are individually owned they may be developed even if the lots do not meet the current lot area or width standards. As it is now, the Zoning Board of Appeals does not have the authority to grant an exception even if so desired. This amendment would allow the Board to have this authority and the ability to review petitions and grant exceptions if it so chose.

Mr. Huber commented that this problem is experienced occasionally in older neighborhoods that were laid out before there zoning standards. He noted that the first zoning Ordinance in the City was enacted in 1941 and he pointed to the North Oak Street example and stated that granting an exception would not change the character of the neighborhood as developed adjacent lots were of similar size.

No other persons testified at this public hearing.

PLANNING COMMISSION RECOMMENDATION:

After having given due consideration to this petition and the testimony presented, the Planning Commission passed a motion by a vote of 8 to 0, to recommend Council approval of this Text Amendment in Case Z-18-06 as presented.

STAFF RECOMMENDATION:

Staff concurs with the Planning Commission's recommendation.

Respectfully submitted,

Kenneth Emmons
City Planner

Tom Hamilton
City Manager

ORDINANCE NO. 2006-114

**AN ORDINANCE TO AMEND THE TEXT OF CHAPTER 44, SECTIONS 4.60 (b)
OF THE BLOOMINGTON CITY CODE - 1960, AS AMENDED**

WHEREAS, there was heretofore filed with the City Clerk of the City of Bloomington, McLean County, Illinois, a Petition praying for the amendment of Chapter 44, Section 4.60 (b) of the Bloomington City Code - 1960, as amended; and

WHEREAS, the Bloomington Planning Commission, after proper notice was given, conducted a public hearing on said Petition; and

WHEREAS, the text amendment prayed for in said Petition is in the public interest; and

WHEREAS, the City Council of said City has the power to pass this Ordinance to amend said Section 4.60 (b) of Chapter 44 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:

That the Chapter 44, Section 4.60 (b), of the Bloomington City Code - 1960, as amended, shall and the same are hereby amended as hereinafter printed in Exhibit A.

This Ordinance shall take effect immediately upon passage and approval.

PASSED this 23rd day of October, 2006.

APPROVED this 24th day of October, 2006.

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

EXHIBIT A

Amendment to Chapter 44, Sec. 4.60 (b) of Bloomington City Code:

(b) Nonconforming Lots of Record. In any district in which single-family dwellings or two family dwellings are permitted, a single-family dwelling or a two family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Code, notwithstanding limitations imposed by other provisions of this Code. ~~Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership.~~ This provision shall apply even though such lot fails to meet the **minimum** requirements for area or width, or both, that are generally applicable in the **zoning** district / provided that **minimum** yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations ~~-a-~~ for the **zoning** district in which such lot is located.

~~If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Code, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purpose of this Code, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this Code, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this Code. (Ordinance No. 1982-41)~~

If two (2) or more abutting lots of record (or portions thereof), one (1) or more of which are nonconforming, become under single ownership, the land involved shall be deemed to be a single undivided parcel for the purposes of this Code, and no portion of said parcel shall be sold or used in a manner which diminishes compliance with lot width and/or lot area requirements established by this Code, except as allowed herein by special exception:

In cases where two (2) or more abutting lots of record have become under single ownership and are deemed to be a single undivided parcel as set forth herein, the Board of Zoning Appeals may grant a special exception to re-establish a lot of record previously combined with an adjacent lot in order to allow a single-family dwelling and customary accessory buildings to be erected on said lot, notwithstanding a failure of such lot to meet the requirements of this Code for lot area and/or lot width, provided the following conditions are met:

- (1) Granting of the requested exception results in appropriate, compatible development with surrounding residential development;**
- (2) The dwelling must be located on a lot of record that is at least (40) feet in width; and**

Motion by Alderman Matejka, seconded by Alderman Schmidt that the Text Amendment be approved and the Ordinance passed.

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

Ayes: Aldermen 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 Jin Fen Ni, d/b/a China Buffet, located at 706 Eldorado Rd., requesting an RBS liquor license which would allow the sale of beer and wine by the glass for consumption on the premises seven (7) days a week.

The Bloomington Liquor Commissioner Stephen Stockton called the Liquor Hearing to consider the application of Jin Fen Ni, d/b/a China Buffet, located at 706 Eldorado Rd., requesting an RBS liquor license which would allow the sale of beer and wine by the glass for consumption on the premises seven (7) days a week. Present at the hearing were Liquor Commissioners, Marabeth Clapp, Stephen Stockton, Steve Petersen and Rich Buchanan; Hannah Eisner, Deputy Corporation Counsel; Julie Phillips, Deputy City Clerk, Frank Miles, Attorney, and Applicant Representative, Jin Fen Ni, Applicant and Zhou Zheng, Applicant's spouse and business partner.

Commissioner Stockton opened the hearing.

Frank Miles, Applicant's attorney and representative addressed the Commission. He had assisted the applicant and applicant's family apply for a liquor license for this same location previously known as Tops China Buffet. He stated that some of the members of the family moved, the business had closed, and subsequently the liquor license lapsed. The remaining family members wished to reopen the establishment under the name of China Buffet. There were no changes to the business plan from the previous establishment.

Commissioner Stockton questioned if there were any amendments to the requested liquor license. Mr. Miles replied that the application was made by Jin Fen Ni, d/b/a as China Buffet as sole proprietor due to her husband, Zhou Zheng not holding US citizenship. He had spoken with Hannah Eisner, Deputy Corporation Counsel, regarding the application. She had informed him that the City Code does not allow a liquor license to be issued to a non citizen. She had recommended that although the business was vested in both Jin Fen Ni, and Zhou Zheng, that the liquor license could be held in Jin Fen Ni's name.

Commissioner Stockton noted that there were some questions regarding the Constitutionality of the Ordinance as written in the City Code. Chapter 6, Section 4c- Disqualification for License states that no license shall be issued to a person who is not a citizen of the United States. Ms.

Eisner Counsel noted that the State of Illinois also bars non-citizens from obtaining liquor licenses. The Attorney General has indicated that it is unconstitutional.

Commissioner Stockton stated that if the Ordinance is changed then the Commission would allow the Applicants to change the name on the license. Mr. Miles stated his preference that the Ordinance be changed prior to the license being issued if possible.

Ms. Eisner stated that the State of Illinois would need to be in agreement with the City regarding the change to the Ordinance before the Text Amendment could be made. She also restated that the liquor license could be issued to the Applicant, and the name could be changed in the future if necessary.

Based on the above, the Liquor Commission recommends to the City Council that an RBS liquor license which would allow the sale of beer and wine by the glass for consumption on the premises seven (7) days a week, be approved contingent upon compliance with all applicable health and safety codes, and that Zhou Zheng be added to the license in the event Chapter Six of the City Code is amended eliminating the citizenship requirement.

Respectfully,

Stephen F. Stockton
Chairman of Liquor Commission

Motion by Alderman Matejka, seconded by Alderman Schmidt that an RBS liquor license for Jin Fen Ni, d/b/a China Buffet, located at 706 Eldorado Rd., be created, contingent upon compliance with all applicable health and safety codes and that Zhou Zheng be added to the license in the event Chapter Six of the City Code is amended eliminating the citizenship requirement.

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 Reality Bites, Inc., d/b/a Reality Bites, located at 414 N. Main St., currently holding 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, with the following conditions upon the license: 1.) that the establishment must operate as a restaurant, if at the sole discretion of the Liquor Commission, there is an indication that the establishment is operating as a tavern, the approval of the RAS license would be revisited; 2.) the Applicant must provide a valid lease to the City Clerk's office; 3.) no alcohol be sold, served or consumed on the premises the earlier of one (1) hour after the kitchen closes or twelve a.m. (midnight); and 4.) no amplified music. The applicant could, upon request, have these conditions reviewed after six (6) months of operation.

The Bloomington Liquor Commissioner Stephen Stockton called the Liquor Hearing to consider the application of Reality Bites, Inc., d/b/a Reality Bites, located at 414 N. Main St., currently holding 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, with the following conditions upon the license: 1.) that the establishment must operate as a restaurant, if at the sole discretion of the Liquor Commission, there is an indication that the establishment is operating as a tavern, the approval of the RAS license would be revisited; 2.) the Applicant must provide a valid lease to the City Clerk's office; 3.) no alcohol be sold, served or consumed on the premises the earlier of one (1) hour after the kitchen closes or twelve a.m. (midnight); and 4.) no amplified music. The applicant could, upon request, have these conditions reviewed after six (6) months of operation.

The licensee has requested that the Commission reconsider the following conditions: 1.) that the business hours be extended to 1:00 a.m. on weekdays and 2:00 a.m. on Friday and Saturday, 2.) discussion of the kitchen hours, and 3.) amplified music.

Present at the hearing were Liquor Commissioners, Marabeth Clapp, Stephen Stockton, Steve Petersen and Rich Buchanan; Hannah Eisner, Deputy Corporation Counsel; Julie Phillips, Deputy City Clerk, and Brian McCaslin, owner/operator and license holder.

Commissioner Stockton opened the hearing by announcing that this item had been moved up on the meeting's agenda at the request of the applicant. There were no objections. Commissioner Stockton informed those in attendance that the applicant's request for an RAS liquor license had been approved with conditions six (6) months prior to this hearing. Commissioner Stockton recalled that the concern of the Commission previously was that the establishment would operate as a tavern under the guise of a restaurant. He noted that the establishment has great food, and that there had been no complaints regarding the operation.

Brian McCaslin, owner/operator and license holder addressed the Commission. He stated that he was confident with how the business has been operating. He has had patrons who would prefer to come to the establishment for dinner and/or drinks later in the evening after attending a US Cellular Coliseum or Bloomington Cultural District event. Due to the restrictions placed on his license, he would be unable to provide this service. He noted that the establishment does not experience busy late night customers on nights when there are no events at either venue.

Commissioner Stockton requested that Mr. McCaslin describe what he believed the business pattern would be with approval of the extended hours. Mr. McCaslin stated that his belief would be that the sales would continue to be comprised of 30% liquor and 70% food. It would be necessary, however to reduce the menu items. He currently employs a professional chef and it would be too expensive to keep him on duty longer than the current business hours. His business partner or he himself is on premise at all times.

They have both been taking lessons from the chef in order to learn how to prepare some of the menu items. The intent is that either he or his partner would prepare the menu items offered when the chef is off duty.

Commissioner Stockton inquired as to what Mr. McCaslin believed what his patrons would request after 12:00 a.m. Mr. McCaslin stated that he currently has patrons requesting food at 11:30 p.m., after the kitchen has closed. He noted that after 12:00 a.m. the sales would probably predominantly be alcohol, however, his belief that it would be a 50/50 mix if food were available.

Commissioner Stockton requested that Mr. McCaslin explain his request that the amplified music restriction be lifted. Mr. McCaslin had been approached by a few acoustic guitar musicians, but that the music would not be heard without an amplifier.

Commissioner Clapp inquired if the intent was to have rock bands. Mr. McCaslin responded negatively. He believed that the establishment was too small, such a band would be too loud, and would ruin the ambiance of the establishment. He does not intend to hire electric guitarists or drummers.

Commissioner Petersen inquired if he were to appear at the establishment after midnight, if he would witness the majority of the patrons sitting at tables eating food. Mr. McCaslin and his staff are very stringent about not over-serving. He informs his staff that each staff member is solely responsible to not over-serve alcohol. Commissioner Peterson inquired if there would be a door man present. Mr. McCaslin responded that a door man is not currently used. He, his partner, or another staff person would handle this responsibility. If groups of people were to attempt to enter the establishment, they would be evaluated, and the risk would be assumed. He also noted that the establishment has at times turned patrons away if they were not there to purchase food.

Commissioner Petersen stated that the applicant seems to have adhered to the conditions that have been placed on the current liquor license.

He noted that the probationary period of six (6) months was intended to see if the concept of this business would work. Mr. McCaslin stated that the probationary period has given them the opportunity to work out the business plan.

The establishment has been operating as a restaurant and low key lounge. He noted that they needed to expand their hours in an attempt to gain more income, in order to continue operating.

Commissioner Clapp stated that the six (6) month probationary plan had worked as planned, that the license holder has done their part.

Commissioner Stockton opened the hearing for public comment.

Ron Frazier, 413 N. Center St. addressed the Commission. He stated that neither he nor his neighbors had any complaints regarding this establishment.

Jan Lancaster, 316 N. Main St. addressed the Commission. She is the President of the Downtown Bar Association, (DBA). She stated that the license holder is a member in good standing. She noted that the 400 block of N. Main St. has improved tremendously since the establishment opened. She commended the license holder and recommended that the Commission lift the conditions on the liquor license.

Frank Hoffman, 401 N. Main St. addressed the Commission. He was opposed in general to adding more bars to the Downtown. He was not opposed to this existing establishment. He was concerned that expanding their hours of operation would lead to it operating more as a tavern as opposed to a restaurant. He stated that his business has had plate glass windows broken out by patrons of the area taverns.

Commissioner Stockton questioned Mr. McCaslin about the responsibility he took for cleaning up the street. Mr. McCaslin did not clean up the entire block. He walks to and from work, cleans up the trash that he sees, and sweeps in front of his business. He invited Mr. Hoffman to his establishment. He assured Mr. Hoffman and the Commission that he could operate a good business without being a tavern.

Commissioner Buchanan noted that there a lot of different types of taverns, he was not interpreting Reality Bites as a tavern but as a restaurant. He did not believe that Reality Bites would operate as the other Downtown bars/taverns.

Mr. McCaslin stated that his business had been under a magnifying glass, and during that time has worked out any kinks in the business plan. He does not want to change his business plan or clientele. Currently the average age of his clientele is 40, they generally purchase higher end drinks such as martinis.

Commissioner Stockton inquired if Reality Bites was for rent to fraternities/sororities. Mr. McCaslin responded that the establishment had been rented by a sorority during parent's weekend, and other organizations such as State Farm for events. He stated that the establishment would not be for rent to fraternities/sororities for drinking parties. Mr. McCaslin assured the Commission that if the request were to be granted that he would uphold the standards expected.

Commissioner Stockton noted that most of the opposition from his previous request had disappeared. He stated that he was inclined to approve this request with caution.

He inquired if the amplified music would be contained indoors. Mr. McCaslin affirmed, and stated that there would only be one amplifier per vocalist and/or musician. Commissioner

Stockton questioned if Mr. McCaslin would object to restricting the amplified music to one per instrument, and per vocalist. Mr. McCaslin affirmed. Commissioner Stockton stated that he was willing to approve the request provided that Mr. McCaslin understood that it would be revisited if complaints were received. Mr. McCaslin responded that he was in agreement.

Commissioner Stockton informed Mr. McCaslin that the Commission had been considering implementing a staggered closing time for liquor establishments. He stated that the Commission reserved the right to set Reality Bite's closing time for 1:45 a.m. as opposed to 2:00 a.m.

Commissioner Clapp stated that she agreed that there had been discussion regarding staggering closing times, however she did not wish to use Reality Bites as an experiment. Commissioner Buchanan agreed with Commissioner Clapp's comments.

Commissioner Buchanan stated that based on the overall success of Reality Bites he was willing to approve lifting the current conditions applied to its liquor license.

Based on the above, the Liquor Commission recommends to the City Council that the conditions placed upon the RAS liquor license held by Reality Bites, Inc., d/b/a Reality Bites located at 414 N. Main St. be modified to the following: 1.) that the establishment must operate as a restaurant, if at the sole discretion of the Liquor Commission, that there is an indication that the establishment is operating as a tavern, the approval of the RAS license would be revisited; 2.) that no alcohol be sold, served or consumed on the premises the earlier of one hour after the kitchen closes or 1:00 a.m. on weekdays, 2:00 a.m. on Friday and Saturday nights, 3.) that amplified music be allowed, but limited to one amplifier per instrument and vocalist, and 4.) that after 12:00 a.m. (midnight) tavern rules apply, in that no one under the age of 21 years of age be allowed inside the establishment.

Respectfully,

Stephen F. Stockton
Chairman of Liquor Commission

Motion by Alderman Matejka, seconded by Alderman Schmidt that the conditions placed upon the RAS liquor license held by Reality Bites, Inc., d/b/a Reality Bites located at 414 N. Main St. be modified to the following: 1.) that the establishment must operate as a restaurant, if at the sole discretion of the Liquor Commission, that there is an indication that the establishment is operating as a tavern, the approval of the RAS license would be revisited; 2.) that no alcohol be sold, served or consumed on the premises the earlier of one hour after the kitchen closes or 1:00 a.m. on weekdays, 2:00 a.m. on Friday and Saturday nights, 3.) that amplified music be allowed, but limited to one amplifier per instrument and vocalist, and 4.) that after 12:00 a.m. (midnight) tavern rules apply, in that no one under the age of 21 years of age be allowed inside the establishment.

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 Indy Trading, Inc., d/b/a Famous Wine & Spirits, located at 1404 E. Empire, requesting a PAS liquor license which would allow the sale of all types of packaged alcohol for consumption off the premises seven (7) days a week

The Bloomington Liquor Commissioner Stephen Stockton called the Liquor Hearing to consider the application of Indy Trading, Inc., d/b/a Famous Wine & Spirits, located at 1404 E. Empire, requesting a PAS liquor license which would allow the sale of all types of packaged alcohol for consumption off the premises seven (7) days a week. Present at the hearing were Liquor Commissioners, Marabeth Clapp, Stephen Stockton, Steve Petersen and Rich Buchanan; Hannah Eisner, Deputy Corporation Counsel; Julie Phillips, Deputy City Clerk, Jeevan Singh, owner and Applicant, and Rich Johnston, Store Manager.

Commissioner Stockton opened the hearing.

Commissioner Stockton noted that this is an existing liquor retailer that is changing ownership. Rich Johnston, current store manager and Applicant's representative, addressed the Commission. He stated that there are no changes to the current operations. Jeevan Singh, owner and Applicant, addressed the Commission. He stated that his corporation has an agreement with the current owners to purchase the store contingent upon approval of this liquor license.

Commissioner Stockton inquired if this was the only location that the Applicants are considering purchasing. Mr. Singh replied that they are currently in the process of purchasing another store in Decatur. He noted that the original corporation which owned the chain of stores, Famous Trading, Inc., had dissolved and that the owners had slowly sold off the stores one by one.

Commissioner Stockton inquired as to the Applicant's involvement with the chain up to this point. Mr. Singh indicated that he and his business partners had been learning the business and managing the store. Commissioner Stockton inquired if the Applicants had any prior training or involvement in the liquor industry. Mr. Singh responded negatively.

Commissioner Petersen inquired if they had any prior retail experience. Mr. Singh indicated that they owned a gas station/convenience store in Indiana. Commissioner Stockton inquired if that location sold liquor. Mr. Singh responded negatively.

Commissioner Buchanan inquired who would operate this retail business. Mr. Singh indicated that Mr. Johnston would continue to manage the business. Mr. Johnston added that all of the current procedures and policies would remain the same.

Mr. Singh stated that the only change to this existing retail store would be the ownership, and that the owners would be local, as opposed to the current owners who were not City residents.

Based on the above, the Liquor Commission recommends to the City Council that the application of Indy Trading, Inc., d/b/a Famous Wine & Spirits, located at 1404 E. Empire, requesting a PAS liquor license which would allow the sale of all types of packaged alcohol for consumption off the premises seven (7) days a week, be approved contingent upon compliance with all applicable health and safety codes.

Respectfully,

Stephen F. Stockton
Chairman of Liquor Commission

Motion by Alderman Matejka, seconded by Alderman Schmidt that a PAS liquor license for Indy Trading, Inc., d/b/a Famous Wine & Spirits, located at 1404 E. Empire, be created, contingent upon compliance with all applicable health and safety codes.

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

Ayes: Aldermen 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: Lake Bloomington Lease Transfer Petition for Lot 15, Block 3 of Camp Kickapoo from Donald and Diane Tomasino to Lisa Jane Kroutil

Staff has reviewed the Lake Bloomington Lease Transfer Petition for Lot 15, Block 3 of Camp Kickapoo from Donald and Diane Tomasino to Lisa Jane Kroutil.

Staff has further reviewed the septic system inspection report and the deficiency letter from the McLean County Health Department (MCHD). The septic system is relatively new (11 years old) but still has several deficiencies with the current Code for surface discharging septic systems. The City will require that these deficiencies be corrected by December 1, 2006 as conditions of this lease transfer.

The deficiencies to be corrected, as noted in the MCHD deficiency letter of October 10, 2006, are:

1. The lift station must have a second pump installed or the chamber enlarged to accommodate 1.5 times the daily flow.
2. The alarm for the pump chamber must be repaired and properly located so that it may alert the homeowner in the event the system should fail to operate properly.
3. The septic tank access ports should be raised to no greater than 12 inches from ground surface to allow for tank maintenance.
4. The septic tank was in need of pumping, however that issue has been resolved and paperwork supporting this work has been received by the Water Department.

Staff will monitor the progress of these repairs/upgrades. Provided that the repairs/upgrades are made by the above-noted date, staff will close the file on this transfer. If the repairs/upgrades are not made by the above-noted date, staff will return to Council for further action.

Staff respectfully requests that Council approve the Lake Bloomington Lease Transfer for Lot 15, Block 3 in Camp Kickapoo from Donald and Diane Tomasino to Lisa Jane Kroutil contingent upon the noted repairs/upgrades being made by December 1, 2006.

Respectfully,

Craig M. Cummings
Director of Water

Tom Hamilton
City Manager

Motion by Alderman Matejka, seconded by Alderman Schmidt that the Lake Lease be approved contingent upon the repairs/upgrades being made by December 1, 2006, 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: Petition filed by Brian Cunningham and Consuelo Cunningham requesting approval of the Final Plat for the 0.447 of an acre Resubdivision of Lot 43 and Outlot 57 in the First Addition to Ridgewood Subdivision (with the vacation of portions of utility easements on said Lot 43 & Outlot 57) commonly located at and just north of 2102 Ridge Creek Drive, east of the Stanley Lane-Ridge Creek Drive intersection (Case FS-05-06) (Ward 2)

BACKGROUND INFORMATION:

Adjacent Zoning

north - R-2 Two Family Residential District (County)
south - R-1C High Density Single Family Residence District
east - A- Agricultural District (County)
west - R-1C High Density Single Family Residence District

Adjacent Land Uses

north - single family dwelling
south - vacant lot
east - agriculture
west - single family dwelling

Present Zoning: B-1 Highway Business District

Comprehensive Plan: recommends “Low to Medium Density Residential” use for this property.

This land is presently one lot of record (Lot 43, the site of a single family dwelling at 2102 Ridge Creek Drive) and one vacant outlot (Outlot 57) to the north of Lot 43. This 30 foot wide outlot was originally proposed to be the site of a four foot high landscaped berm to screen Lot 43 from the R-2 zoned area to the north and the C - Commercial District further north.

Outlots, by Code definition, may not be used for construction of buildings or parking lots. The petitioners recently purchased this 30 foot wide outlot from Ridgewood’s developers and are now requesting that it be merged with Lot 43 to become one wider lot, numbered Lot 58, in the “Resubdivision of Lot 43 & Outlot 57 in the First Addition to Ridgewood Subdivision.” Additionally, they are requesting the vacation of part of the utility easements in the northern five feet of Lot 43 and in a portion of Outlot 57 (as shown on the Final Plat) so that an attached garage with a breezeway can be constructed as an addition to the north of the house.

An underground electric power supply cable for an existing street light is located in the remainder of the outlot just to the north of the area to be vacated. The private restrictive covenants for the Ridgewood Subdivision (Document No. 2000-11807) do not permit the construction of detached accessory buildings on any of the lots in the First Addition to Ridgewood Subdivision.

PLANNING COMMISSION PUBLIC HEARING:

The Planning Commission held a public hearing on this petition on October 11, 2006 and recommends the same. Mr. Kenneth Emmons, City Planner, recommended that the Planning Commission pass a motion to recommend Council approval of the Final Plat for the Resubdivision of Lot 43 & Outlot 57 in the First Addition to Ridgewood Subdivision in Case FS-05-06 with the waiver of the preliminary plan submission requirements and with the vacation of part of the utility easement in the northern five feet of Lot 43 and in a portion of Outlot 57 as shown on said Final Plat. The following persons presented arguments in favor of this petition at this public hearing:

- Mr. Brian Cunningham, 2102 Ridge Creek Drive
- Mrs. Consuelo Cunningham, 2102 Ridge Creek Drive

Mrs. Cunningham explained that they had been looking for a house where her parents could move in and they have designed a 'in-law' suite in the basement. She added that it is a walk-out basement and the land slopes to toward the east. Mrs. Cunningham noted that the subdivision's covenants require that garages be attached, not detached, and of like construction to match the house. She stated that the garage would have the same siding, same brick trim and same roof pitch, and would be connected to the house by a sunroom. She shared letters with the Commission that indicated that the utility companies had no concerns with this easement being vacated. Mr. Doug Grovesteen, Director of Engineering, commented that there is only a power cable to a street light located in this easement and the remaining easement is drawn sufficient to accommodate that.

Mr. Merle Deiss, 2008 Ridge Creek Drive, stated that he owns the property just to the north of the subject property. He stated that he did not object to this change but is concerned that stormwater pools up in the ditch in front of his house and leaves mud on his driveway. He stated that he would also like some trees planted to the north of the new garage and on the neighbors' side of the property line.

Mr. Grovesteen noted that this situation is a case where the subdivision to the south is built to City standards (with curb and gutter) and the subdivision just to the north is built to rural standards, with ditch drainage. The Cunningham and Deiss properties are located where the two come together. Mr. Grovesteen stated that he had not yet looked into the situation but expressed confidence that the engineering could be done to ensure that the drainage would drain where it should. Mrs. Cunningham commented that her contractor has also been made aware of the situation.

No other persons testified at this October 11, 2006 public hearing.

PLANNING COMMISSION RECOMMENDATION:

After having given consideration to this petition and testimony presented at this hearing, the Planning Commission passed a motion by a vote of 8 to 0 to recommend Council approval of the Final Plat in Case FS-05-06 with the waiver of Preliminary Plan and the Vacation of part of the utility easement.

Respectfully submitted,

By: Brian Cunningham
Consuelo Cunningham

ORDINANCE NO. 2006-116

**AN ORDINANCE APPROVING THE FINAL PLAT OF THE
RESUBDIVISION OF LOT 43 AND OUTLOT 57 IN FIRST ADDITION TO
REIDGEWOOD SUBDIVISION**

WHEREAS, there was heretofore filed with the City Clerk of the City of Bloomington, McLean County, Illinois, a Petition for approval of the Final Plat of the Resubdivision of Lot 43 and Outlot 57 in First Addition to Ridgewood Subdivision, legally described in Exhibit A attached hereto and made a part hereof by this reference; and

WHEREAS, said Petition requests the following exemptions or variations from the provisions of the Bloomington City Code-1960, as amended: 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 Lot 43 and Outlot 57 in First Addition to Ridgewood Subdivision and any and all requested exemptions and/or variations be, and the same is hereby approved.
2. That this Ordinance shall be in full force and effective as of the time of its passage and approval.

PASSED this 23rd day of October, 2006.

APPROVED this 24th day of October, 2006.

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

EXHIBIT A

Lot 43 and Outlot 57 in the First Addition to Ridgewood Subdivision in the City of Bloomington Illinois, being a part of the Northwest Quarter of Section 18, Township 23 North, Range 2 East of the Third Principal Meridian, according to the plat thereof, recorded November 13, 2003 as Document No. 2003-57663, in McLean County, Illinois.

Motion by Alderman Matejka, seconded by Alderman Schmidt that the Final Plat be approved and the Ordinance be 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 filed by Erik I. Sloneker requesting approval of the Preliminary Plan for the 23.07 acre Westside Commercial Subdivision located in Dale Township, south of Williamson Farm Drainage, Inc. and Illinois Route 9, east of 1000 East Road, and north of the Washington Heights Subdivision within one and one half miles of the City of Bloomington Corporate Limits, (Case PS-09-06) (west of Ward 7)

BACKGROUND INFORMATION:

Adjacent Zoning

north - M-1 Restricted Manufacturing District (County) &
A, Agricultural (County)
south - R-1, Single Family Residential (County)
east - R-1, Single Family Residential (County)
west - A, Agricultural (County)

Adjacent Land Uses

north - farm drainage co.,
farm dwelling unit & sheds
south-single family dwellings
east - agriculture
west - agriculture

Current Zoning: Lots 4 & 5 - C Commercial (County); Lots 1 - 3 & 6 - 9 - M-1 Restricted Manufacturing District (County).

Current Land Use: Vacant/ agricultural use.

Comprehensive Plan: Indicates agricultural use for this property.

The property in question is presently located within one and one half miles of the City's western Corporate Limits, however, the petitioner is not seeking Annexation to the City because this property is not contiguous. This subdivision will remain in the County, but since it is within a mile and a half of the City Limits, it is subject to City review and approval.

The Preliminary Plan proposes the subdivision of this property into nine lots, including two lots for uses permitted in the C, Commercial District and seven (7) lots for uses permitted in the M-1 Restricted Manufacturing District. Lots 1 - 3 & 6 - 9 will have frontage on a proposed extension of Carole Road, a Dale Township road that intersects with Illinois Route 9 to the north and that will terminate with a "T" turnaround at the east property line. Lots 4 & 5 will have frontage on 1000 East Road, a Dale Township road to the west. The plan proposes a right-of-way dedication of 40 feet for the east one half of 1000 East Road.

Section 24-4.6.2 of the Bloomington Land Subdivision Code obligates the owner, developer, or subdivider developing a subdivision bordering on one or more substandard roadways to contribute one-half the cost of improving such roadway to minimum City standards for the zoning classification of the adjacent land.

This adjacent substandard roadway improvement guarantee shall endure for ten (10) years from the date the Final Plat is recorded and shall be secured in one of the following ways:

1. By posting a corporate surety bond with the owner or developer as principal and an insurance company duly authorized to do business in the State of Illinois as surety;
2. By posting a cash reserve account with the City; or
3. By posting an Irrevocable Letter of Credit from a local bank or savings and loan association naming the City as beneficiary thereof.

The adjacent substandard road improvement guarantee for 1000 East Road would be \$ 72,875, based on a cost of \$125 per foot of frontage multiplied by 583 feet of frontage. Note 5 on the plan's cover sheet (Sheet No. 1 of 2) incorrectly refers to "Old Town Township" and should be corrected to read as follows: "Access for each lot shall be as approved by Dale Township and/or McLean County." The enclosed "Preliminary Plan Approval" notices depicted in Attachment #1 should also be printed on Sheet No. 1 of 2 of this plan:

A potable water supply will be available to this subdivision from the Bloomington Township Public Water District contingent upon City Council approval, provided that all of the buildings in this subdivision are constructed in accordance with the City Building Code. Storm water will drain down Carole Road into a storm sewer to be dedicated to Dale Township. Note 9 on the plans cover sheet states: "Storm water detention shall be provided on site for each individual lot."

The County Highway Department and the Dale Township Road Commissioner have indicated that the proposed use of nine detention basins (one for each lot) is undesirable and that this site appears well suited for one regional basin or a combination of two to three basins serving

different parts of the site. No waiver of storm water detention requirements should be granted, but the City staff does not oppose on site detention for each lot.

A seven foot high concrete wall is proposed to be constructed along the southern portion of Lots 5 and 6 to screen these lots from the single family residential use to the south. A landscape screen of trees is also proposed along the south side of this wall and along the east edge of Lots 6 through 9.

All of the lots will be served by private wastewater treatment systems designed to Illinois Environmental Protection Agency (IEPA) and McLean County Health Department requirements. The petitioner is requesting the waiver of the submittal of percolation test data at this time subject to a stipulation that the required data shall be submitted by the developer or individual lot owners to the McLean County Health Department prior to construction.

The petitioner should also request the following waivers from the Bloomington Land Subdivision Code and the Manual of Practice for the Design of Public Improvements in the City of Bloomington:

1. Waiver of Chapter 4 of the Manual of Practice to allow a temporary "T" cul-de-sac terminus at the east end of Carole Road because the Carole Road improvements can be extended into the land to the east in the future;
2. Waiver of Chapter 5, Sec. 5.02, of the Manual of Practice waiving the requirement for sidewalks not less than four (4) feet in width on both sides of all public streets because no sidewalks were required along Carole Road in the Heartland Industrial Park Subdivision to the north; and
3. Waiver of Chapter 7 of the Manual of Practice waiving the requirement that sanitary sewer be extended to the site since no public sewer is reasonably available to this property.

The "Review of Development Proposal for Consistency with Local and Regional Comprehensive Plans" assigns this Westside Commercial Subdivision Preliminary Plan a project rating of: "C = Provides minimal features or acceptable alternatives, with 0 to 5 optional features. Favorable recommendation is possible."

PLANNING COMMISSION PUBLIC HEARING:

The Planning Commission held a public hearing on this petition on October 11, 2006 and recommends the same. The following persons were present at this public hearing to present arguments in favor of this petition and to answer questions:

- Mr. Erik Slonecker, 10604 N. 300 East Road, Danvers, Illinois.
- Mr. Brad Long, 1037 Arrowhead Trail, Saybrook, Illinois.

Mr. Slonecker explained that the lease at his present location is up in 22 months and he is planning to relocate to the subject site. He stated that his business is MJE Construction and he does excavation and concrete work. He shared three documents concerning this proposed subdivision with the Commission:

- “Preliminary On-Site Soils Investigation for a Commercial Subdivision”, dated March 24, 2006, from Jim Hornickel, Soil Classifier, (showing percolation tests suitable for septic seepage beds);
- A September 19, 2006 letter from Thomas J. Anderson, Director of Environmental Health, McLean County Health Department, confirming this preliminary plan’s compliance with the McLean County Land Subdivision Ordinance, the McLean County Private Sewage Disposal Ordinance, the Illinois Department of Public Health Private Sewage Disposal Code, and the Illinois Water Well Construction Code; and
- A May 2, 2006 agreement with Dale Township for Mr. Slonecker to pay a one-time fee of \$40,000 to up-grade and maintain Road 1000 East upon the sale of the first commercial lot fronting on Road 1000 East.

Mr. Slonecker noted that he is still in discussion with Mr. Jeff Tracy, Project Manager, Mclean County Highway Department, on the issue of stormwater detention. He stated that since he does not know how the lots will be ultimately utilized it is difficult to calculate the need for storage capacity, and preferred to allow on-site detention to be provided as each lot is developed.

Mr. Slonecker also noted that the County requested that Carole Road be stubbed to the east property line instead of a central circular cul-de-sac and the engineering is such that the road would pass through the lowest part of the site where the basin would ordinarily located. He noted that raising the road seven (7) feet higher than the adjacent lots would not be a good option.

Commissioner Shaw noted that the proposed concrete fence would run one fifth of a mile along the south boundary. He questioned why the fence would not continue on the east border of the site. Mr. Slonecker replied that existing residential is located to the south but additional commercial development is expected to the east. Mr. Slonecker stated there would be a 30 foot setback from the south line and he intends to plant two or three rows of trees as further visual and sound barrier.

Commissioner Shaw questioned how the lot for MJE Construction would be utilized. Mr. Slonecker replied that he would have an office, shop and warehouse. He stated that he did not know about the rest of the lots but he had spoken to an interested party about an organic foods operation. Mr. Long commented that he had spoken with Mr. Slonecker about the possibility of locating the organic foods operation of one of the lots. He noted that Mr. Slonecker had been very reasonable to work with.

Commissioner Kennett questioned whether the petition should request a waiver of substandard road improvement fees on behalf of the City, noting that such a fee is being paid to Dale Township. Mr. Grovesteen, Director of Engineering, replied that when the City is likely to improve a road within the ten (10) year period it does ask for the fee. He explained that staff had not considered the matter and that the fee could yet be discussed and a recommendation given to Council. He summarized that it really is a question of how long this road is likely to stay in the Township.

No testimony was presented at this hearing in opposition to this petition.

PLANNING COMMISSION RECOMMENDATION:

After having given due consideration to the proposed Preliminary Plan for the Westside Commercial Subdivision and the testimony presented, the Planning Commission passed a motion by a vote of 8 to 0 to recommend Council approval of this petition in Case PS-09-06, as revised in accordance with staff’s concerns and with the requested waivers, contingent upon staff reviewing and settling the issue of whether a Substandard Road Improvement Bond is needed or can be waived.

STAFF RECOMMENDATION:

Staff concurs with the Planning Commission’s recommendation for Council approval of the Preliminary Plan for the Westside Commercial Subdivision in Case PS-09-06 with the following revisions and waivers:

1. Note 5 on Sheet No. 1 of 2 should be revised as follows: “Access for each lot shall be as approved by the Dale Township and/or McLean County.”
2. The enclosed “Preliminary Plan Approval” notices depicted in Attachment # 1 should be printed on Sheet No. 1 of 2 of this plan.
3. Waiver of the submittal of percolation test data at this time subject to a stipulation that the required data shall be submitted by the developer or individual lot owners to the McLean County Health Department prior to construction.
4. Waiver of Chapter 4 of the Manual of Practice to allow a “T “ cul-de-sac terminus at the east end of Carole Road.
5. Waiver of Chapter 5, Sec. 5.02, of the Manual of Practice waiving the requirement for sidewalks not less than four feet in width on both sides of all public streets.
6. Waiver of Chapter 7 of the Manual of Practice waiving the requirement that sanitary sewer be extended to the site.

Respectfully submitted,

Kenneth Emmons
City Planner

Tom Hamilton
City Manager

PETITION FOR APPROVAL OF PRELIMINARY PLAN FOR A SUBDIVISION

State of Illinois)
)ss.
County of McLean)

To: The Honorable Mayor and City Council of the City of Bloomington, Illinois.

Now comes Erik I. Sloneker hereinafter referred to as your Petitioner(s) respectfully representing and requesting as follows:

1. That your petitioner is interested as prospective purchaser in the premises hereinafter in Exhibit A attached hereto and made a part hereof to be known by this reference;

2. That your Petitioner seeks approval of the Preliminary Plan for a subdivision of said premises to be known and described as Westside Commercial Subdivision which Preliminary Plan 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: All those shown on the Plan, or otherwise permitted by Agreement.

WHEREFORE, your Petitioner(s) pray(s) that the Preliminary Plan for the Westside Commercial subdivision submitted herewith be approved with the exemptions or variations as requested herein.

Respectfully submitted,

Erik I. Sloneker
By: Frank Miles

ORDINANCE NO. 2006-117

**AN ORDINANCE APPROVING THE PRELIMINARY PLAN OF THE
WESTSIDE COMMERCIAL SUBDIVISION**

WHEREAS, there was heretofore filed with the City Clerk of the City of Bloomington, McLean County, Illinois, a petition for approval of the Preliminary Plan of Westside Commercial Subdivision, legally described in Exhibit A attached hereto and made a part hereof by this reference;

WHEREAS, said Petition requests the following exemptions or variations from the provisions of the Bloomington City Code, 1960, as amended: all those shown on the plan, or otherwise permitted by agreement and;

WHEREAS, said Petition is valid and sufficient and conforms to the requirements of the statutes in such cases made and the Preliminary Plan attached to said Petition was prepared in compliance with the 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 Preliminary Plan of the Westside Commercial Subdivision and any and all requested exemptions and/or variations be, and the same is hereby approved.
2. That this Ordinance shall be in full force and effective as the time of its passage on this 23rd day of October, 2006.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Exhibit A
Legal Description

A part of the NW¼ of Section 2, Township 23 North, Range 1 East of the Third Principal Meridian, McLean County, Illinois, being a part of Lot 2 and a part of Lot 3 of the survey of the Estate of John Enlow, more particularly described as follows: Beginning at the northwest corner of Washington Heights Subdivision, according to the Plat thereof recorded as Document No. 69-8123 in the McLean County Recorder of Deeds Office, on the west line of the NW¼ of Section 2; thence N.01°-01'-50"W. 582.40 feet to the southwest corner of the J. Williamson Subdivision, according to the Plat thereof recorded as Document No 93-24945 in the McLean County Recorder of Deeds Office; thence N.88°-55'-39"E. 285.50 feet to the southeast corner of said J. Williamson Subdivision; thence N.01°-01'- 50"W. 339.14 feet to the northeast corner of said J. Williamson Subdivision on the south line of Heartland Industrial Park Subdivision, according to the Plat thereof recorded as Document No. 99-36340 in the McLean County Recorder of Deeds Office; thence N.88°-57'-23"E. 909.86 feet to the southeast corner of said Heartland Industrial Park Subdivision; thence S.00°-46'-43"E. 925.03 feet on the extension of the east line of said Heartland Industrial Park Subdivision to the north line of 1st Addition Washington Heights Subdivision, according to the Plat thereof recorded as Document No. 70-8391 in the McLean County Recorder of Deeds Office; thence N.89°-06'-59"W. 1191.30 feet on the north line of said 1st Addition Washington Heights Subdivision and north line of said Washington Heights Subdivision to the Point of Beginning, containing 23.07 acres, more or less, with assumed bearings given for description purposes only.

Motion by Alderman Matejka, seconded by Alderman Schmidt that the revised Preliminary Plan for the Westside Commercial Subdivision be approved and that 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 Interchange City West, LLC, Requesting Approval of a Final Plat for Interchange City West Subdivision, Fourteenth Addition

A petition has been received from Interchange City West, LLC requesting approval of a Final Plat for Interchange City West Subdivision, Fourteenth Addition. This subdivision is located north of Valley View Drive, and east of Wylie Drive. The Final Plat is in conformance with the Preliminary Plan approved on Sept. 18, 2000.

There are fees due prior to recording the plat.

Staff respectfully recommends that Council approve the Petition and adopt an Ordinance approving the Final Plat for Interchange City West Subdivision, Fourteenth Addition, subject to the Petitioner paying the tap on fees before recording 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 Interchange City West, LLC, an Illinois Limited Liability Company hereinafter referred to as your petitioner(s), respectfully representing and requesting as follows:

1. That your petitioner is the owner of the freehold or lesser estate thereinof the premises described in Exhibit A attached hereto and made a part hereof by this reference;
2. That your petitioner seeks approval of the Final Plat for the subdivision of said premises to be known and described as Interchange City West Subdivision 14th Addition, Bloomington, Illinois 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: None.
4. That your petitioner hereby dedicates to the public, all public rights-of-way and easements shown on said Final Plat;

WHEREFORE, your petitioner, Interchange City West, LLC, an Illinois Limited Liability Company, prays that said Final Plat for the Interchange City West Subdivision 14th Addition, Bloomington, Illinois, submitted herewith be approved with the exemptions or variations as requested herein.

Respectfully submitted,

By: Interchange City West, LLC., an
Illinois Limited Liability Company,
Petitioner

By: Robert Lenz, Its Attorney

ORDINANCE NO. 2006 - 118

**AN ORDINANCE APPROVING THE FINAL PLAT OF THE
INTERCHANGE CITY WEST SUBDIVISION 14TH 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 Interchange City West Subdivision 14th 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: None; 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.

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

1. That the Final Plat of the Interchange City West Subdivision 14th 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 23rd day of October, 2006

APPROVED this 24th day of October, 2006

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

EXHIBIT A

A part of the SW¼ of Section 31, Township 24 North, Range 2 East of the Third Principal Meridian, City of Bloomington, McLean County, Illinois, more particularly described as follows: Beginning at the northwest corner of Lot 16-B in Interchange City West Subdivision 3rd Addition; thence S.00°-00'-00"W. 352.25 feet on the west line of said Lot 16-B to the north right of way line of Valley View Drive as dedicated in said Interchange City West Subdivision 3rd Addition; thence N.90°-00'-00"W. 530.00 feet on said north right of way line of Valley View Drive; thence N.33°-29'-54"W. 35.98 feet to the east right of way line of Wylie Drive depicted in Document No. 92-21543 in the McLean County Recorder of Deeds Office; thence northeasterly 421.50 feet on a non-tangential curve concave to the southeast on said east line of Wylie Drive right of way, said curve having a radius of 605.00 feet, central angle of 39°-55'-04" and a chord of 413.03 feet bearing N.21°-12'-44"E. from the last described course to a point of tangency; thence N.41°-10'-16"E. 111.51 feet on said east line of Wylie Drive right of way; thence northerly on said right of way line 490.09 feet on a tangential curve concave to the northwest, said curve having a radius of 695.00 feet, central angle of 40°-24'-11" and a chord of 480.00 feet bearing N.20°-58'-11"E. a point of tangency; thence N.00°-46'-15"E. 135.00 feet on said right of way line of Wylie Drive to the south right of way line of Enterprise Drive depicted on the Plat of Interchange City West Subdivision, Normal, Illinois, recorded as Document No. 93-6665 in the McLean County Recorder of Deeds Office; thence S.89°-13'-45"E. 415.51 feet on said south line of Enterprise Drive to the point of intersection with the northerly extension of the west line of Outlot "A" in Interchange City West Subdivision 3rd Addition; thence S.00°-07'-39"E. 724.35 feet to the north line of said Lot 16-B in Interchange City West Subdivision 3rd Addition being the southwest corner of Outlot "A" in said Interchange City West Subdivision 3rd Addition; thence N.90°-00'-00"W. 263.68 feet to the Point of Beginning, containing 12.53 acres, more or less, with assumed bearings given for description purposes only.

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

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

Ayes: Aldermen 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: Chapter 45, Property Maintenance Code - Rental Inspection Ordinance Changes

Staff recently completed a comprehensive overhaul of the rental inspections program (refer to Rental Inspections Progress Report distributed September 25, 2006). The purpose of this activity was to streamline the rental inspection program processes, address landlord concerns, and close problematic “loop holes”.

After numerous staff work sessions and two public input meetings, staff is prepared to move forward with these changes. While the new policies and procedures are ready to advance, there are several changes needed to make these activities viable. The proposed Text Amendment will allow for improved billing, increased reward for better landlords, and alterations to areas found to be ineffective.

Note: A third meeting was held at the request of a few landlords on October 16, 2006. This meeting resulted in a change to the re-inspection time on “A” rated buildings from the proposed three (3) years, to five (5) years with stipulations. Please note that is a change since the report of September 25, 2006.

Staff respectfully requests that Council approve the proposed Text Amendment to Chapter 45, Property Maintenance, and that the Ordinance be passed.

Respectfully,

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

Tom Hamilton
City Manager

ORDINANCE NO. 2006 - 115

AN ORDINANCE AMENDING BLOOMINGTON CITY CODE CHAPTER 45

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

SECTION 1. That Bloomington City Code Chapter 45, Section 900.13, shall be and the same is hereby amended to read as follows (additions are indicating by underlining; deletions are indicated by strikeouts), all remaining sections will be renumbered accordingly:

Sec. 900.13 Assessment of Penalties on Past Due Accounts.

Any fees, debts, accounts receivable or other payments due to the Department of Planning and Code Enforcement (PACE) which remain unpaid for more than thirty (30) days after the due date set forth in the first demand for payment sent by the City to the debtor, shall be assessed a \$20.00 late fee plus have an interest penalty of ten percent (10%) per month assessed on the unpaid principal of such fee, debt, account receivable or other payment. These penalties may be waived, reduced, or otherwise settled by the Director of Planning and Code Enforcement.

SECTION 2. That Bloomington City Code Chapter 45, Section 900.18, shall be and the same is hereby amended to read as follows (additions are indicating by underlining; deletions are indicated by strikeouts):

(a) The City shall assess the following fees for registration and inspections required by this section:

1. Registration: \$25.00 per multi-unit building with more than 2 units; \$10.00 for single-family, condominium or ~~and~~ duplex.
2. Late Registration (after March 1st): \$100.00 per building.
3. Inspection fee: \$7.50 per dwelling unit in each building.
4. Missed inspection fee: \$50.00
5. Second re-inspection appointment fee: \$50.00 per building.
6. Willfully providing false information on the registration statement: \$250.00.
7. Late fees on billing statements: \$20.00 late fee plus 10% interest per month on outstanding balances per Section 900.13.

(b) Any fees due and owing shall be added to the yearly registration fee and must be paid in fully at the time of registration. In addition to all fees owed a penalty of \$100.00 may be

assessed for late payment of fees sixty (60) days from the original statement date. Failure to pay fees may result in a revocation of the building's Certificate of Inspection.

SECTION 3. That 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 ten (10) days after passage and approval.

PASSED this 23rd day of October, 2006.

APPROVED this 24th day of October, 2006.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Tom Hamilton, City Manager, introduced this item. It would affect the rental inspection portion of the City Code.

Alderman Schmidt noted that there were individuals present who wanted to address the Council. She acknowledged that P.A.C.E. had hosted three (3) public meetings. The proposed text amendment was now in ordinance form.

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

Motion carried.

Judy Sterns, 316 E. Locust, #1, addressed the Council. She expressed her opinion that the rental housing program had impacted affordable housing. She estimated the attendance at the Miller Park meeting at fifty to sixty (50 – 60) persons. No resolution was reach at the meeting. The issue was one of fairness and consistency. Life safety issues were critical. She expressed her concern regarding flagrant violators. She also attended the last meeting.

Ninety-nine percent (99%) of the landlords were not informed. She readdressed fairness and consistency and the impact upon affordable housing market. Landlords needed to be informed and given the opportunity to respond to the proposed text amendment. She requested that the Council lay this item over for additional input if the Council wanted a successful program.

Mayor Stockton questioned the fairness and consistency concerns. Ms. Sterns believed that there was a double standard. The City needed to be clear. Things should be black and white. Landlords needed a clear understanding of how to achieve an “A” rating.

Mayor Stockton noted that concerns were raised regarding standards. Ms. Sterns responded affirmatively. There were concerns regarding standards. She wanted City staff to provide the landlords with a list. She cited the Town of Normal as an example.

Alderman Schmidt questioned the criteria and if there was an itemized checklist. She questioned if these items could be included in the proposed ordinance. Mr. Hamilton noted that consistency and interpretations amongst the various inspectors has been a goal.

Alderman Hanson acknowledged that he had spoken with Ms. Sterns several times. He questioned the timeframe involved. Ms. Sterns requested an additional month. This would allow time to generate ideas and reach a resolution which would be landlord driven.

Nic Butzius, 505 E. Jackson, addressed the Council. He noted that the Council had heard from a number of voices. The landlords were becoming more organized. He credited the P.A.C.E. staff for their excellent job. He was unaware of last month’s meeting. Opinions had been solicited. Ninety percent (90%) of the changes were recommended by the landlords. The landlords were scheduled to meet the first week in December 2006. Opinions could be solicited then and feedback would be provided to City staff. He also requested that the item be laid over for an additional month.

Alderman Finnegan questioned if there was a particular section that Mr. Butzius was interested in. Mr. Butzius noted that the Section 3.(1)(a) which addressed Class A needed to be updated/corrected. He cited the requirement for the property to be reinspect in the case of a change of ownership. He expressed his opinion that said reinspection would be a waste of resources. He also addressed Section 8. which would increase penalties to \$500 per day. He informed the Council that he held 240 properties. He questioned if penalties could be waived. He added his belief that this amount was extreme.

Todd Greenburg, Corporation Counsel, addressed the Council. The fine would be imposed by a Circuit Judge to a maximum of \$500 per day. Alderman Matejka stated that the landlord would have to have appeared in court and a judge would impose the fine. Mr. Greenburg added that City staff would have to show in court that the penalty was justified. Mayor Stockton cited from the proposed ordinance that the fine could range from no less than \$50 and no more than \$500 per day.

Alderman Finnegan questioned if Mr. Butzius had had the opportunity to attend any of the meetings hosted by City staff. Mr. Butzius noted that a number of opinions had been expressed. Landlords requested to provide input. He believed the text amendment was the end result of these meetings. He requested additional time for the landlords to provide feedback.

Alderman Schmidt noted that a small group of landlords requested the third meeting.

Mayor Stockton noted that issues of fairness and consistency had been raised. There had been a request to lay this item over to a future date. Other concerns address the reinspection for Class A properties and the penalty assessed. Mr. Hamilton restated that the \$500 fine per day would be a court decision. City staff's goal was compliance with the rental housing program guidelines. The code would always be open to interpretation.

Mark Huber, Director of P.A.C.E., addressed the Council. He acknowledged that there were issues in the past with consistency. There were five (5) inspectors on staff. They meet regularly. The checklist is being refined. The code language is performance based. A list for landlords is being developed. He expressed his opinion that the proposed text amendment was reasonable. He added that this document should not have been a surprise to anyone. Two (2) meetings were held with over 150 landlords in attendance. The proposed changes were minimal. The change from three to five years was the result of the third small meeting.

City staff was aware of affordable housing issues. The goal of the rental housing program was to set a minimum standard which addressed life safety and property maintenance. Mr. Huber requested that this item not be laid over. His office was ready to mail the annual renewal notices. Council should move forward and make any minor adjustments needed in the future.

Alderman Schmidt stated that the landlords did not understand that the result of the two (2) public meetings would be a proposed ordinance change. She had anticipated a Work Session on this topic. Mr. Huber informed the Council that approximately eighty-five percent (85%) of the changes included in the proposed ordinance were presented at the public meetings.

Mayor Stockton questioned the impact of a delay upon the mailing. Mr. Huber noted that the process should be complete by January 2007. The goal was for the mailing to go out no later than mid November. City staff was ready to implement monthly billing. This language was also contained in the text amendment. The issue involved the time line and turn around time.

Alderman Gibson questioned if there was a specific check list. Mr. Huber noted that the program was three (3) years old. The original list was in question and answer format. City staff was refining this document into a check list. It will not contain language from the City Code. He described this task as a process issue which was not dependent upon the text amendment. The list would not be exhaustive.

Alderman Hanson questioned what would be gained by laying the item over for an additional month. Concerns raised addressed miscommunication and consistency. Mr. Huber stated that his staff would be willing to address issues one on one. The staff report reflected the public's feedback. The ordinance could be amended in the future as it was a living document.

Alderman Schmidt cited a progress report. She questioned if this document had been provided to the landlords. She also questioned if City staff heard what had been said.

Mr. Hamilton expressed his concern regarding the timing for Section 900.13. He requested that the Council make an amended motion to include this section. The remainder of the text could be laid over for thirty (30) days. It would provide the landlords with the opportunity to review the language as presented.

Alderman Schmidt informed the Council that she had attended one of the meetings. The process appeared to be streamlined. The City's goal was cost effectiveness.

Alderman Matejka noted that if there was input on this section (900.13) than it could also be amended.

Alderman Schmidt questioned if the document could be place on the web site. She questioned if landlords should contact Mr. Huber or if another meeting would be scheduled. She wanted those present to know where to direct their comments/concerns.

Alderman Purcell expressed his support to lay this item over. He expressed his concern for safe rental property. He also noted that landlords needed to make a profit.

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

Motion carried.

Motion by Alderman Crawford, seconded by Alderman Gibson that the Text Amendment for Section 900.13 be approved and the Ordinance passed with the remainder of the proposal being laid over until the Council's November 27, 2006 meeting.

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

Nays: None.

Alderman Matejka requested that a group be organized which would be made up of landlords and tenants. These individuals needed to understand the program/process. The City could institute an advisory council. Alderman Gibson expressed his concern that such a group would not have a broad view. The proposed text amendment ties the landlord to the building. Alderman Matejka noted that there were two (2) sides to this issue, 1.)

consumer and 2.) provider. He did not want the focus to become one sided. Alderman Finnegan questioned why the City should try to design something that would not work. Alderman Matejka recommended that the group be kept small, (three landlords and three tenants). Alderman Finnegan expressed his opinion that if such a group were formed than the parties involved should choose their representatives. He agreed that all parties involved should have been notified of the meetings.

Motion by Alderman Matejka, seconded by Alderman Schmidt that the Text Amendment be approved and the Ordinance passed.

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

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

Nays: None.

Motion carried.

The following was presented:

5A – Motion by Alderman Matejka, seconded by Alderman Crawford to lay the item over until the November 13, 2006 City Council 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:

5B - Motion by Alderman Schmidt, seconded by Alderman Purcell to award the bid to.....

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:

5C - Motion by Alderman Huette, seconded by Alderman Schmidt to award the item to....

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.

MAYOR'S DISCUSSION:

CITY MANAGER'S DISCUSSION:

ALDERMEN'S DISCUSSION:

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

Motion carried.

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

Motion carried.

Motion by Alderman Huette, seconded by Alderman Matejka, that the meeting be adjourned. Time: 8:55 p.m.

Motion carried.

**Tracey Covert
City Clerk**