

**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 7:00 p.m., Monday, July 23, 2012.

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

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

Aldermen: Judy Stearns, Mboka Mwilambwe, Bernard Anderson, David Sage, Robert Fazzini, Jennifer McDade, Steven Purcell, Karen Schmidt, Jim Fruin and Mayor Stephen F. Stockton.

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

The following was presented:

SUBJECT: Proclamation

RECOMMENDATION/MOTION: That the proclamation be made a matter of record.

BACKGROUND: The proclamation will be presented: Japanese Sister City Asahikawa 50th Anniversary.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Bloomington Normal Japan Sister Cities Committee.

FINANCIAL IMPACT: Not applicable.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Recommended by:

Tracey Covert
City Clerk

David A. Hales
City Manager

Stephen F. Stockton
Mayor

Mayor Stockton welcomed the representatives from Asahikawa, Japan, on this 50th Anniversary celebration. There had been a number of official visits between representatives of the two (2) cities. In addition, both junior and senior high schools

students have had the experience of being exchange students. He recognized the delegation led by Masahito Nishikawa, Mayor.

Mayor Nishikawa thanked the Mayor and the Council for the invitation. Five (5) members of the Asahikawa delegation were present at this evening's meetings. He noted the fifty (50) years of friendship between the sister cities. Visits had been exchanged between the cities. He believed that there had been over 100 foreign exchange students. He hoped that the friendships between the cities would continue to deepen.

Mayor Stockton read and presented the Proclamation to Mayor Nishikawa.

Motion by Alderman McDade, seconded by Alderman Schmidt that the Proclamation be made a matter of record.

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

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

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Council Proceedings of July 9, 2012 and Citizens Voice Minutes of April 30, 2012

RECOMMENDATION/MOTION: That the reading of the minutes of the Council Proceedings of July 9, 2012 and Citizens Voice Meeting of April 30, 2012 be dispensed with and the minutes approved as printed.

BACKGROUND: The Council Proceedings of July 9, 2012 and Citizens Voice Minutes of April 30, 2012 have been reviewed and certified as correct and complete by the City Clerk.

In compliance with the Open Meetings Act, Council Proceedings must be approved within thirty (30) days after the meeting or at the Council's second subsequent regular meeting whichever is later.

In accordance with the Open Meetings Act, Council Proceedings are made available for public inspection and posted to the City's web site within ten (10) days after Council approval.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Not applicable.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

Tracey Covert
City Clerk

David A. Hales
City Manager

Motion by Alderman Anderson, seconded by Alderman Sage that the reading of the minutes of the previous Council Meeting of July 9, 2012 and Citizen Voice Meeting of April 30, 2012 be dispensed with and the minutes approved as printed.

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

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

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Bills and Payroll

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

BACKGROUND: The list of bills and payrolls will be posted on the City's website on Thursday, DATE by posting via the City's web site.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Total disbursements information will be provided via addendum.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

Patti-Lynn Silva
Director of Finance

David A. Hales
City Manager

(ON FILE IN CLERK'S OFFICE)

Motion by Alderman Anderson, seconded by Alderman Sage that the Bills and Payroll be allowed and the orders drawn on the Treasurer for the various amounts as funds are available.

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

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

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Petition from CIP, LLC requesting approval of a Final Plat for the Fifteenth Addition to Airport Park Subdivision located west of Towanda-Barnes Road and north of Empire St. (IL Rte. 9)

RECOMMENDATION/MOTION: That the Final Plat be approved subject to the petitioner paying the required tap-on fees prior to recording the plat and the Ordinance passed.

BACKGROUND: This final plat consists of one (1) lot located on the west side of Ekstam Dr. north of Gerig Drive and south of Cornelius. The zoning along this block of Ekstam is primarily B/1 Highway Business District. The approved Preliminary Plan for this subdivision approved by Council on November 13, 2000 shows the subject area to be C/1 (Office District). The Council approved rezoning the subject area from C/1 Office District to B1 Highway Business District on January 22, 2001. The zoning to the west and north of this lot is R/3B Zoning. This proposed 1.98 +/- acre lot is being developed as part of the 6.00 +/- Wingover East Apartments project.

Detention for the subject area will be provided onsite, in accordance with the Preliminary Plan covering this site approved by Council on November 13, 2000.

A Special Use permit was approved by council on July 9, 2012 for multiple family dwellings for the property located at 1028 Ekstam Dr.

Section 7.2 Parkland Dedication Requirements in City Code Chapter 24, Land Subdivision Code requires donation of parkland, or a fee in lieu of, for residential zoning, (see excerpt of Section 7.2 below). This Final Plat consists of B/1 zoning and therefore does not enact the parkland dedication ordinance.

Section 7.2 : Dedication Requirements.

The dedications of land or cash contributions in lieu thereof required by this Ordinance shall also be required as a condition to the annexation of any land to the City and provisions therefor shall be incorporated in any pre-annexation agreement governing such land. As a condition of approval of a final plat of a subdivision code, each owner, subdivider or developer or property with a residential zoning classification, shall be required to dedicate land for park and

recreational purposes, to serve the immediate and future needs of the residents of the development or to contribute cash in lieu of said actual land dedication, or to make a combination of cash contribution and land dedication at the election of the City.

The City Manager has directed staff to prepare an ordinance that would require residential development in a non-residential zone to be subject to parkland dedication or a parkland case contributes. This ordinance will be submitted to the Planning Commission in the very near future.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: CIP, LLC., Apartment Mart, and adjacent properties. There was a public hearing for a Special Use Permit and variance before the Zoning Board of Appeals on June 20, 2012.

FINANCIAL IMPACT: The cost of all public improvements, platting, and recording will be borne by the petitioner.

Respectfully submitted for Council consideration:

Prepared by:

Reviewed as to legal sufficiency:

Recommended by:

Jim Karch
Director of Public Works

J. Todd Greenburg
Corporation Counsel

David A. Hales
City Manager

PETITION FOR APPROVAL OF FINAL PLAT

STATE OF ILLINOIS)
)SS
COUNTY OF McLEAN)

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

NOW COMES CIP, L.L.C., an Illinois Limited Liability Company, hereinafter referred to as your Petitioner, respectfully representing and requesting as follows:

1. That your petitioner is the owner of the freehold or lesser estate therein of the premises described on 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 to be known and described as Airport Park Subdivision 15th 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, CIP, L.L.C., an Illinois Limited Liability Company, prays that the that the Final Plat for Airport Park Subdivision 15th Addition, Bloomington, Illinois, submitted herewith be approved with the exemptions or variations as requested herein.

Respectfully submitted,

CIP, LLC, an Illinois Limited Liability Company, Petitioner,

By: Robert Lenz
Its Attorney

ORDINANCE NO. 2012 - 47

**AN ORDINANCE FOR APPROVAL OF THE FINAL PLAT OF
AIRPORT PARK SUBDIVISION 15TH 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 Airport Park Subdivision 15th Addition, legally described on 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 Chapter 24 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 the 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 Airport Park Subdivision 15th Addition, and any and all requested exemptions and/or variations be, and the same is hereby approved, and all dedications made therein are accepted.
2. That this Ordinance shall be in full force and effective as of the time of its passage and approval.

PASSED this 23rd day of July, 2012.

APPROVED this 24th day of July, 2012.

APPROVED:

Steve Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

EXHIBIT A
Legal Description

A part of the W½ of the SE¼ of Section 31, Township 24 North, Range 3 East of the Third Principal Meridian, City of Bloomington, McLean County, Illinois, more particularly described as follows: Beginning at the southeast corner of Lot 121 in Airport Park Subdivision 1st Addition according to the Plat thereof recorded as Document No. 2001-33847 in the McLean County Recorder of Deeds Office, on the west right of way line of Ekstam Drive; thence S.00° - 20' -26"E. 432.00 feet on said west right of way line to the northeast corner of Lot 127 in Airport Park Subdivision 5th Addition according to the Plat thereof recorded as Document No. 2002-10451 in the McLean County Recorder of Deeds Office; thence S.89°-39'-34"W. 200.00 feet to the northwest corner of said Lot 127 on the east line of Lot 263 in Airport Park Subdivision 6th Addition according to the Plat thereof recorded as Document No. 2003-42269 in the McLean County Recorder of Deeds Office; thence N.00°-20'-26"W. 432.00 feet to the southwest corner of said Lot 121 in Airport Park Subdivision 1st Addition; thence N.89°-39'-34"E. 200.00 feet to the Point of Beginning containing 1.98 acres, more or less, with assumed bearings given for description purposes only.

Motion by Alderman Anderson, seconded by Alderman Sage that the Final Plat be approved, subject to the petitioner paying the required tap on fees prior to recording, and the Ordinance passed.

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

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

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Suspension of Ordinances to Allow Consumption of Alcohol at Lake Bloomington's Davis Lodge on August 19, 2012

RECOMMENDATION/MOTION: That the Ordinance suspending Section 26(d) of Chapter 6 and Section 701 of Chapter 31 to allow the suspension and consumption of alcohol at the Lake Bloomington Davis Lodge on August 19, 2012 be passed.

BACKGROUND: The Bloomington Liquor Commissioner Stephen Stockton called the Liquor Hearing to order to hear the request of Kurt Rhoda and Janni Rhoda to allow moderate consumption of alcohol at Davis Lodge for their parent's 50th Wedding Anniversary on August 19, 2012. Present at the hearing were Liquor Commissioners Stephen Stockton, Richard Buchanan, Steve Petersen, Mark Gibson and Geoffrey Tompkins; George Boyle, Asst.

Corporation Counsel; Clay Wheeler, Asst. Police Chief; and Tracey Covert, City Clerk, and Kurt Rhoda, requester's representative.

Commissioner Stockton opened the liquor hearing and requested that Mr. Rhoda, requester's representative, address the Commission regarding this request. Kurt Rhoda addressed the Commission. He informed them that he and Janni Rhoda, his sister in law, were planning a 50th wedding anniversary open house and dinner for their parents. The date is Sunday, August 19, 2012 between the hours of 2:00 - 7:00 p.m. Invitations have been extended to 200 people with an estimated attendance of 100 - 150 individuals. A family dinner is scheduled to commence at 5:00 p.m. Beer and wine would be catered by CJ's Restaurant, located at 2901 E. Empire.

Motion by Commissioner Tompkins, seconded by Commissioner Buchanan that the request of Kurt and Janni Rhoda to allow moderate consumption of alcohol at Davis Lodge for their parents' 50th wedding anniversary on August 19, 2012 be approved.

Motion carried, unanimously (viva voce).

Commissioner Stockton noted that CJ's will also be required to obtain a one (1) day liquor license from McLean County.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: The Agenda for the July 10, 2012 Meeting of the Liquor Commission was placed on the City's web site. There also is a list serve feature for the Liquor Commission.

FINANCIAL IMPACT: None.

Reviewed by:

Reviewed by:

Reviewed by:

Craig M. Cummings
Director of Water

David A. Hales
City Manager

Randall D. McKinley
Police Chief

Respectfully submitted by:

Stephen F. Stockton
Chairman of Liquor Commission

ORDINANCE NO. 2012 - 48**AN ORDINANCE SUSPENDING PORTIONS OF SECTION 701 OF CHAPTER 31 AND SECTION 26(d) OF CHAPTER 6 OF THE BLOOMINGTON CITY CODE FOR A WEDDING RECEPTION AT THE LAKE BLOOMINGTON DAVIS LODGE**

WHEREAS, Kurt Rhoda and Janni Rhoda are planning to hold their parents' 50th wedding anniversary open house and dinner at the Lake Bloomington Davis Lodge from 2:00 p.m. to 7:00 p.m. on August 19, 2012; and

WHEREAS, Kurt Rhoda and Janni Rhoda have requested permission from the City to serve beer and wine during this event; and

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

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

Section 1: That Sections 701(a), (b) and (c) of Chapter 31 and Section 26(d) of Chapter 6 of the Bloomington City Code, 1960, as amended, are suspended for the duration of the wedding reception at the Lake Bloomington Davis Lodge on August 19, 2012 under the conditions set forth in the rental agreement.

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

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

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

PASSED this 23rd day of July, 2012.

APPROVED this 24th day of July, 2012.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Motion by Alderman Anderson, seconded by Alderman Sage that the Ordinance suspending Section 26(d) of Chapter 6 and Section 701 of Chapter 31 to allow the suspension and consumption of alcohol at the Lake Bloomington Davis Lodge on August 19, 2012 be passed.

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

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

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Analysis of Bids for White and Yellow High Durability Latex Traffic Line Paint and Glass Beads for Pavement Marking Material for the Public Works Streets and Sewers Division

RECOMMENDATION/MOTION: That the bid for the purchase of White and Yellow High Durability Latex Traffic Line Paint and Glass Beads for Pavement Marking Material for the remainder of FY 2013 be awarded to Diamond Vogel Paint, Bloomington, IL, in the amount of up to \$78,395.25, and the Purchasing Agent be authorized to issue a Purchase Order for same.

BACKGROUND: The Public Works Department's Streets and Sewers Division received permission to purchase a new self-propelled traffic line painting machine from E-Z Liner Industries at the March 26, 2012 Council meeting. This machine requires the pavement marking beads to be loaded mechanically and the traffic line paint to be drawn from fifty-five (55) gallon drums. A bid specification was created which allows for the purchase of traffic line paint to be used not only with the new machine but also with the existing walk behind traffic line painting machines.

On July 10, 2012 at 11:00 a.m. bids were opened and read. A total of five (5) bids were received. The five (5) bids are as follows:

Vendor	Traffic Line Paint and Beads
AllStates Coatings Company	\$42, 794.90
Ennis Paint	\$61, 644.185
Diamond Vogel Paints**	\$78,398.25
Sherwin Williams	\$89, 177.35
Don Smith	No Bid

(**Recommended)

The white and yellow high durability traffic line paint and glass beads for pavement marking provided by Diamond Vogel Paints, Bloomington, IL is recommended for the following reasons:

1. The paint specification provided by this vendor meets and/or exceeds the bid specification submitted by staff.
2. This bead specification provided by this vendor meets and/or exceeds the bid specification submitted by staff.
3. This is the lowest priced while meeting all of the bid specifications, without exception. The other vendors failed to include the addendum to the bid specification with their bid packet.

Staff respectfully requests to accept the bid from Diamond Vogel Paint, Bloomington IL. Staff will begin ordering white and yellow high durability traffic line paint and glass beads for pavement marking from this vendor upon approval by the Council.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Public notice of the bid was published in the Pantagraph on June 20, 2012. Five (5) bid packages were provided. A total of five (5) bids were received.

FINANCIAL IMPACT: The FY 2013 Budget appropriated \$73,500 in the General Fund line item 10016120-71098. The total cost to purchase the white and yellow high durability traffic line paint and glass beads for pavement marking is \$78,398.25. This purchase is \$4,898 higher than the budget, Staff recommends this purchase based upon the explanation offered with the background section.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Financial review by:

Jim Karch, PE, CFM
Director of Public Works

Barbara J. Adkins
Deputy City Manager

Patti-Lynn Silva
Director of Finance

Reviewed as to legal sufficiency:

Recommended by:

J. Todd Greenburg
Corporation Counsel

David A. Hales
City Manager

Motion by Alderman Anderson, seconded by Alderman Sage that the bid for the purchase of White and Yellow High Durability Latex Traffic Line Paint and Glass Beads for Pavement Marking Material for the remainder of FY 2013 be awarded to Diamond Vogel Paint, Bloomington, IL in an amount not to exceed \$78,395.25, and the Purchasing Agent be authorized to issue a Purchase Order for same.

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

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

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Request to Purchase one (1) Replacement Truck with Service (Utility) Body

RECOMMENDATION/MOTION: Recommend that the bid for one (1) Replacement Truck with Service (Utility) Body be awarded to Marrow Brothers Ford in the amount of 21,155.00 and one (1) Service Utility Body be awarded to Koenig Body and Equipment in the amount of \$7,925.00, for a total of \$29,080.00, and the Purchasing Agent be authorized to issue a Purchase Orders for same.

BACKGROUND: Public Works Street Maintenance Division has a 1992 GMC 3500 truck equipped with a service (utility) body which is due to be replaced with a new vehicle. This truck is over twenty (20) years old and through daily use has accumulated over 150,000 miles. The truck is in poor condition with a buildup of rust on the exterior, and Staff has determined it would be inefficient to commit further dollars towards the maintenance of this vehicle.

Bids for the installation of the service body were opened on July 10, 2012 at 11:30 AM. A total of six (6) bids were received from various vendors and the results are summarized as follows:

Vendor	Service Body with Installation
Koenig Body	\$7,925
Drake-Scruggs	\$8,293
Linco- Precision	\$8,435
Monroe Truck	\$9,149

Vendor	Service Body with Installation
Altec	\$9,197
Badger Truck	\$12,250

Staff recommends the acceptance of the low bid for the installation of the service body from Koenig Body and Equipment, Peoria, IL and the purchase of the chassis from the State of Illinois Joint Purchasing Contract #, from Marrow Brothers Ford, Greenfield, IL.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: The FY 2013 Budget appropriated \$33,000 for the purchase of the Public Works' Street Maintenance Service Body truck in line item 40100130-72130. The replacement truck will cost \$29,080 The truck came in under budget by \$3,920 or 11.8% under budget. The initial purchase of the truck will be financed through a five (5) year capital lease, The principal and interest payment is appropriated within the Street Maintenance Division.

Respectfully submitted for Council consideration,

Prepared by:

Reviewed by:

Reviewed by:

Jim Karch
Director of Public Works

Barbara J. Adkins
Deputy City Manager

Patti-Lynn Silva
Director of Finance

Reviewed by:

Recommended by:

Kim Nicholson
Purchasing Agent

David A. Hales
City Manager

Motion by Alderman Anderson, seconded by Alderman Sage that the purchase of a replacement truck from Marrow Brothers Ford, Greenfield, IL, under the State of Illinois Joint Purchasing Contract, be approved in the amount of \$21,155, and the bid for a service utility body with installation be awarded to Koenig Body, Peoria, IL, in the amount of \$7,925, for a total of \$29,080, and the Purchasing Agent be authorized to issue a Purchase Orders for same.

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

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

Nays: None.

Motion carried.

The following was presented:

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

RECOMMENDATION/MOTION: That the contracts from Creative Artists Agency in the amount of \$50,000 and Goodsmack Productions, Inc. in the amount of \$25,000 be accepted and that the City Manager or Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: Staff respectfully requests approval of contracts to engage persons and/or groups represented by: Creative Artists Agency in the amount of \$50,000 and Goodsmack Productions, Inc. in the amount of \$25,000 to perform services in the Bloomington Center for the Performing Arts (BCPA). The contract prices cover the performing artist fees for two (2) performances coming to the BCPA in the fall 2012. For proprietary and competitive advantage reasons staff does not mention the acts by name in the Staff back up report. As is standard industry practice, some artist contracts require some additional expenses for items such as travel, meals and lodging that vary from artist to artist. Travel expenses and local lodging fees occur less often, however virtually all artists are provided with meals and non-alcoholic beverages.

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

FINANCIAL IMPACT: Funds for these contracts have been appropriated in the FY 2013 Budget line item 21101100-70220 and will be offset by future revenues from ticket sales, grants, playbills, concessions, advertising, and sponsorships. These revenues are targeted to offset the additional artist expenses for travel, meals and lodging. The preliminary, unaudited, Unreserved Fund Balance for FY 2012 for the BCPA is \$415,538, which includes an additional \$250,000 transfer from the General Fund approved by Council at the end of FY 2012. This balance includes the compilation of fiscal year revenues and expenditures, but does not include any potential audit adjustments yet to be made for FY 2012.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed as to legal sufficiency:

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

J. Todd Greenburg
Corporation Counsel

Reviewed by:

Recommended by:

Barbara J. Adkins
Deputy City Manager

David A. Hales
City Manager

Motion by Alderman Anderson, seconded by Alderman Sage that the contracts from Creative Artists Agency in the amount of \$50,000, and Goodsmack Productions, Inc. in the amount of \$25,000 be approved and the City Manager or Mayor and City Clerk be authorized to execute the necessary documents.

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

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

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Purchase of fourteen (14) variable speed drives for the Heating Ventilation and Air Conditioning (HVAC) System at the US Cellular Coliseum

RECOMMENDATION/MOTION: That purchase of new variable speed drives from Wilcox Electric and Service, Normal, IL, in the amount of \$60,978.80 be accepted, and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: In 2006, the Council contracted with Central Illinois Arena Management to serve as the management company for the Coliseum. CIAM is responsible for the day to day operation of the facility as well as inspections/maintenance of all equipment to ensure efficient functionality. The original HVAC system in the Coliseum was designed by the building engineers, Brisbin, Brook and Beynon (BBB Architects). The system that was designed for the units allows for the motors to run at 100% when the HVAC system is in use. This has caused high electric cost and it is not efficient for the units to run at 100% the entire time the system is on.

Over the last couple of years, CIAM discovered after some discussion with Springfield Electric (Bloomington IL) representatives that by adding variable speed drives to the existing HVAC system they would lower the output of the motor controls, thus slowing the fan motors down. The speed drives are three by one (3 x 1) foot and would be attached to the exterior of the HVAC units. This would provide a twenty percent (20%) energy savings as well as receiving a \$75.00 per 213 horse power motor rebate for a total of \$15,975.00 from Integrity's Energy Service, which is the Coliseum's electric supplier. It is estimated that the energy savings would be \$37,799 in

the first year, with a payback on the \$60,978.80 in less than two (2) years. In calendar year 2011, the electric bill for the Coliseum totaled \$188,998.71.

The City’s Purchasing Agent released Bids on May 31, 2012 with a deadline of June 20, 2012. A Pre-Bid meeting was held at the US Cellular Coliseum on June 7, 2012 and it was decided to move the deadline to June 29, 2012 to give the Vendors ample opportunity to contact Integrity’s Energy Service and Johnson Controls for proper pricing for the project.

Bids were received in the City Clerk’s Office. Two Bids were received and were opened on June 29, 2012 at 11:00 AM Central Standard Time (CST).

Company	Amount of Bid	Location
Anderson Electric	\$78,820.00	Bloomington, IL
*Wilcox Electric	\$60,978.80	Normal, IL

*After reviewing the Bids, Staff determined that Wilcox Electric was the lowest and met all of the criteria of the bid specifications. There is a one (1) year manufactures warranty.

CIAM staff’s estimate: \$63,500

If the purchase is approved, CIAM anticipates the project to be completed by October 2012.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Bid noticed published in the Pantagraph and on the City’s web-site.

FINANCIAL IMPACT: The FY Budget appropriated \$80,000 for the replacement of these variable speed motors in line item 57107110-72140. The low bid was submitted \$19,021 under the appropriation amount.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Financial review by:

John Butler
 President of Central Illinois
 Arena Management

Barbara J. Adkins
 Deputy City Manager

Patti-Lynn Silva
 Director of Finance

Recommended by:

David A. Hales
 City Manager

Motion by Alderman Anderson, seconded by Alderman Sage that the bid for fourteen (14) variable speed drives be awarded to Wilcox Electric & Service, Normal, IL,

in the amount of \$60,978.80, and the Mayor and City Clerk be authorized to execute the necessary documents.

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

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

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Proposed Change Order for 2012 Drainage Improvements (Citywide)

RECOMMENDATION: Recommend that the Amendment to the contract with Stark Excavating, Inc. for the 2012 Drainage Improvements (Citywide) in the amount of \$22,160.00 be approved.

BACKGROUND: On April 23, 2012 the Council approved a contract with Stark Excavating, Inc. for the 2012 Drainage Improvements. The amount of the original approved contract by Council was \$166,216.20 the second lowest bid was \$216,597. Since the approval of this contract the contractor has unearthed two (2) significant issues which were not anticipated in the original bid.

The following summarizes each issue:

Shoreline Stabilization 180 feet of the north shore of White Eagle Lake: Once the water level in White Eagle Lake was lowered, the contractor determined the north shoreline, which was originally designed to install Type II shoreline stabilization (placement of Rip-rap), was in such poor condition that the new stabilization features would not remain in place without the contractor regrading the shoreline. Furthermore, the current filter fabric was deteriorated to the point it was impractical to reuse for the new stabilization features. Although the contractor verbally stated the unit price for the shoreline stabilization would remain the same, the cost to stabilize the shoreline would increase by \$2,160 to \$23,780 (originally \$21,620).

Additional rip-rap along south shore of White Eagle Lake: The original contract included an estimate prepared by Farnsworth Group in 2008 for 100 tons of concrete which would be depleted for spot repairs along the South section of White Eagle Lake. Once the water level was lowered, the contractors discovered additional stabilization (rip-rap) would need to be installed to minimize the current and future erosion. On Wednesday, July 11 2012, staff and residents undertook a meeting where residents expressed interest in the installation of rip-rap along the entire length of the section. This work is needed to control erosion along the shoreline. The estimate to place rip-rap along the entire length

(approximately 405 feet) is approximately 315 tons. This would require an additional \$20,000 to complete this project.

The revised total dollars budgeted for these projects are as follows:

Budget:

Council Approved Contract	\$166,216.00
Change Order	\$22,160.00
Funds Below Original Budget	\$188,376.00
 FY 2012 Original Budget	 \$274,907.00
 Second Lowest Bidder	 \$216,597.00
Third Lowest Bidder	\$344,669.20

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Council appropriated funds in the City’s Storm Water Fund to disburse funds for the 2012 Drainage Improvement Project. The funds will be accounted in line item 53103100-70552. Although the change order will increase the original contract awarded by Council, the contract still remains \$88,531 below the original budget as well as \$30,221 below the second bid of \$216,597 and \$158,293 below the third bid of \$344,669.

Respectfully submitted for Council consideration.

Prepared by: Reviewed by: Financial review by:

Jim Karch, PE CFM Barbara J. Adkins Patti-Lynn Silva
Director of Public Works Deputy City Manager Director of Finance

Reviewed as to legal sufficiency: Recommended by:

J. Todd Greenburg David A. Hales
Corporation Counsel City Manager

Motion by Alderman Anderson, seconded by Alderman Sage that the Amendment to the 2012 Drainage Improvements contract with Stark Excavating, Inc., in the amount of \$22,160, be approved.

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

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

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Petition submitted by William Jesse, Charles Radcliffe, Elmer “Ray” McWhorter, Jason Knuth, David Biddle, and Barbara Erdman, requesting approval of the vacation of a north south alley

RECOMMENDATION/MOTION: That the Vacation be approved and the Ordinance passed.

BACKGROUND: The petitioners are requesting to vacate an alley bounded by Circle Ave on the north, Washington Street on the south. The adjacent properties are also bounded by Darrah Street on the east and Brown St on the west. The adjacent property owners want to close the alley because they believe it is a hazard, It is very overgrown and it is not maintained or paved. They want to improve the appearance of their yards by clearing the brush in the alley. At least two (2) of the property owners stated will have more room to build sheds if the alley is vacated.

All of the utility companies have no objection to the Vacation however Nicor Gas is requesting an easement be maintained.

The Planning Commission reviewed the petition on June 27, 2012. Two (2) of the petitioners spoke at the meeting explaining the reasons for the desired vacation which are the same reason stated above. The Commission held a public hearing and no one else from the public spoke in favor of or in opposition to the request. The Planning Commission voted 6/0 to recommend approval of the petition. Staff is recommending that an easement be maintained. The Planning Commission did not make this a part of the motion but they did not object to such.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Public notice was published in the Pantagraph in accordance with City Code. Courtesy copies of the Public Notice were mailed to ten (10) property owners within the block.

FINANCIAL IMPACT: The financial impact on the funding of City services should not be significantly impacted. Maintaining and plowing of the alley does not occur now but the alley vacation will insure this will not be a future expense. There will over time be a slight increase in revenue (property taxes) from the land going from public to private ownership.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Reviewed by:

Mark Woolard
City Planner

Mark R. Huber
Director of PACE

Barbara J. Adkins
Deputy City Manager

Recommended by:

David A. Hales
City Manager

PETITION FOR VACATION OF A NORTH/SOUTH ALLEY

STATE OF ILLINOIS)
) ss.
COUNTY OF MCLEAN)

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

Now comes William Jesse, Charles Radcliffe, Elmer “Ray” McWhorter, Jason Knuth, David Biddle, and Barbara Erdman, hereinafter referred to as your Petitioners, respectfully representing and requesting as follows:

1. That your Petitioners are interested as adjacent property owners in the premises hereinafter described in Exhibit A attached hereto and made a part hereof by this reference;
2. That your Petitioners seek approval of the vacation of a north south alley adjacent to said premises;
3. That said vacation of a north south alley is reasonable and proper because such alley is not needed for public right-of-way by said City, its only use being the location of existing or proposed utilities.

WHEREFORE, your Petitioners pray that north south alley be vacated with such reservation of utility easements as may seem proper.

Respectfully submitted,

By: William Jesse
Charles Radcliffe
Elmer “Ray” McWhorter
Jason Knuth
David Biddle
Barbara Erdman

ORDINANCE NO. 2012 - 49**AN ORDINANCE PROVIDING FOR THE VACATION OF A NORTH/SOUTH ALLEY BOUNDED BY CIRCLE AVE. ON THE NORTH, WASHINGTON ST. ON THE SOUTH, DARRAH ST. ON THE EAST AND BROWN ST. ON THE WEST**

WHEREAS, there was heretofore filed with the City Clerk of the City of Bloomington, McLean County, Illinois, a petition requesting the vacation of north south alley; and

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

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

WHEREAS, it is reasonable and proper to vacate said north south alley as requested in this case.

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

1. That the north south alley is hereby vacated.
2. The aforesaid vacation notwithstanding, the City reserves to itself and to all utilities an easement the full width of the vacated north south alley for the purpose of laying, installing, maintaining, repairing, removing, or replacing such facilities as they may deem appropriate.
3. That this ordinance shall be in full force and effective as of the time of its passage and approval.

PASSED this 23rd day of July, 2012.

APPROVED this 24th day of July, 2012.

APPROVED:

Steve Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

EXHIBIT A

All of that portion of 12 feet north-south alley, running west of Lots 2, 6, 7 and 10 in Block 14 of the Fair Grounds Subdivision, bounded by Circle Ave. on the north, Darrah St. on the east, Washington St. on the south and Brown St. (platted as Dinsmore St.) on the west. The said alley is located in the SW¹/₄ of Section 5, Township 23 North, Range 2 East, of the 3rd Principal Meridian.

Motion by Alderman Anderson, seconded by Alderman Sage that the Vacation be approved and the Ordinance passed.

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

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

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Lake Bloomington Lease Transfer Petition for Lots 18 and 18 A, Block 0 of Camp Peoria Point from Margaret Wolf to Heartland Bank Trust # 416

RECOMMENDATION/MOTION: That the Lake Lease be approved with the condition that the septic tank be replaced by November 1, 2012 and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: Staff has reviewed the Lake Bloomington Lease Transfer Petition for 18 and 18A, Block 0 of Camp Peoria Point from Margaret Wolf to Heartland Bank Trust # 416. The sewage disposal system inspection was completed in April 2012 and the septic system was functioning properly at that time. The sewage disposal system is forty (40) years old, its septic tank is undersized and that septic tank has a garage built over it. The McLean County Health Department estimates sewage disposal systems have an average life span of approximately twenty to twenty-five (20-25) years. This can be affected greatly by usage patterns of the premises (seasonal versus full time occupancy) and system maintenance. This sewage disposal system is a subsurface discharging system, meaning the system effluent, following treatment, does not directly discharge to the Lake Bloomington Reservoir. The effluent flows slowly through a leach field and then into the ground. If there were a problem with the system, it would back up into the cabin and poses little threat to the reservoir. Regardless, with the age, the septic tank being undersized, the septic tank cannot be adequately inspected, and the fact that a garage is built over the septic tank, the City will require that the septic tank be replaced by November 1, 2012.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: This petition will have a positive financial impact in that the lease uses the old formula, (\$0.15 per \$100 of Equalized Assessed Value) for determining the lake lease fee. With this lake lease transfer, the lake lease fee will change to the current formula (\$0.40 per \$100 of Equalized Assessed Value). The old lake lease formula generates about \$300 per year in lease income and the current lease formula will generate about \$820 per year in lease income. This lake lease income will be posted to Lake Lease revenue account 50100140-57590.

It should be noted that the term of this lease is until December 31, 2131, the same term as other lease renewals since 1998.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Financial review by:

Craig M. Cummings
Water Director

Barbara J. Adkins
Deputy City Manager

Patti-Lynn Silva
Director of Finance

Reviewed as to legal sufficiency:

Recommended by:

J. Todd Greenburg
Corporation Counsel

David A. Hales
City Manager

Motion by Alderman Anderson, seconded by Alderman Sage that the Lake Lease be approved, with the condition that the septic tank be replaced by November 1, 2012, and the Mayor and City Clerk be authorized to execute the necessary documents.

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

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

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Lake Bloomington Lease Transfer Petition for Lot 23, Block 2 of Camp Kickapoo from Patricia Kaisner to Aaron and Jennifer Davitt

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

BACKGROUND: Staff has reviewed the Lake Bloomington Lease Transfer Petition for Lot 23, Block 2 of Camp Kickapoo from Patricia Kaisner to Aaron and Jennifer Davitt. The sewage disposal system was replaced in July 2012 and is in complete compliance with the current sewage disposal code.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: This petition will have a positive financial impact in that the lease uses the old formula, (\$0.15 per \$100 of Equalized Assessed Value) for determining the Lake Lease Fee. With this lease transfer, this will change to the current lake lease formula (\$0.40 per \$100 of Equalized Assessed Value). The old formula generated about \$318 per year. The current formula will generate about \$455 per year in lease income. This lake lease income will be posted to Lake Lease revenue account 50100140-57590.

It should be noted that the term of this lease is until December 31, 2131, the same term as other lease renewals since 1998.

Respectfully submitted for Council consideration,

Prepared by:

Reviewed by:

Financial review by:

Craig M. Cummings
Director of Water

Barbara J. Adkins
Deputy City Manager

Patti-Lynn Silva
Director of Finance

Reviewed as to legal sufficiency:

Recommended by:

J. Todd Greenburg
Corporation Counsel

David A. Hales
City Manager

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

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

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

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Ordinance Amending the City's Ordinances to Permit Video Gambling as Permitted by State Law

RECOMMENDATION/MOTION: That the Ordinance be passed.

BACKGROUND: On July 13, 2009, the Video Gaming Act was signed into law by Governor Quinn. The Act legalizes video gaming and establishes a tax on the proceeds, a portion of which goes to the municipality where the video gaming takes place. At present, the ordinances of the City do not allow video gaming. Chapter 20, Section 2 of the City Code prohibits persons from playing "for money or other valuable thing at any game with cards, dice, checks, or at billiards, or with other any article, instrument, or thing whatsoever which may be used for the purpose of playing or betting upon or winning or losing money or any other valuable thing or article of value." Similarly, Chapter 6, Section 37(e)(10) makes it a violation of the Liquor Code for a licensed liquor establishment to permit "any gambling device or equipment to be located on the licensed premises."

The City has the option of either adopting amendments to the above ordinances that would allow for video gaming, or to choose to allow the ordinances prohibiting video gaming to remain in effect. This memo and the attached materials are intended to provide information to assist the Council in making that determination.

Video Gaming Act Summary

There are four (4) categories of establishments where video gaming is allowed under the Act:

1. "Licensed establishments": A licensed establishment is any licensed retail establishment where alcoholic liquor is served for consumption on the premises. In Bloomington, there are eighty-one (81) restaurants and thirty-one (31) taverns that could potentially qualify for video gaming licenses under this category.
2. "Licensed fraternal establishment": A licensed fraternal establishment is a location where a fraternal organization that derives its charter from its national parent organization regularly meets. There are approximately five (5) establishments of this kind in the City.
3. "Licensed veterans' establishment": A licensed veteran's establishment is a location where a qualified veteran's organization that holds a charter from its national parent organization regularly meets. Two (2) organizations could qualify under this category for video gaming licenses.
4. "Licensed truck stop establishment": A licensed truck stop establishment is a facility of at least three (3) acres with a convenient store, separate diesel islands for fueling commercial motors vehicles and parking spaces for commercial vehicles. Two (2) locations in Bloomington could presently qualify for video gaming licenses under this category.

No more than five (5) video gaming terminals (VGT's) are allowed in any single establishment. Income generated via VGT's and related processes will be collected by the State of Illinois and distributed as follows:

- A tax of thirty percent (30%) is imposed on net terminal income and shall be collected by the Board.
- Of the tax collected under this Section, five-sixths shall be deposited into the Capital Projects Fund and one-sixth shall be deposited into the Local Government Video Gaming Distributive Fund.
- Twenty-five percent (25%) of fees collected shall be paid, subject to appropriation by the General Assembly, to the Department of Human Services for administration of programs for the treatment of compulsive gambling.

Survey of Other Municipalities

A review of the Illinois Gaming Board's website and the ordinances of various municipalities throughout the state indicates:

- 344 municipalities in the State of Illinois do **not** allow video gaming
- 342 municipalities in the State of Illinois do allow video gaming
- 778 municipalities in the State of Illinois are not yet classified as allowing or not allowing video gaming

Among the 344 communities that prohibit video are Springfield, Carbondale, Clinton, Moline, Eureka, Lincoln, Morton, Naperville and Schaumburg. The 342 municipalities allowing video gaming include Normal, Peoria, East Peoria, Champaign, Urbana and Decatur.

Social Factors

Other factors to be considered when assessing the approval of video gaming include the effects of gambling on local residents and families. Staff has reached out to Chestnut Health Systems for statistical data and professional recommendations surrounding the topic, but has yet to receive an official response. According to their website,

“Problematic gambling occurs when there is a disruption in any major area of life: psychological, physical, social, financial, or vocational. It is characterized by a preoccupation with gambling, a need to bet more money more frequently, restlessness and irritability when attempting to stop, chasing losses, and the feeling of losing control. The goal of Chestnut Health Systems is to increase the awareness of problematic gambling and to provide treatment for problem gamblers and their families. Chestnut Health Systems offers a comprehensive assessment for gambling and substance abuse problems in a safe environment. If

the assessment suggests that problematic gambling treatment is appropriate, Chestnut offers individual and group counseling, family counseling, and relapse prevention. We will also assist in developing a support system and in addressing financial and legal issues that are the result of problem gambling behaviors.”

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: This matter was discussed at the July 9, 2012 Council and information about video gambling has also been placed on the City’s website.

FINANCIAL IMPACT: Given the lack of historical data, it is difficult to accurately assess the financial impact of video gaming. City video gaming revenues will be derived from five percent (5%) of total video gaming revenue collected within City limits. The funds will be collected by the State and deposited in a separate Local Government and Video Gaming Fund and will not be deposited into State general fund. The Illinois Municipal League advises using an estimate of between \$1,500 and \$2,000 per machine annually in local tax revenue. Organizations supporting video gaming have provided City staff with more than a few scenarios outlining the potential tax revenue to be collected by the City; these groups include Midwest Electronics, whose projections range from \$286,160 to \$447,125/year and the Illinois Coalition for Employment and Business Growth, which estimates \$610,000/year can be collected by the City of Bloomington as a result of video gaming. This vast discrepancy is due in large part to the considerable number of variables involved in the equation, including:

- Number of establishments that desire video gaming terminals.
- Number of establishments that qualify for video gaming terminals.
- Number of establishments that are awarded approval for video gaming terminals.
- Number of video gaming terminals installed in each of the approved establishments.
- Revenue generated by each of the video gaming terminals.
- How and when the state will allocate collected revenues.

The lack of historical data also makes it difficult to estimate the costs to City and social services that may be incurred as a result of dealing with the effects of problem gambling behaviors.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Recommended by:

George Boyles
Asst. Corporation Council

J. Todd Greenburg
Corporation Counsel

David A. Hales
City Manager

ORDINANCE 2012 - 50**AN ORDINANCE AMENDING VARIOUS SECTIONS OF CHAPTER 6 AND
CHAPTER 20 OF THE BLOOMINGTON CITY CODE, RELATING TO VIDEO
GAMING****BE IT ORDAINED BY THE CITY COUNCIL
OF THE CITY OF BLOOMINGTON, ILLINOIS:**

SECTION 1: That Section 37 of Chapter 6 of the Bloomington City Code, 1960, as amended, be further amended as follows (additions are indicated by underlining; deletions are indicated by strikeouts):

Chapter 6: Section 37: Same - Powers and Duties Generally.

The local Liquor Control Commissioner shall have the following powers and duties:

(a) Recommend the Granting, Fining, Suspending or Revoking. To recommend to the City Council the creating and granting of licenses and to fine licensees and/or to suspend or revoke for cause all licenses created under this Chapter for premises within the local Liquor Control Commissioner's jurisdiction. (Ordinance No. 1992-102)

(b) Right of Entry. To enter any time into any premises licensed hereunder to determine whether any of the provisions of the Illinois Liquor Control Act or of this Code or any other laws or of any rules and/or regulations adopted by the Commissioner or by the State Commission have been or are being followed or violated by any person. This authorization provision also applies to law enforcement officers and any member of the Liquor Commission.

It shall be the responsibility and duty of any license holder and of any employee, agent or other representative of a license holder to enable and permit the Liquor Commissioner, any member of the Liquor Commission and any law enforcement officer to enter a licensed establishment at any time before or after the closing time and the failure to do so shall be a violation of this Code. (Ordinance No. 1992-102)

(c) Exercise Powers, Etc. Granted Under State Law, Etc. To exercise all the powers, functions and duties which now or hereafter may be granted to him by the Illinois Liquor Control Act regulations of the Illinois State Liquor Control Commission, or by this Chapter. (Ordinance No. 1992-102)

(d) Liquor Commission. The local Liquor Commissioner may appoint one or more persons to the Bloomington Liquor Commission to assist him and such person(s) shall have any and all of the authority the Commissioner has in the exercise of the powers and the performance of the duties provided for the local Liquor Control Commissioner. (Ordinance No. 1982-102)

(e) Fine and/or Suspension or Revocation of License. To fine any licensee and/or to suspend or revoke any license(s) issued under this Chapter for any of the following reasons:

(1) That the licensee has violated any of the laws of the United States relating to the sale of alcoholic liquor or any of the provisions of the Illinois Liquor Control Act, of this Chapter, or

any applicable rules and regulations adopted by the local Liquor Control Commissioner or by the State Commission.

(2) The willful making of any false statement as to a material fact in the application for such license or in any change of ownership application or request or affidavit for the renewal of any license. Making a false statement shall include not making a complete statement of all relevant facts which relate to the situation.

(3) The permitting of any violation of state law or Bloomington City Code by any person upon the licensed premises.

(4) Failure to use and maintain the licensed premises in compliance with all codes and regulations pertaining to health and safety applicable within the City of Bloomington, including but not limited to Building, Plumbing, Electrical and Fire Codes, Zoning Ordinances, McLean County Health Ordinances, and all regulations and orders of the McLean County Health Department.

(5) The refusal of any licensee to testify under oath to all relevant and material questions propounded to him at any hearing conducted by the local Liquor Control Commissioner.

(6) Suspension or revocation of the license of the licensee by the State Commission.

(7) Payment by the licensee of the special federal tax imposed under Section 4411 (Wagering) or Section 4461 (Coin Operated Gaming Devices) of the Internal Revenue Code of 1954, as amended.

(8) Maintaining or operating a dram shop on any premises registered as a place of business where activities are carried on which make the person or persons carrying on such activities subject to the special federal tax on wagering. (Section 4411 of said Internal Revenue Code).

(9) Having on the premises where the licensee carries on his business any coin operated gaming device subject to the special federal tax imposed under Section 4461 of said Internal Revenue Code, whether or not said tax is paid.

(10) Permitting any gambling device or equipment to be located on the licensed premises, except for devices and equipment licensed and operated in accordance with the Video Gaming Act, 230 ILCS 40/1, et. seq.

(11) Failure to adhere to any changes or requirements imposed as a condition of being issued by the City Council pursuant to Section 4C or by the Liquor Commissioner pursuant to Section 4D of this Chapter. (Ordinance No. 1992-102)

(f) Conditions on License. The Liquor Commission may require changes in the licensee's operations in addition to or in lieu of assessing a fine and/or suspending a license for any of the reasons stated in Section 37(e). Such changes may include, but are not limited to (1) restricting the hours of sale; (2) adding exterior lighting; (3) erecting fencing; (4) patrolling the premises;

(5) restricting the sale of single serving sizes of all types or a particular type of alcohol for consumption off of the premises; (6) requiring employee training; (7) establishing a minimum number of employees; (8) limiting the number and/or location of signs. (Ordinance No. 2004-2)

(g) Fines. Each fine imposed hereunder may not be less than \$250.00 nor more than \$3,500.00. A separate fine may be imposed for each violation and each day that the activity of a violation occurs or continues shall be a separate violation for which a separate fine may be assessed.

Fines shall be payable in the manner indicated in any Order which results from a hearing or as the Liquor Commissioner may otherwise specify in writing and the failure to pay any part of a fine as so indicated or specified may result in the license being similarly suspended or revoked by the Liquor Commissioner. The licensee may request a hearing on such action but pending a hearing and a decision thereon by the Liquor Commissioner, the license shall remain suspended or revoked. It shall be the duty of each licensee who makes a fine payment as indicated or specified to request a hearing at the earliest possible time to explain the situation and request that license(s) not be suspended or revoked as provided for herein or for any other reason. Any fine may be collected in court. (Ordinance No. 2004-2)

(h) Examination of Applicants, Licensees and Records. To examine or cause to be examined under oath any applicant or any representative of an applicant for a local license or for a renewal thereof or any licensee (see (g)) and to hear testimony and take proof of any witness or person having information about the issues being considered and to consider any other relevant evidence and for such purposes to issue subpoenas which shall be effective in any part of the State.

Each licensee involved in a hearing for a possible violation of this Code or other law(s) shall provide to the Liquor Commissioner at his request a copy of the income statement and/or any other requested financial statement of the involved establishment for a reasonable period of the past of not less than one year and the failure to do so shall be a violation of this Code. This provision is not intended to be a limitation of the authority of the Liquor Commissioner under Chapter 43, Illinois Revised Statutes (See Ch. 43, Sec. 126a). (Ordinance No. 1982-90)

(i) Investigation of Complaints, Etc. To receive the complaint of any resident of the City and to investigate upon such complaint or to investigate upon his own initiative any alleged action of any law of the United States relating to the sale of alcoholic liquor or any of the provisions of the Illinois Liquor Control Act or of this Code, or any applicable rules and regulations adopted by the local Liquor Control Commissioner or by the State Commission. (Ordinance No. 1992-102)

(j) Rules and Regulations. To make, promulgate, alter, amend, repeal, and enforce such reasonable rules and regulations relating to the administration and enforcement of the provisions of this Chapter as may be deemed by him to be desirable. (Ordinance No. 1992-102)

(k) Ordering the License Classification of any establishment to be changed upon application as provided in Section 4F of this Chapter or upon his own initiative if he finds, after hearing evidence, that an establishment fails to qualify for the license it holds. (Ordinance No. 1992-102)

SECTION 2: That Sections 2, 12, and 13 of Chapter 20 of the Bloomington City Code, 1960, as amended, be further amended as follows (additions are indicated by underlining; deletions are indicated by strikeouts):

Chapter 20: Section 2: Gambling - Penalty.

(a) Whoever shall be an inmate of or connected with any gambling room or shall play for money or other valuable thing at any game with cards, dice, checks, or at billiards, or with any other article, instrument, or thing whatsoever which may be used for the purpose of playing or betting upon or winning or losing money or any other valuable thing or article of value or shall bet on any game that others may be playing shall be fined not less than Five Dollars nor more than Fifty Dollars for each offense.

(b) Participants in any of the following activities shall not be convicted of gambling:

(1) Agreements to compensate for loss caused by the happening of chance including without limitation contracts of indemnity or guaranty and life or health or accident insurance; and

(2) Offers of prizes, award or compensation to the actual contestants in any bona fide contest for the determination of skill, speed, strength or endurance or to the owners of animals or vehicles entered in such contest; and

(3) Pari-mutuel betting as authorized by the law of this State; and

(4) manufacture of gambling devices, including the acquisition of essential parts therefor and the assembly thereof, for transportation in interstate or foreign commerce to any place outside this State when such transportation is not prohibited by any applicable Federal law; and

(5) The game commonly known as “bingo” when conducted in accordance with “An Act making lawful the conducting of bingo by certain non-profit organizations, requiring licensing and prescribing regulations therefore”; and

(6) Lotteries when conducted by the State of Illinois in accordance with the “Illinois Lottery Law” enacted by the 78th General Assembly. (Ordinance 1974-78)

(7) Video gaming when licensed by the State and conducted in accordance with the Video Gaming Act, 230 ILCS 40/1, et. seq.

Chapter 20: Section 12: Places Kept for Gambling Declared Nuisance, Etc.

Every house, room, yard, boat, vessel, or other structure, or premises kept or used for the purpose of permitting persons to gamble for any valuable thing is hereby declared to be a common nuisance, except for licensed establishments operated in accordance with the Video Gaming Act, 230 ILCS 40/1, et. seq. No person shall own, keep, maintain, manage, or conduct or shall be interested in owning, keeping, maintaining, managing, or conducting any such place.

Chapter 20: Section 13: Seizure of Implements, Etc. Resistance - Penalty.

It is hereby made the duty of every member of the police force to seize any table, instrument, device, or thing used for the purpose of gaming, except for devices and equipment licensed and operated in accordance with the Video Gaming Act, 230 ILCS 40/1, et. seq. ~~and all such tables, instruments, devices, or things shall be destroyed.~~ Any person or persons obstructing or resisting any member of the police force in any act authorized by this Section shall be subject to a fine of not less than Fifty Dollars for each offense.

SECTION 3. Except as provided herein, the Bloomington City Code, 1960, as amended shall remain in full force and effect.

SECTION 4. The City Clerk is hereby authorized to publish this ordinance in pamphlet form as provided by law.

SECTION 5. This ordinance shall be effective immediately upon passage and approval.

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

PASSED this 23rd day of July, 2012.

APPROVED this 24th day of July, 2012.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert,
City Clerk

Mayor Stockton introduced this item. He noted the Council's July 9, 2012 Work Session.

David Hales, City Manager, addressed the Council. Updated information from the City's web site would be presented.

Alex McCready, Asst. to the City Manager, addressed the Council. Information had been provided to the Council on Friday, July 20, 2012. He noted the vote count from the web site survey. This survey was not statistically significant. No scientific methods had been used. The raw data had been presented. This tool provided a quick snapshot.

George Boyle, Asst. Corporation Counsel, addressed the Council. This Text Amendment amended Chapter 6. Section 37: Same - Powers and Duties Generally; and Chapter 20: Section 2: Gambling – Penalty, Section 12: Places Kept for Gambling Declared Nuisance, Etc., and Section 13: Seizure of Implements, Etc. Resistance – Penalty. The Chapter 6 amendment makes an exception for video gaming devices. The amendment to Chapter 20, Section 2 and Section 13 makes an exception for devices covered by the state's video gaming act.

Mr. Hales noted that similar information was presented to the Council two (2) weeks ago.

Alderman Fazzini recalled the Council's July 9, 2012 Work Session discussion. He was not in favor of this item. Video gaming may help small business, increase City revenue, and minimize illegal activity. In addition, it would keep discretionary dollars in the City. On the negative side was the fact that gambling can become a social addiction. He cited his familiarity with same. There might be an increase in crime to some degree. He recommended that these dollars be directed towards road repair and/or pension funding. He would not support this item if the dollars were not earmarked for these purposes.

Alderman McDade cited her comments at the July 9, 2012 Work Session. The Council had heard from the people. This would provide a new revenue stream for the City. She was pleased with the use of the City's web site. She hoped to see continued use of same in the future. This was the first she had heard of an amendment to this item. The Council would decide how these dollars would be spent. This Council could not bind future Councils.

Mayor Stockton reviewed the web site survey results as of Friday, July 20, 2012. He noted that it was obvious that some individuals voted every several minutes. He found the individual comments interesting.

Alderman Anderson stated that he was not able to support this item. He cited a letter which he received this date from Churches in Action. He noted the letter's compassion and concern regarding this item. He was troubled by the state and cities eagerness for this revenue possibility. He believed that this was only the beginning.

Alderman Purcell stated that he was the Alderman for Ward 7 but saw himself as a watchdog for the City. He did not believe that this item would have a specific impact as it was nothing new. He had received a limited positive response to this item. Video gaming would be regulated by the state. He believed that it would assist small businesses. There would be no impact upon the City. He planned to support this item. He added his support for Alderman Fazzini's comments.

Alderman Fazzini acknowledged that this Council could not obligate future Councils. He stated his intention to make an amendment to the main motion.

Alderman Stearns added her support for designating any revenue from video gaming to streets and pensions. These were two (2) areas of concern. The Council needed to keep City establishments competitive. She noted the current opportunities in the community for gambling. City businesses would be the losers. Customers will make a choice. She added that local veterans groups were planning on offering video gaming. They plan to designate revenue raised from video gaming to charitable causes. She restated that streets were in need of repair.

Alderman Fruin believed that the entire Council was concerned about funding for streets and pensions. He did not support designating this revenue. He believed that it would create confusion. The Council would determine where this revenue would be spent

at a later date. He understood the interest in designating these dollars. He believed that such action would complicate the issue. He planned to vote against the amendment.

Alderman Sage echoed Alderman Fruin's statement. The Council needed to prioritize City spending. There needed to be good planning and a better process. He noted the increase spending on street projects. Pension funding had increased and the state was in flux. He restated that going forward the Council needed to prioritize spending.

Alderman Mwilambwe expressed his opinion that Alderman Fazzini's amendment complicated this issue.

Mr. Hales informed the Council that it was difficult to segregate General Fund revenues. This fund's revenues came from a variety of sources which were not designated. In addition, the amount of revenue from video gaming was an unknown. The City does not have the staff or the budget.

Motion by Alderman Fazzini, seconded by Alderman Stearns that the first year's revenue from video gaming be equally divided between street projects and pension funding.

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

Ayes: Aldermen Stearns, Fazzini and Purcell.

Nays: Alderman Mwilambwe, Schmidt, McDade, Sage, Fruin and Anderson.

Motion failed.

Alderman Stearns expressed her opinion that the failed amendment would have sent a great message. The Council needed to set priorities. She cited her vote with the minority.

Mayor Stockton stated that this issue would be addressed at budget time when the amount of revenue would be known.

Alderman Fruin restated that the entire Council supported infrastructure improvements and improved pension funding.

Alderman Sage recalled the Council's July 9, 2012 Work Session. He reviewed Randy McKinley's, Police Chief, comments. Chief McKinley expressed his support for the ordinance and the Council's approach to same. Law enforcement concerns had been addressed.

Alderman McDade believed that the Council was focused on infrastructure and pensions. She believed that the majority of the Council supported same. This would be seen in the City's 2014 adopted budget.

Mayor Stockton noted that the Council would be legalizing gambling. If there were unforeseen consequences, he believed that the Council could reverse this action.

Todd Greenburg, Corporation Counsel, addressed the Council. Currently, each municipality decided to allow video gaming. This was not a legal issue but a political one. The state might restrict home rule municipalities authority in the future.

Mayor Stockton put the public on notice that if there were unintended consequences changes could be made in the future.

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

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

Ayes: Aldermen Stearns, Mwilambwe, Schmidt, McDade, Fazzini, Sage, Fruin and Purcell.

Nays: Alderman Anderson.

Motion carried.

The following was presented:

SUBJECT: Proposed Ordinance Amending Chapter 27, Section 8 of the City Code, Rules Governing the Use of City Water and adding Section 36, Water Emergency Response Ordinance, to Chapter 27

RECOMMENDATION/MOTION: Recommend that Text Amendments to Chapter 27, Section 8 of the City Code, Rules Governing the Use of City Water, be amended by removing paragraph (b), Authority to Impose Water Use Restrictions, and relettering the remaining paragraphs (c) through (g), also that the subject matter of the previous Chapter 27, Section 8, paragraph (b), Authority to Impose Water Use Restrictions be moved to and expanded upon, in the new Section 36, Water Emergency Response Ordinance, of Chapter 27, be approved and the Ordinance passed.

BACKGROUND: Staff has prepared a Water Emergency Response Ordinance, which will take the place of Chapter 27, Section 8 of the City Code, Rules Governing the Use of City Water and replace it with a much more detailed and specific Water Emergency Response Ordinance. The Water Emergency Response Ordinance is the culmination of several years of research into other municipalities Water Emergency Ordinances and is intended to be utilized whenever a water emergency is encountered, whether it is supply related, such as a drought, treatment related, such as a long term power outage at the water treatment or other pumping facility or a water distribution system or water quality related issue.

The driving force in the Ordinance is the preservation of safe drinking water for human consumption, sanitation, fire protection and other essential needs. It is intended to provide the water customers of the City of Bloomington with the foreknowledge of the actions that will be taken if a water emergency is encountered.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Not applicable.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Craig M. Cummings
Director of Water

Barbara J. Adkins
Deputy City Manager

Financial review by:

Reviewed as to legal sufficiency:

Recommended by:

Patti-Lynn Silva
Director of Finance

J. Todd Greenburg
Corporation Counsel

David A. Hales
City Manager

ORDINANCE NO. 2012 -

AN ORDINANCE AMENDING BLOOMINGTON CITY CODE CHAPTER 27

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

SECTION 1. That Bloomington City Code Chapter 27 be amended to read as follows (additions are indicated by underlining; deletions are indicated by strikeouts):

Chapter 27: Section 8: Rules Governing Use of City Water.

The following rules governing the use of City water are hereby adopted:

- (a) Waste of Water Not Permitted. Customers shall keep their water service pipes and all plumbing connected with the City's water system in good repair and protected from freezing at their own expense. Hydrants, taps, hoses, water closets, urinals, baths or other fixtures shall not be kept running when not in use. In conditions of extreme cold weather water may be kept running at a trickle to prevent pipes from freezing. If it is found that there is an unreasonable or unnecessary waste of water in any building, structure or premise to which water is supplied from the City's water system, the Director of Engineering & Water may cause the water service to be disconnected to stop the waste of water. (Ordinance No. 1994-43)

Chapter 27: Section 36: Water Emergency Response Ordinance.**(a) DECLARATION OF POLICY, PURPOSE, AND INTENT**

Purpose: To achieve the greatest public benefit from domestic water use, sanitation, fire protection and to provide water for other purposes in an equitable manner and to preserve water quality, the City of Bloomington, Illinois adopts the following regulations and restrictions on the delivery and consumption of water.

This Ordinance is hereby declared necessary for the preservation of public health, safety, welfare and enhances water supply operational flexibility and shall take effect upon its adoption by the City of Bloomington, Illinois.

Whenever, in the judgment of the City Council of the City of Bloomington, Illinois, it becomes necessary to conserve water in the service area, due to drought, water treatment capacity or other conditions, the City of Bloomington, Illinois *City Manager, in consultation with the Water Department Director* is authorized to issue a Proclamation that existing drought or other conditions prevail over fulfillment of the usual water-use demands. The Proclamation is an attempt to prevent depleting the water supply to the extent that water-use for human consumption, sanitation, fire protection and other essential needs become endangered.

Immediately upon the issuance of such a Proclamation, regulations and restrictions set forth under this Ordinance shall become more effective and remain in effect until the water shortage is terminated and the Proclamation rescinded.

Water uses, regulated or prohibited under the Ordinance, are considered to be non-essential and continuation of such uses during times of water shortage is deemed to constitute a waste of water, subjecting the offender(s) to penalties.

The provisions of the Ordinance shall apply to customers within the jurisdiction of the City of Bloomington, Illinois Water Department.

(b) DEFINITIONS

For the purposes of this Ordinance, the following definitions shall apply:

Aesthetic water use: water use for ornamental or decorative purposes such as fountains, reflecting pools, and waterfalls

Commercial and industrial water use: water use integral to the production of goods and/or services by any establishment having financial profit as their primary aim.

Customer: any person, company, or organization using water supplied by the City of Bloomington, Illinois Water Department.

Domestic water use: water use for personal needs or for household purposes such as drinking, bathing, heating, cooking, sanitation, or for cleaning a residence, business, industry, or institution.

Drought Alert Phase:

1. Moderate Drought: Combined reservoir water-levels reduced below spillway level by 8 feet or a proclamation that a moderate water emergency exists.

2. Severe Drought: Combined reservoir water-levels reduced below spillway level by 10 feet or a proclamation that a severe water emergency exists.

3. Extreme Drought: Combined reservoir water-levels reduced below spillway level by greater than 12 feet and stream flow in Mackinaw River less than 20 cubic feet per second or a proclamation that an extreme water emergency exists.

Essential water uses: Water used specifically for fire fighting, and to satisfy federal, state, or local public health and safety requirements.

Even numbered address: street addresses, box numbers or rural route numbers ending in 0, 2, 4, 6, 8 or letters A-M; and locations without addresses.

Institutional water use: water use by government, public and private educational institutions, public medians and rights of way, churches and places of worship, water utilities, and other lands, buildings, and organizations within the public domain.

Landscape water use: water used to maintain gardens, trees, lawns, shrubs, flowers, athletic fields, rights of way and medians.

Odd numbered address: street addresses, box numbers or rural numbers or rural route numbers ending in 1, 3, 5, 7, 9 or letters N-Z.

Water hauling: Water sold by the City of Bloomington at bulk dispensing facility for use at a location other than the location where it was purchased.

Water shortage: lack of adequate available water to meet normal demands due to lower than normal precipitation, reduced stream flows or soil moisture, and/or deterioration of water quality which causes water supplies to be less than usual.

Wholesale customer: A public body that purchases water in bulk and redistributes it to its own customers.

(c) NON-ESSENTIAL WATER USE

All water use categories, other than essential water use, may be curtailed during severe or extreme drought. Some examples of non-essential water uses follow:

A. Residential and Institutional:

1. Washing down sidewalks, walkways, driveways, parking lots, tennis courts, or other hard surface areas.
2. Washing down buildings or structures for purposes other than immediate fire protection.
3. Flushing gutters or permitting water to run or accumulate in any gutter or street.
4. Washing any motor bike, motor vehicle, boat, trailer, airplane or other vehicle in public or private garages or elsewhere.
5. Maintaining fountains, reflection ponds, and decorative water bodies for aesthetic or scenic purposes.
6. Filling or maintaining public or private swimming pools.
7. Sprinkling lawns, plants, trees, and other flora on private or public property, except as otherwise provided under the Ordinance.

B. Commercial and Industrial:

1. Serving water routinely in restaurants.
2. Increasing water levels in scenic and recreational ponds and lakes.
3. Irrigating golf courses and any portion of its grounds, except greens or as otherwise provided under this Ordinance.
4. Obtaining water from hydrants for any purpose other than firefighting.
5. Serving customers who have been given a 10-day notice to repair one or more leaks and has failed to comply.
6. Expanding commercial nursery facilities, placing new sod on commercial and/or residential sod after the drought proclamation, or planting or landscaping when required by site design review process.

(d) RESPONSES TO MODERATE, EXTREME, AND SEVERE DROUGHT ALERT PHASES

Levels of drought are set forth in this ordinance as moderate, severe, and extreme. Proclamations issued by the City of Bloomington, Illinois *City Manager, in consultation with the Water Department Director* shall coordinate an appropriate response to the level of drought which exists.

Proclamations setting forth responses to the various drought alert phases shall be made by the City of Bloomington, Illinois *City Manager, in consultation with the Water Department Director* and are to be based upon local and/or regional monitoring data.

A. Moderate Drought Alert Phase: If conditions indicate that a moderate drought condition is present and is expected to persist, the City of Bloomington, Illinois *City Manager in consultation with the Water Department Director* shall notify municipal and county governments and issue press releases concerning the drought conditions to the news media. Large or key water users will be contacted directly by the Water Department.

1. Goal:

(a) Public awareness and education of drought procedures and water saving.

(b) A five percent voluntary water use reduction for residential, commercial, industrial, institutional, wholesale and electric power generation purposes in order to extend the water supply for duration of the drought.

2. General Responses:

(a) Issue a Public Notice of Drought Conditions on water supply and demand in a newspaper of general circulation within the affected community and region. This statement shall include a list of non-essential water uses (SECTION (c)).

(b) Institute an increased water supply system maintenance effort to identify and correct water leaks by initiating a complete leak detection survey.

• Leaks greater than 100 gallons per minute under the control of the Water Department will be corrected within 72 hours of the Department becoming aware of the leak.

(c) Encourage customers of the City of Bloomington, Illinois Water Department to comply with the listed voluntary water-use restrictions in all categories while moderate drought conditions exist.

3. Water-Use Restrictions:

(a) Residential:

- Reduce domestic, landscaping, and water-based recreational activities such as swimming pools, water slides, and other related water activities.

(b) Commercial, Industrial, and Institutional:

- Reduce aesthetic, domestic, landscaping, and water-based recreational activities such as swimming pools, water slides, and other related water activities.
- Water sold for transport elsewhere (“water hauling”) shall have the rate doubled.

(c) Agricultural, Irrigation and Livestock:

- Implement conservation techniques, explore different water saving methods, and use alternative sources.

(d) Electric Power Generation:

- Implement conservation techniques, explore different water saving methods, and use alternative sources.

(e) Lake Bloomington

- Prohibit direct water withdrawals from Lake Bloomington

(f) Wholesale customers

- Water use reductions of five percent

4. Water Department Operational Procedures:

- (a) Eliminate hydrant flushing, except that flushing necessary to maintain the water quality in the water distribution system.

B. Severe Drought Alert Phase: A drought of this severity requires official declaration and implementation of mandatory water use restrictions by the City of Bloomington, Illinois City Manager, in consultation with the Water Department Director. In such cases, the City Manager, in consultation with the Water Department Director will notify municipal and county governments in the affected drought areas. The Utility will also issue press releases concerning the drought conditions to the news media.

1. Goal:

(a) Generate a public response that helps alleviate drought stress through mandatory water use restrictions.

(b) A ten percent water use reduction for residential, agricultural, commercial, industrial, institutional, wholesale and electric power generation purposes.

2. General Responses:

(a) Issue a Public Notice of Drought Conditions on water supply and demand in a newspaper or general circulation within the affected community and region. This statement shall include a list of water- use curtailment measures.

(b) Require customers of the City of Bloomington, Illinois Water Department to comply with the listed water-use restrictions in all categories while severe drought conditions exist.

3. Water-Use Restrictions:

(a) Residential:

- Use low-volume hand-held applicators only and prohibit sprinklers, other remote broadcast devices, and water runoff in landscape design maintenance.
- Restrict landscape watering to Tuesday and Saturday for odd-numbered addresses, and Thursday and Sunday for even-numbered addresses.

(b) Commercial, Industrial, and Institutional:

- Prohibit aesthetic water use.
- Reduce domestic water use to minimum levels necessary for maintaining health and safety.
- Prohibit water-based recreational activities except facilities, such as swimming pools and other related water activities that require filtration and/or water recycling.
- Use low-volume hand-held applicators only and prohibit sprinklers, other remote broadcast devices, and water runoff in landscape design maintenance.

- Restrict landscape watering on Tuesday and Saturday for odd-numbered addresses, and Thursday and Sunday for even-numbered addresses.

- Water sold for transport elsewhere (“water hauling”) shall have the rate tripled and shall only be sold on Monday, Wednesday and Friday, 8a.m. to 4 p.m.

(c) Agriculture, Irrigation and Livestock:

- Implement conservation techniques, explore different water saving methods, and use alternative sources.

- Restrict irrigation use from 7:00 p.m. to 7:00 a.m.

(d) Electric Power Generation

- Implement conservation techniques, explore different water saving methods, and use alternative sources.

(e) Lake Bloomington

- Prohibit direct water withdrawals from Lake Bloomington

(f) Wholesale Customers

- Water use reductions of ten percent.

4. Water Department/City Operational Procedures

- Prohibit the use of water-based recreational activities that rely on single use water supply, such as municipal water parks.

- Enact a 24-hour, service-area wide, monitoring system to evaluate the community’s response and cooperation to drought procedures.

- Reduce the water supply hydraulic grade-line (levels in water towers) by five feet.

C. Extreme Drought Alert Phase: The City of Bloomington, Illinois City Manager, in consultation with the Water Department Director will notify municipal and county governments in the affected drought areas, and issue press releases concerning the drought conditions to the news media. Water-use restrictions imposed during extreme drought conditions are mandatory.

1. Goal:

(a) A fifteen percent water use reduction for residential, institutional, agricultural, commercial, industrial, and electric power generation purposes.

2. General Responses:

(a) Issue a Public Notice of Drought Conditions on water supply and demand in a newspaper of general circulation within the affected community and region. This statement shall include a list of water- use curtailment measures.

(b) Require customers of the City of Bloomington, Illinois Water Department to comply with the listed water-use restrictions in all categories while extreme drought conditions exist.

3. Water-Use Restrictions:

(a) Residential:

- Reduce domestic water use to minimum levels necessary to maintain health and safety.
- Prohibit water-based recreational activities except facilities, such as swimming pools and other related water activities that employ filtration and/or water recycling.
- Use low-volume hand-held applications only and prohibit sprinklers, other remote broadcast devices, and water runoff in landscape design maintenance.
- Restrict landscape watering on Tuesday and Saturday for odd-numbered addresses, and Thursday and Sunday for even-numbered addresses.

(b) Commercial, Industrial, and Institutional:

- Prohibit aesthetic water use.
- Reduce domestic water use to minimum levels necessary for maintaining health and safety.
- Prohibit water-based recreational activities except facilities, such as swimming pools and other related water activities that employ filtration and/or water recycling.

- Use low-volume hand-held applications only and prohibit sprinklers, other remote broadcast devices, and water runoff in landscape design maintenance.
- Restrict landscape watering on Tuesday and Saturday for odd-numbered addresses, and Thursday and Sunday for even-numbered addresses.
- Cease selling water for transport elsewhere (“water hauling”).

(c) Agriculture, Irrigation and Livestock:

- Implement conservation techniques, explore different water saving methods, and use alternative sources.
- Restrict irrigation use from 12:00 a.m. to 4:00 a.m.

(d) Electric Power Generation

- Implement conservation techniques, explore different water saving methods, and use alternative sources.

(e) Lake Bloomington

- Prohibit direct water withdrawals from Lake Bloomington.

(f) Wholesale Customers

- Water use reductions of fifteen percent.

4. Water Department/City Operational Procedures

- Prohibit water-based recreational activities except facilities, such as swimming pools and other related water activities that require filtration and/or water recycling.
- Prohibit the use of water-based recreational activities that rely on single use water supply, such as municipal water parks.
- Prohibit water-based street cleaning.
- Enact a 24-hour Water Department monitoring system to evaluate the community’s response and cooperation to drought procedures.
- Reduce the water supply hydraulic grade-line (levels in water towers) by ten feet.

- Eliminate golf course irrigation, except for greens

(e) NEW WATER SERVICE CONNECTIONS

Correspondence regarding water availability, pipeline extension agreements, and applications requesting service, received and dated after the date of this Ordinance shall include conditions relating to water shortages.

No applications for new, additional, further expanded, or an increase in size of water service connections, meters, service lines, pipeline extensions, approved or installed unless such action is in compliance with provisions of this Ordinance.

(f) WATER RATES

In the event of an extreme drought related water shortage, the City of Bloomington, Illinois *City Manager in conjunction with the Water Department Director* is hereby authorized to monitor water use. Under extreme drought conditions the Water Department's drought water rates will be enacted through the duration of the drought for all water users except as otherwise noted in this Ordinance. These water rates are defined as the water rates in effect at the time of the extreme drought declaration multiplied by 1.50.

(g) RATIONING

In the event that a drought or other condition(s) threaten(s) the preservation of public health and safety, the City of Bloomington, Illinois *City Manager, in consultation with the Water Department Director* is hereby authorized to ration water.

(h) FINES AND PENALTIES

Except as otherwise stated herein, violators of any provision of this Ordinance shall be penalized.

Violation Classification Penalty

- First offense infraction in severe drought – Courtesy reminder to implement procedures
- First offense infraction in extreme drought -- \$50.00
- Second offense infraction within the same drought period -- \$100.00
- Third and subsequent offense within the same drought period -- \$250.00

- The aforementioned fines and penalties may be in lieu of, or in addition to, any other penalty provided by law.

(i) ENFORCEMENT

Employees of the City of Bloomington, Illinois Water Department, City of Bloomington police officers, firefighters, and plumbing inspectors have the duty, and are hereby authorized to enforce the provisions of this Ordinance and shall have the power and authority to issue written notices to appear when violations of this Ordinance occur during any declared severe or extreme drought or water shortage.

(j) VARIANCES

Persons not capable of immediate water use reduction, or curtailment, because of equipment damage or other extreme circumstances, shall commence gradual reduction of water use within twenty-four hours of the declaration of water use curtailment/reduction and shall apply for a variance from curtailment.

Persons requesting exemption from the provisions of this Ordinance shall file a petition for variance with the City of Bloomington, Illinois *City Manager* ~~Water Department~~ within ten days after such curtailment becomes effective.

When the Drought Ordinance has been invoked by the City of Bloomington, Illinois *City Manager*, in consultation with the Water Department Director, all petitions for variances shall be reviewed by the City of Bloomington, Illinois *City Manager* in consultation with the Water Department Director. Petitions shall contain the following:

1. Name and address of the petitioner(s).
2. Purpose of water use.
3. Specific provisions from which the petitioner is requesting relief.
4. Detailed statement as to how the curtailment declaration adversely affects the petitioner.
5. Description of the relief desired.
6. Period of time for which the variance is sought.
7. Economic value of the water use.
8. Damage or harm to the petitioner or others if petitioner complies with Ordinance.

9. Restrictions with which the petitioner is expected to comply and the compliance date.

10. Steps the petitioner is taking to meet the restrictions from which variance is sought and the expected date of compliance.

11. Other pertinent information.

In order for a variance to be granted, petitioner must show one of more of the following conditions:

A. Compliance with the Ordinance cannot be technically accomplished during the duration of the water shortage.

B. Alternate methods can be implemented which will achieve the same level of reduction in water use.

The City of Bloomington, Illinois *City Manager in consultation with the* Water Department Director may, in writing, grant temporary variances for existing water uses otherwise prohibited under the Ordinance if it is determined that failure to grant such variances would cause an emergency condition adversely affecting health, sanitation, or fire protection for the public or the petitioner and if one or more aforementioned conditions is met. The City of Bloomington, Illinois *City Manager in consultation with the* Water Department ~~Water~~ Director shall approve or deny any such variance. Any such variance so ratified may be revoked by later action of the City of Bloomington, Illinois *City Manager in consultation with the* Water Department Director. ~~Any such variance denied by the City of Bloomington, Illinois Water Department Director can be appealed to the City of Bloomington, Illinois City Manager.~~

No such variance shall be retroactive or otherwise justify any violation of this Ordinance occurring prior to the issuance of the variance.

Variances granted by the City of Bloomington, Illinois ~~Water Department Director or City Manager~~ shall be subject to the following conditions, unless waived or modified by the City of Bloomington, Illinois ~~Water Department or City Manager.~~

A. Variances granted shall include a timetable for compliance.

B. Variances granted shall expire when the water shortage no longer exists, unless the petitioner has filed to meet specified requirements.

(k) STATUS OF THE ORDINANCE

In the event that any portion of this Ordinance is held to be unconstitutional for any reason, the remaining portions of the Ordinance shall not be affected. The provisions of this Ordinance shall prevail and control in the event of any inconsistency between this Ordinance and other rules and regulations of the City of Bloomington, Illinois and/or State of Illinois.

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 ____ day of July, 2012.

APPROVED this ____ day of July, 2012.

APPROVED:

Steve Stockton, Mayor

ATTEST:

Tracey Covert, City Clerk

ORDINANCE NO. 2012 - 51**AN ORDINANCE AMENDING BLOOMINGTON CITY CODE CHAPTER 27**

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

SECTION 1. That Bloomington City Code Chapter 27 be amended to read as follows (additions are indicated by underlining; deletions are indicated by strikeouts):

Chapter 27: Section 8: Rules Governing Use of City Water.

The following rules governing the use of City water are hereby adopted:

(a) **Waste of Water Not Permitted.** Customers shall keep their water service pipes and all plumbing connected with the City's water system in good repair and protected from freezing at their own expense. Hydrants, taps, hoses, water closets, urinals, baths or other fixtures shall not be kept running when not in use. In conditions of extreme cold weather water may be kept running at a trickle to prevent pipes from freezing. If it is found that there is an unreasonable or unnecessary waste of water in any building, structure or premise to which water is supplied from the City's water system, the Director of Engineering & Water may cause the water service to be disconnected to stop the waste of water. (Ordinance No. 1994-43)

~~(b) Authority to Impose Water Use Restrictions. The City Manager may, at any time he determines that the conditions affecting the City's water supply, reservoirs, pumping or distribution facilities make restriction of water use, either on a short term or indefinite basis necessary in the public interest, order cessation or restriction of any one or more of the following activities by City customers, whether inside or outside the City's corporate limits:~~

~~(1) watering of lawns, gardens, trees, shrubs and vegetation, established or new;~~

~~(2) water conservation measures by non-residential or residential users, or both;~~

~~(3) washing of cars, either totally or at certain types of locations;~~

~~(4) filling of swimming or wading pools;~~

~~(5) use of fountains or other decorative water features;~~

~~(6) sales to water haulers;~~

~~(7) service of water to restaurant customers, except on request;~~

~~(8) any other practice which in the City Manager's opinion may be wasteful of water.~~

~~The City Manager shall cause notice of any such restrictions to be included with the next water bill issued immediately following the imposition of any restrictions, except that in case of an emergency, the City Manager shall cause notice of such restrictions to be publicly announced by means of broadcasts or telecasts from a radio station in a normal operating range covering the~~

~~City. All restrictions shall remain in effect from the date notice is given until they are rescinded by the City Manager.~~

~~In the case of sale of water to other public bodies, the City Manager may require the public bodies to adopt and enforce Ordinances or Resolutions imposing restrictions to their water customers consistent with those imposed within the City's corporate limits.~~

~~In addition to any penalties otherwise provided for in this Chapter, the City Manager may order a disconnection of water service to any customer violating any of the foregoing restrictions. Once disconnected the customer's water service may be resumed only after the City Manager determines that future violations by said customer will not occur. (Ordinance No. 1994-43)~~

~~(b) (e)~~ Disconnection of Water Service. In any case where the water service has been disconnected for any reason provided in this Chapter, and the water is found reconnected or when in the opinion of the Director of Engineering & Water the disconnection of the water service by closing the curb shutoff valve is not a sufficient protection against the further use of the water, it shall be lawful to cause the water service to be disconnected by whatever means necessary. Upon a re-application for water service, an additional charge covering all the expenses of disconnecting the water service shall be made. (Ordinance No. 1994-43)

~~(c) (d)~~ Unauthorized Reconnection of Water Service. No customer shall reconnect or cause or allow the reconnection of water service to any premise to which the City has disconnected water service in any manner other than provided in this Chapter. ~~Only the Director of Engineering or Water,~~ *the City Manager, the Water Director*, his officers, and employees may reconnect a water service. Any customer who reconnects water service to a premise contrary to the provisions of this Chapter shall be liable for payment of a fine as provided in Section 15 of this Chapter in addition to any other fees or charges assessed as a result of special measures which must be taken to disconnect the service as a result of the reconnection. In any prosecution charging an unauthorized reconnection of water service, the person lawfully in possession and/or in control of the premises shall be presumed to have made, caused or allowed the reconnection of the water service. (Ordinance No. 1994-43)

~~(d) (e)~~ Right of Entry. The officers, agents and employees of the Water Department shall have free access to all and every part of any building, structure or premises to which water is supplied from the City's water system for the purpose of:

- (i) reading water meters and/or remote reading devices;
- (ii) examining and/or repairing the water pipes, taps, fixtures, hydrants, valves, shutoff boxes and any other appurtenances related or connected to the City's water system; and
- (iii) disconnecting and/or reconnecting water service as provided in this Chapter.

Such officers, agents and employees shall also have the right to take such steps as are necessary to repair pipes, taps, fixtures, hydrants, valves, shutoff boxes and other appurtenances related to or connected with the City water system and/or disconnect or reconnect water service as provided in this Chapter, including but not limited to conducting excavations on the customer's premises.

No person shall in any manner obstruct, or cause to be obstructed or refuse or prevent, the free access of any officer, agent or employee of the Water Department to all or any part of any building, structure or premise for the purposes set forth herein. Any person who so obstructs the access of any such officer or person or who shall refuse to permit such entry or access or who shall do or cause to be done any act or thing for the purpose of preventing such entry or access, shall be punished as provided in Section 1-6 of Chapter 1 of this Code. (Ordinance No. 1994-43)

(e) ~~(f)~~ Separate Storm and Sanitary Drainage Required. No water service shall be provided to any premises where storm water and sanitary drainage are not separated as required by the chapter governing sewers and sewage disposal. (Ordinance No. 1994-43)

(f) ~~(g)~~ Plumbing Code Requirement. No water service shall be provided turned on for service into any premise in which the plumbing does not comply with the Plumbing Code of the City and the requirements of this Chapter. Water service may be provided for construction work in unfinished buildings, subject to the provisions of this Chapter. (Ordinance No. 1994-43)

Chapter 27: Section 36: Water Emergency Response Ordinance.

(a) DECLARATION OF POLICY, PURPOSE, AND INTENT

Purpose: To achieve the greatest public benefit from domestic water use, sanitation, fire protection and to provide water for other purposes in an equitable manner and to preserve water quality, the City of Bloomington, Illinois adopts the following regulations and restrictions on the delivery and consumption of water.

This Ordinance is hereby declared necessary for the preservation of public health, safety, welfare and enhances water supply operational flexibility and shall take effect upon its adoption by the City of Bloomington, Illinois.

Whenever, in the judgment of the City Council of the City of Bloomington, Illinois, it becomes necessary to conserve water in the service area, due to drought, water treatment capacity or other conditions, the City of Bloomington, Illinois *City Manager, in consultation with the Water Department Director* is authorized to issue a Proclamation that existing drought or other conditions prevail over fulfillment of the usual water-use demands. The Proclamation is an attempt to prevent depleting the water supply to the extent that water-use for human consumption, sanitation, fire protection and other essential needs become endangered.

Immediately upon the issuance of such a Proclamation, regulations and restrictions set forth under this Ordinance shall become more effective and remain in effect until the water shortage is terminated and the Proclamation rescinded.

Water uses, regulated or prohibited under the Ordinance, are considered to be non-essential and continuation of such uses during times of water shortage is deemed to constitute a waste of water, subjecting the offender(s) to penalties.

The provisions of the Ordinance shall apply to customers within the jurisdiction of the City of Bloomington, Illinois Water Department.

(b) DEFINITIONS

For the purposes of this Ordinance, the following definitions shall apply:

Aesthetic water use: water use for ornamental or decorative purposes such as fountains, reflecting pools, and waterfalls

Commercial and industrial water use: water use integral to the production of goods and/or services by any establishment having financial profit as their primary aim.

Customer: any person, company, or organization using water supplied by the City of Bloomington, Illinois Water Department.

Domestic water use: water use for personal needs or for household purposes such as drinking, bathing, heating, cooking, sanitation, or for cleaning a residence, business, industry, or institution.

Drought Alert Phase:

1. Moderate Drought: Combined reservoir water-levels reduced below spillway level by 8 feet or a proclamation that a moderate water emergency exists.

2. Severe Drought: Combined reservoir water-levels reduced below spillway level by 10 feet or a proclamation that a severe water emergency exists.

3. Extreme Drought: Combined reservoir water-levels reduced below spillway level by greater than 12 feet and stream flow in Mackinaw River less than 20 cubic feet per second or a proclamation that an extreme water emergency exists.

Essential water uses: Water used specifically for fire fighting, and to satisfy federal, state, or local public health and safety requirements.

Even numbered address: street addresses, box numbers or rural route numbers ending in 0, 2, 4, 6, 8 or letters A-M; and locations without addresses.

Institutional water use: water use by government, public and private educational institutions, public medians and rights of way, churches and places of worship, water utilities, and other lands, buildings, and organizations within the public domain.

Landscape water use: water used to maintain gardens, trees, lawns, shrubs, flowers, athletic fields, rights of way and medians.

Odd numbered address: street addresses, box numbers or rural numbers or rural route numbers ending in 1, 3, 5, 7, 9 or letters N-Z.

Water hauling: Water sold by the City of Bloomington at bulk dispensing facility for use at a location other than the location where it was purchased.

Water shortage: lack of adequate available water to meet normal demands due to lower than normal precipitation, reduced stream flows or soil moisture, and/or deterioration of water quality which causes water supplies to be less than usual.

Wholesale customer: A public body that purchases water in bulk and redistributes it to its own customers.

(c) NON-ESSENTIAL WATER USE

All water use categories, other than essential water use, may be curtailed during severe or extreme drought. Some examples of non-essential water uses follow:

A. Residential and Institutional:

1. Washing down sidewalks, walkways, driveways, parking lots, tennis courts, or other hard surface areas.
2. Washing down buildings or structures for purposes other than immediate fire protection.
3. Flushing gutters or permitting water to run or accumulate in any gutter or street.
4. Washing any motor bike, motor vehicle, boat, trailer, airplane or other vehicle in public or private garages or elsewhere.
5. Maintaining fountains, reflection ponds, and decorative water bodies for aesthetic or scenic purposes.
6. Filling or maintaining public or private swimming pools.
7. Sprinkling lawns, plants, trees, and other flora on private or public property, except as otherwise provided under the Ordinance.

B. Commercial and Industrial:

1. Serving water routinely in restaurants.
2. Increasing water levels in scenic and recreational ponds and lakes.

3. Irrigating golf courses and any portion of its grounds, except greens or as otherwise provided under this Ordinance.

4. Obtaining water from hydrants for any purpose other than firefighting.

5. Serving customers who have been given a 10-day notice to repair one or more leaks and has failed to comply.

6. Expanding commercial nursery facilities, placing new sod on commercial and/or residential sod after the drought proclamation, or planting or landscaping when required by site design review process.

(d) RESPONSES TO MODERATE, EXTREME, AND SEVERE DROUGHT ALERT PHASES

Levels of drought are set forth in this ordinance as moderate, severe, and extreme. Proclamations issued by the City of Bloomington, Illinois *City Manager*, in consultation with the Water Department *Director* shall coordinate an appropriate response to the level of drought which exists.

Proclamations setting forth responses to the various drought alert phases shall be made by the City of Bloomington, Illinois *City Manager*, in consultation with the Water Department *Director* and are to be based upon local and/or regional monitoring data.

A. Moderate Drought Alert Phase: If conditions indicate that a moderate drought condition is present and is expected to persist, the City of Bloomington, Illinois *City Manager* in consultation with the Water Department *Director* shall notify municipal and county governments and issue press releases concerning the drought conditions to the news media. Large or key water users will be contacted directly by the Water Department.

1. Goal:

(a) Public awareness and education of drought procedures and water saving.

(b) A five percent voluntary water use reduction for residential, commercial, industrial, institutional, wholesale and electric power generation purposes in order to extend the water supply for duration of the drought.

2. General Responses:

(a) Issue a Public Notice of Drought Conditions on water supply and demand in a newspaper of general circulation within the affected community and region. This statement shall include a list of non-essential water uses (SECTION (c)).

(b) Institute an increased water supply system maintenance effort to identify and correct water leaks by initiating a complete leak detection survey.

- Leaks greater than 100 gallons per minute under the control of the Water Department will be corrected within 72 hours of the Department becoming aware of the leak.

(c) Encourage customers of the City of Bloomington, Illinois Water Department to comply with the listed voluntary water-use restrictions in all categories while moderate drought conditions exist.

3. Water-Use Restrictions:

(a) Residential:

- Reduce domestic, landscaping, and water-based recreational activities such as swimming pools, water slides, and other related water activities.

(b) Commercial, Industrial, and Institutional:

- Reduce aesthetic, domestic, landscaping, and water-based recreational activities such as swimming pools, water slides, and other related water activities.
- Water sold for transport elsewhere (“water hauling”) shall have the rate doubled.

(c) Agricultural, Irrigation and Livestock:

- Implement conservation techniques, explore different water saving methods, and use alternative sources.

(d) Electric Power Generation:

- Implement conservation techniques, explore different water saving methods, and use alternative sources.

(e) Lake Bloomington

- Prohibit direct water withdrawals from Lake Bloomington

(f) Wholesale customers

- Water use reductions of five percent

4. Water Department Operational Procedures:

(a) Eliminate hydrant flushing, except that flushing necessary to maintain the water quality in the water distribution system.

B. Severe Drought Alert Phase: A drought of this severity requires official declaration and implementation of mandatory water use restrictions by the City of Bloomington, Illinois City Manager, in consultation with the Water Department Director. In such cases, the City Manager, in consultation with the Water Department Director will notify municipal and county governments in the affected drought areas. The Utility will also issue press releases concerning the drought conditions to the news media.

1. Goal:

(a) Generate a public response that helps alleviate drought stress through mandatory water use restrictions.

(b) A ten percent water use reduction for residential, agricultural, commercial, industrial, institutional, wholesale and electric power generation purposes.

2. General Responses:

(a) Issue a Public Notice of Drought Conditions on water supply and demand in a newspaper or general circulation within the affected community and region. This statement shall include a list of water- use curtailment measures.

(b) Require customers of the City of Bloomington, Illinois Water Department to comply with the listed water-use restrictions in all categories while severe drought conditions exist.

3. Water-Use Restrictions:

(a) Residential:

• Use low-volume hand-held applicators only and prohibit sprinklers, other remote broadcast devices, and water runoff in landscape design maintenance.

• Restrict landscape watering to Tuesday and Saturday for odd-numbered addresses, and Thursday and Sunday for even-numbered addresses.

(b) Commercial, Industrial, and Institutional:

- Prohibit aesthetic water use.
- Reduce domestic water use to minimum levels necessary for maintaining health and safety.
- Prohibit water-based recreational activities except facilities, such as swimming pools and other related water activities that require filtration and/or water recycling.
- Use low-volume hand-held applicators only and prohibit sprinklers, other remote broadcast devices, and water runoff in landscape design maintenance.
- Restrict landscape watering on Tuesday and Saturday for odd-numbered addresses, and Thursday and Sunday for even-numbered addresses.
- Water sold for transport elsewhere (“water hauling”) shall have the rate tripled and shall only be sold on Monday, Wednesday and Friday, 8a.m. to 4 p.m.

(c) Agriculture, Irrigation and Livestock:

- Implement conservation techniques, explore different water saving methods, and use alternative sources.
- Restrict irrigation use from 7:00 p.m. to 7:00 a.m.

(d) Electric Power Generation

- Implement conservation techniques, explore different water saving methods, and use alternative sources.

(e) Lake Bloomington

- Prohibit direct water withdrawals from Lake Bloomington

(f) Wholesale Customers

- Water use reductions of ten percent.

4. Water Department/City Operational Procedures

- Prohibit the use of water-based recreational activities that rely on single use water supply, such as municipal water parks.

- Enact a 24-hour, service-area wide, monitoring system to evaluate the community's response and cooperation to drought procedures.
- Reduce the water supply hydraulic grade-line (levels in water towers) by five feet.

C. Extreme Drought Alert Phase: The City of Bloomington, Illinois City Manager, in consultation with the Water Department Director will notify municipal and county governments in the affected drought areas, and issue press releases concerning the drought conditions to the news media. Water-use restrictions imposed during extreme drought conditions are mandatory.

1. Goal:

- (a) A fifteen percent water use reduction for residential, institutional, agricultural, commercial, industrial, and electric power generation purposes.

2. General Responses:

- (a) Issue a Public Notice of Drought Conditions on water supply and demand in a newspaper of general circulation within the affected community and region. This statement shall include a list of water- use curtailment measures.

- (b) Require customers of the City of Bloomington, Illinois Water Department to comply with the listed water-use restrictions in all categories while extreme drought conditions exist.

3. Water-Use Restrictions:

(a) Residential:

- Reduce domestic water use to minimum levels necessary to maintain health and safety.
- Prohibit water-based recreational activities except facilities, such as swimming pools and other related water activities that employ filtration and/or water recycling.
- Use low-volume hand-held applications only and prohibit sprinklers, other remote broadcast devices, and water runoff in landscape design maintenance.
- Restrict landscape watering on Tuesday and Saturday for odd-numbered addresses, and Thursday and Sunday for even-numbered addresses.

(b) Commercial, Industrial, and Institutional:

- Prohibit aesthetic water use.
- Reduce domestic water use to minimum levels necessary for maintaining health and safety.
- Prohibit water-based recreational activities except facilities, such as swimming pools and other related water activities that employ filtration and/or water recycling.
- Use low-volume hand-held applications only and prohibit sprinklers, other remote broadcast devices, and water runoff in landscape design maintenance.
- Restrict landscape watering on Tuesday and Saturday for odd-numbered addresses, and Thursday and Sunday for even-numbered addresses.
- Cease selling water for transport elsewhere (“water hauling”).

(c) Agriculture, Irrigation and Livestock:

- Implement conservation techniques, explore different water saving methods, and use alternative sources.
- Restrict irrigation use from 12:00 a.m. to 4:00 a.m.

(d) Electric Power Generation

- Implement conservation techniques, explore different water saving methods, and use alternative sources.

(e) Lake Bloomington

- Prohibit direct water withdrawals from Lake Bloomington.

(f) Wholesale Customers

- Water use reductions of fifteen percent.

4. Water Department/City Operational Procedures

- Prohibit water-based recreational activities except facilities, such as swimming pools and other related water activities that require filtration and/or water recycling.

- Prohibit the use of water-based recreational activities that rely on single use water supply, such as municipal water parks.
- Prohibit water-based street cleaning.
- Enact a 24-hour Water Department monitoring system to evaluate the community's response and cooperation to drought procedures.
- Reduce the water supply hydraulic grade-line (levels in water towers) by ten feet.
- Eliminate golf course irrigation, except for greens

(e) NEW WATER SERVICE CONNECTIONS

Correspondence regarding water availability, pipeline extension agreements, and applications requesting service, received and dated after the date of this Ordinance shall include conditions relating to water shortages.

No applications for new, additional, further expanded, or an increase in size of water service connections, meters, service lines, pipeline extensions, approved or installed unless such action is in compliance with provisions of this Ordinance.

(f) WATER RATES

In the event of an extreme drought related water shortage, the City of Bloomington, Illinois *City Manager in conjunction with the Water Department Director* is hereby authorized to monitor water use. Under extreme drought conditions the Water Department's drought water rates will be enacted through the duration of the drought for all water users except as otherwise noted in this Ordinance. These water rates are defined as the water rates in effect at the time of the extreme drought declaration multiplied by 1.50.

(g) RATIONING

In the event that a drought or other condition(s) threaten(s) the preservation of public health and safety, the City of Bloomington, Illinois *City Manager, in consultation with the Water Department Director* is hereby authorized to ration water.

(h) FINES AND PENALTIES

Except as otherwise stated herein, violators of any provision of this Ordinance shall be penalized.

Violation Classification Penalty

- First offense infraction in severe drought – Courtesy reminder to implement procedures

- First offense infraction in extreme drought -- ~~\$50.00~~ \$100.00
- Second offense infraction within the same drought period -- ~~\$100.00~~ \$200.00
- Third and subsequent offense within the same drought period -- ~~\$250.00~~ \$500.00
- The aforementioned fines and penalties may be in lieu of, or in addition to, any other penalty provided by law.

(ii) ENFORCEMENT

Employees of the City of Bloomington, Illinois Water Department, City of Bloomington police officers, firefighters, and plumbing inspectors have the duty, and are hereby authorized to enforce the provisions of this Ordinance and shall have the power and authority to issue written notices to appear when violations of this Ordinance occur during any declared severe or extreme drought or water shortage.

(j) VARIANCES

Persons not capable of immediate water use reduction, or curtailment, because of equipment damage or other extreme circumstances, shall commence gradual reduction of water use within twenty-four hours of the declaration of water use curtailment/reduction and shall apply for a variance from curtailment.

Persons requesting exemption from the provisions of this Ordinance shall file a petition for variance with the City of Bloomington, Illinois *City Manager* ~~Water Department~~ within ten days after such curtailment becomes effective.

When the Drought Ordinance has been invoked by the City of Bloomington, Illinois *City Manager*, in consultation with the Water Department Director, all petitions for variances shall be reviewed by the City of Bloomington, Illinois *City Manager* in consultation with the Water Department Director. Petitions shall contain the following:

1. Name and address of the petitioner(s).
2. Purpose of water use.
3. Specific provisions from which the petitioner is requesting relief.
4. Detailed statement as to how the curtailment declaration adversely affects the petitioner.
5. Description of the relief desired.

6. Period of time for which the variance is sought.
7. Economic value of the water use.
8. Damage or harm to the petitioner or others if petitioner complies with Ordinance.
9. Restrictions with which the petitioner is expected to comply and the compliance date.
10. Steps the petitioner is taking to meet the restrictions from which variance is sought and the expected date of compliance.
11. Other pertinent information.

In order for a variance to be granted, petitioner must show one of more of the following conditions:

- A. Compliance with the Ordinance cannot be technically accomplished during the duration of the water shortage.
- B. Alternate methods can be implemented which will achieve the same level of reduction in water use.

The City of Bloomington, Illinois *City Manager in consultation with the* Water Department Director may, in writing, grant temporary variances for existing water uses otherwise prohibited under the Ordinance if it is determined that failure to grant such variances would cause an emergency condition adversely affecting health, sanitation, or fire protection for the public or the petitioner and if one or more aforementioned conditions is met. The City of Bloomington, Illinois *City Manager in consultation with the* Water Department ~~Water~~ Director shall approve or deny any such variance. Any such variance so ratified may be revoked by later action of the City of Bloomington, Illinois *City Manager in consultation with the* Water Department Director. ~~Any such variance denied by the City of Bloomington, Illinois Water Department Director can be appealed to the City of Bloomington, Illinois City Manager.~~

No such variance shall be retroactive or otherwise justify any violation of this Ordinance occurring prior to the issuance of the variance.

Variances granted by the City of Bloomington, Illinois ~~Water Department Director or City Manager~~ shall be subject to the following conditions, unless waived or modified by the City of Bloomington, Illinois ~~Water Department or City Manager~~.

- A. Variances granted shall include a timetable for compliance.
- B. Variances granted shall expire when the water shortage no longer exists, unless the petitioner has filed to meet specified requirements.

(k) STATUS OF THE ORDINANCE

In the event that any portion of this Ordinance is held to be unconstitutional for any reason, the remaining portions of the Ordinance shall not be affected. The provisions of this Ordinance shall prevail and control in the event of any inconsistency between this Ordinance and other rules and regulations of the City of Bloomington, Illinois and/or State of Illinois.

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 ten (10) days after the date of its publication.

PASSED this 23rd day of July, 2012.

APPROVED this 24th day of July, 2012.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Mayor Stockton introduced this item. He noted the Council's past discussions regarding a drought ordinance and the current weather.

David Hales, City Manager, addressed the recommended changes to this Text Amendment which had been provided to the Council via Addendum II. The recommended changes involved the City Manager as the key role player when evoking the drought ordinance. He viewed this change as important and questioned the Council's interest in further discussions regarding same. He noted his past experience addressing drought situations. The community needs to keep in the mind the good of the whole during a drought.

Craig Cummings, Water Director, addressed the Council. He provided the Council with an update. He expressed his opinion that cost would impact water usage. The first step of water management is conservation. The City has a clear plan. Currently the two (2) lakes were down 5.8'. The first drought trigger occurred at eight feet, (8'). At this level, the City would be in a moderate drought. City staff would watch water demands at this point. The City would encourage voluntary compliance to all water customers. Mr. Cummings noted that the customer base was larger than City residents and businesses. This would be labeled a moderate drought and the City would request a five percent (5%) reduction in water usage. He informed the Council that meetings had been held with State Farm Insurance. The Water Department would be issuing a Request for Proposal (RFP) regarding Water Conservation. The second drought trigger level occurred at ten feet (10'). There would be additional restrictions. The third drought trigger level occurred at twelve feet (12'). There would be additional restrictions plus fines. Water needed to be preserved for essential services. He viewed this Text Amendment as a living document which could be amended as needed.

Alderman Purcell requested clarification regarding water levels. Mr. Cummings informed the Council that City staff had contacted the Corp of Engineers regarding the City's permit. City staff was attempting to determine the volume of water for each lake. Alderman Purcell addressed the City's permit which allows water to be pumped from the Mackinaw River to fill the lakes.

Alderman Fruin encouraged the Council to support the amended Text Amendment. He also recommended that the fine amounts be doubled. He noted the time spent by City staff to enforce this ordinance. He expressed his belief that the fee structure was out of date. The City needed to cover the cost of processing a fine.

Alderman Fazzini expressed his belief that businesses would be protected during a drought. He also hoped that residents who had just sodded their lawns would be granted an exemption. Mr. Cummings directed the Council to subsection (j) Variances. City staff would consider the investment.

Alderman Mwilambwe questioned if the fine amounts were high enough for the City's largest water users. Mr. Cummings reminded the Council that the City has the shut off key. He added that there were other enforcement tools available to City staff. He expressed his hope that during a drought the customers would respond. The goal of this ordinance was to change behavior.

Mayor Stockton noted that the ordinance addressed water usage. If a customer used an alternative water source, that use would be exempt from this ordinance. Mr. Cummings responded affirmatively. He cited the use of water from detention basins as an example. The City would encourage the use of alternative water sources. He cited rain barrels as another example. The Water Department already had records of addresses with alternative water sources.

Alderman Purcell noted that the lake level was currently down by 5.8'. He questioned when water rates would be increased. Mr. Cummings noted during an extreme drought or a drop of lake level equal to twelve feet (12'). During an extreme drought water rates would double and there would be no bulk water hauling allowed.

Motion by Alderman Fazzini, seconded by Alderman Fruin that the amended Text Amendments be approved and the Ordinance passed.

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

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

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Construction Contract for the Fire/Rescue Training Tower Analysis of Bid

RECOMMENDATION/MOTION: That a professional services contract for \$327,232.70 be awarded to PJ Hoerr Normal, IL for the construction of the Fire/Rescue Training Tower located at 1911 E. Hamilton Rd, and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: The Farnsworth Group, Inc. prepared an invitation to bid for the construction of the Fire/Rescue Training Tower on behalf of the City. The scope of this invitation includes: installation of new concrete footings, foundations, slabs interior and exterior light fixtures, site work, erection and construction of a pre-manufactured fire training tower and other necessary items and incidentals relating to the Fire/Rescue Training Tower.

A pre-bid meeting was held at Fire Station #2 on Monday, July 2, 2012 with eight (8) firms represented. At City Hall on Tuesday, July 10, 2012 at 2:00 p.m. sealed bids were publicly opened and read. A review of those bids was conducted by both Farnsworth Group personnel and Fire Department staff.

PJ Hoerr	Normal, IL	\$327,232.70	** Recommended
Tarter Construction	Bloomington, IL	\$391,720.00	

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: An Initiation to Bid notice was placed in the Pantagraph newspaper and was posted on both the City and the Farnsworth Groups websites.

The following is a plan holder's list for this project:

Aupperle Construction	Johnson Controls
Bidclerk	Johnston Contractors
Bidtool	Leander Construction, Inc.
Buddy's Grounds Maintenance, Inc.	McGraw-Hill
Central Illinois Plan Room	National Pump & Compressor
Conrad Sheet Metal	Nielsen Building Systems, inc.
Cornerstone Construction, LLC	PJ Hoerr
D. Joseph Construction Company	PDH Landscaping Group, LLC
D.J. Sickley Construction Company, Inc.	Reed Construction Data
Diversa Tech Metal Fab, LLC	Southern Illinois Builders Association
F & W Lawn Care and Landscaping Company	Standard Heating & Cooling
George Gildner, Inc.	Stark Excavating, Inc.
Greater Peoria Contractors & Suppliers Assoc., Inc.	Tarter Construction LLC
Hein Construction Company	Tech Electronics
Illowa Builders Exchange	Uesco Cranes
Intra-Plant Maintenance	United Contractors Midwest
ISQFT Plan Room	Weber Electric, Inc.
J.G. Stewart Contractors, Inc.	Wilcox Electric & Service
Johnco Construction, Inc.	Williams Brothers Construction, Inc.

FINANCIAL IMPACT: The FY 2013 Budget appropriated \$650,000 for the construction of the Fire/Rescue Training Tower in line item 40100100-72520. The City has allocated \$85,000 to Farnsworth and this memo is proposed to allocate \$327,233 for the continual construction of the facility. Staff expects further cost such as construction phase testing, contingency to be incurred in the upcoming months during the construction of the facility.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Financial review by:

Eric Vaughn
Assistant Chief/Officer

Michael Kimmerling
Fire Chief

Patti-Lynn Silva
Director of Finance

Recommended by:

David A. Hales
City Manager

Mayor Stockton introduced this item.

David Hales, City Manager, recommended that this item be approved.

Alderman Fazzini noted that the project appeared to be within budget.

Motion by Alderman Fazzini, seconded by Alderman Anderson that the bid for the Fire Training Tower be awarded to PJ Hoerr, Normal, IL, in the amount of \$327,232.70, and the Mayor and City Clerk be authorized to execute the necessary documents.

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

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

Nays: None.

MAYOR'S DISCUSSION: Mayor Stockton addressed the "Ain't Nothin But the Blues" festival. The Liquor Commission took various decibel meter readings. These readings ranged between fifty-two to sixty-four (52 – 64) decibels. A level below seventy (70) was permitted. The stage was relocated and the music stopped at 10:30 p.m. The liquor license holder was in compliance.

He also addressed the Lincoln Days Festival which were held on Saturday and Sunday, July 21 – 22, 2012. This event was well done and worth attending.

CITY MANAGER'S DISCUSSION: David Hales, City Manager, addressed the Council. He addressed the updated City Council Future Agenda Topics. The second page listed items for the months of August and September 2012. He noted the need to set the dates for the Council's fall retreat. The retreat would address policy issues, the Fiscal Year 2014 budget and pension studies. He planned to move the budget process up by two (2) months to allow additional time for Council review. He recommended that the retreat be held on a Friday and Saturday. Saturday would be dedicated to the budget.

He also addressed the work load. The Council has made additions to this list. Work Sessions would be scheduled for two (2) hours on the Council's first meeting of the month, (second Monday of the month). He also noted the need for Executive Sessions. He noted time limitations. He believed that the Council's Rules of Procedure had helped with meeting efficiency. The Council Agenda contained time limits for various items which have appeared on the Regular Agenda.

The Council has expressed an interest in discussing spending priorities and revenues (taxes, fees, etc.). He requested that the Council review this document. He viewed it as a work in progress. He hoped the Council would find this information helpful. He welcomed their feedback.

ALDERMEN'S DISCUSSION: Alderman McDade expressed her pleasure at the opportunity to serve on the 50th Anniversary Committee. She acknowledged the efforts of Harriet Steinbach. She informed the Council that on Wednesday, July 25, 2012 the delegation would be at City Hall at 9:00 a.m. They would also take a Downtown art tour and spend an afternoon at the Bloomington Center for the Performing Arts engaged in cultural activities. She extended an invitation to all to attend the closing ceremony at the

Marriott in Uptown Normal on Thursday evening, July 27, 2012. She thanked the Mayor for his efforts to make this 50th Anniversary celebration a success.

She also requested that the fall retreat dates be selected soon.

Alderman Sage addressed the topic of aldermanic subcommittees. He requested additional information. There was a lot of work to be done. He expressed his interest in making efficient use of the Council's time. He would need a better understanding in order to make an informed decision. He recommended that a Work Session be scheduled on this topic.

Alderman Fruin noted the Japanese delegation which had attended this evening's meeting. He acknowledged their culture. He cited their respectfulness and decorum.

He addressed the number of Future Agenda Topics. He believed that there were too many issues and the Council needed to reduce their number. The Council should identify the low hanging fruit.

Alderman Mwilambwe also addressed the blues festival. He noted the cooperation. It was a nice event.

He also addressed video gaming. The Council may need to restate what was important. He noted the link between gambling and revenue. There was speculation regarding social costs. The City needed to take a wait and see attitude.

Alderman Anderson echoed Alderman Sage's comments regarding aldermanic subcommittees.

Alderman Schmidt echoed Alderman Anderson's comments. She added that Iowa City, IA had an Economic Development Committee.

She informed the Council that the 700 W. Jefferson St. Block Party was a success. She noted the support from City staff.

Alderman Fazzini requested the dates for the fall retreat in the next ten (10) days.

Motion by Alderman Anderson, seconded by Alderman Purcell, that the meeting be adjourned. Time: 8:38 p.m.

Motion carried.

**Tracey Covert
City Clerk**