

**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, December 8, 2014.

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, Kevin Lower, David Sage, Diana Hauman, Joni Painter, Scott Black, Karen Schmidt, Jim Fruin and Mayor Tari Renner.**

City Manager David Hales, City Clerk Tracey Covert, and Corporate Counsel Jeff Jurgens were also present.

**PUBLIC COMMENT:** Mayor Renner opened the Public Comment section of the meeting. He added that there would not be a response from the City under the Public Comment portion of the meeting.

Rick Phillippe, #4 Tyne Ct., Unit #2, addressed the Council. He had visited a local antique store and presented the Council with photographs of the bridges on Main and Center St., (US 51 North and South). In his opinion, the concrete was failing and the bridges were in dangerous condition.

Alton Franklin, 508 Patterson Dr., addressed the Council. He believed that the \$750,000 legislative grant was gone. Further conversation regarding same was a waste of time. The Council had more important things to do. He was interested in the Council's maturation. The Council needed to make positive, constructive decisions. He believed that David Hales, City Manager, had enough power. The goal of the proposed Procurement Ordinance was efficiency. The Council's responsibility was to serve the City.

Diane Benjamin, 27248 E 1100 N. Rd., Ellsworth, addressed the Council. She thanked City staff for removing the ammunition purchase from the meeting agenda. She explained from her perspective why this item had been removed.

She had filed a lawsuit against the City regarding FOIA, (Freedom of Information Act), requests. Court was scheduled on December 23, 2014. She had received some records. An offer was made to settle. She cited a FOIA request filed in October 2014. She had no response from the City regarding same.

She addressed the trial balance which listed loan to employee in the amount of \$10,000. This was an illegal and criminal offense. She had filed a second request for

Central Illinois Arena Management's (CIAM), payroll which was close to \$1 million. She had also requested concession sale information from the Jason Aldean concerts. She believed that machines had been purchased to track concession sales. No one was looking at this information. There was no press coverage in Bloomington Normal. She was informing the citizens and encouraged the Council to follow the law.

Jason Schmidgall, 92.2 Radio, 108 Boeykens, Normal, addressed the Council. The people were broke and the Council raised a variety of taxes. The \$750,000 legislative grant should be returned to the taxpayers.

**The following was presented:**

Introduction & Oath – Nicole Albertson, Human Resources Director.

David Hales, City Manager, addressed the Council. He introduced Nicole Albertson, Human Resources Director. Ms. Albertson came to the City from Heritage Enterprises. He reviewed her work history. She also was an adjunct professor at Lincoln Community College. She was an Illinois State University graduate and well known in the community. He welcomed Ms. Albertson to the City.

**Tracey Covert, City Clerk, performed the Oath.**

**The following was presented:**

**SUBJECT:** Council Proceedings of November 24, 2014, Retreat Minutes for November 7 and 8, 2014 and Public Hearing Minutes for November 24, 2014

**RECOMMENDATION/MOTION:** That the reading of the minutes of the previous Council Proceedings of November 24, 2014, Retreat Minutes for November 7 and 8, 2014 and Public Hearing Minutes for November 24, 2014 be dispensed with and the minutes approved as printed.

**STRATEGIC PLAN LINK:** Goal 1. Financially sound City providing quality basic services.

**STRATEGIC PLAN SIGNIFICANCE:** Objective 1d. City services delivered in the most cost-effective, efficient manner.

**BACKGROUND:** The Council Proceedings of November 24, 2014, Retreat Minutes for November 7 and 8, 2014 and Public Hearing Minutes for November 24, 2014 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: Tracey Covert, City Clerk

Recommended by:

David A. Hales  
City Manager

**Motion by Alderman Painter, seconded by Alderman Hauman that the reading of the minutes of the previous Council Proceedings of November 24, 2014 and Retreat Minutes of November 7 and 8, 2014 and Public Hearing Minutes of November 24, 2014 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, Painter, Lower, Hauman, Sage, Fruin and Black.**

**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.

**STRATEGIC PLAN LINK:** Goal 1. Financially sound City providing quality basic services.

**STRATEGIC PLAN SIGNIFICANCE:** Objective 1d. City services delivered in the most cost-effective, efficient manner.

**BACKGROUND:** The list of bills and payrolls will be posted on the City's website on December 4, 2014.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** Not applicable.

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

Respectfully submitted for Council consideration.

Prepared by: Tracey Covert, City Clerk

Financial & budgetary review by: Patti-Lynn Silva, Director of Finance

Recommended by:

David A. Hales  
City Manager

**Motion by Alderman Painter, seconded by Alderman Hauman 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, Painter, Lower, Hauman, Sage, Fruin and Black.**

**Nays: None.**

**Motion carried.**

**The following was presented:**

**SUBJECT:** Request for Proposal (RFP) for the Replacement Cisco Wireless Controllers (RFP #2015 - 38)

**RECOMMENDATION/MOTION:** Recommend that the RFP for two (2) replacement Cisco 5508 Wireless Controllers and professional implementation services with Sentinel Technologies Inc., be approved, in the amount of \$51,739.05, and the Mayor and City Clerk authorized to execute the necessary documents.

**STRATEGIC PLAN LINK:** Goal 1. Financially sound City providing quality basic services.

**STRATEGIC PLAN SIGNIFICANCE:** Objective 1d. City services delivered in the most cost effective, efficient manner.

**BACKGROUND:** An RFP was released to certified Cisco partners soliciting proposals for the sale and implementation of the replacement wireless controllers. One (1) response was received from Sentinel Technologies, Springfield, IL.

The current wireless infrastructure consists of access points and controllers mounted in network closets throughout facility locations. The controllers are used to setup and manage the access points from a central console.

These wireless controllers and many access points were installed during the winter of 2005 – 2006. They are in need of replacement/upgrade. The replacement will remove roughly nine (9) year old equipment from the network and allow use of more recent, higher capacity wireless network protocols and technology. The current controllers are able to provide redundant support for only fifty (50) access points. The replacement controllers will allow management of up to 100 access points initially, with the ability to add licensing to manage up to 500. The new controllers are also compatible with all existing access points.

<b>Company</b>	<b>Location</b>	<b>Proposal Amount</b>
Sentinel Technologies, Inc.	Springfield, IL	\$51,739.05

Sentinel Technologies provides the current maintenance contract for the network and Voice over IP (VoIP) infrastructures. The proposal is within the FY 2015 \$60,000 budget estimate for the project.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** Not applicable.

**FINANCIAL IMPACT:** Funding for the purchase of the replacement wireless controllers and professional implementation services were budgeted in the Information Services Capital Outlay Office and Computer Equipment account as part of the Capital Lease Program (40110131 - 72120) within the FY 2015 budget. Stakeholders can locate this in the FY 2015 Budget Book titled “Other Funds and Capital Improvement Program” on page 107.

Respectfully submitted for Council consideration.

Prepared by: Scott A. Sprouls, Director of Information Services

Reviewed by: Alexander S. McElroy, Asst. to the City Manager

Financial & Budgetary review by: Chris Tomerlin, Budget Analyst  
Carla A. Murillo, Budget Manager

Legal review by: Angela Fyans-Jimenez, Deputy Corporation Counsel

Recommended by:

David A. Hales  
City Manager

**Motion by Alderman Painter, seconded by Alderman Hauman that the RFP for two (2) replacement Cisco 5508 Wireless Controllers and professional implementation services with Sentinel Technologies Inc., be approved, in the amount of \$51,739.05, and the Mayor and City Clerk authorized to execute the necessary documents.**

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

**Ayes: Aldermen Stearns, Mwilambwe, Schmidt, Painter, Lower, Hauman, Sage, Fruin and Black.**

**Nays: None.**

**Motion carried.**

**The following was presented:**

SUBJECT: Purchase Six (6) Police Pursuit Vehicles Utilizing State of Illinois Joint Purchasing Contract

**RECOMMENDATION/MOTION:** Recommend that the purchase six (6) Police Interceptor Utility vehicles utilizing State of Illinois Joint Purchasing Contract #4017160, from Morrow Brothers Ford, Greenfield, IL be approved, in the amount of \$180,840, and the Procurement Manager be authorized to issue a Purchase Order for same.

**STRATEGIC PLAN LINK:** Goal 1. Financially sound City providing quality basic services.

**STRATEGIC PLAN SIGNIFICANCE:** Objective 1d. City services delivered in the most cost-effective, efficient manner.

**BACKGROUND:** Currently there are six (6) marked patrol units that require replacement in this Fiscal Year (FY) Budget. These units will have over 100,000 miles once replaced. Equipment will be transferred to the new units.

The current police fleet consists of Chevrolet Impalas, Caprices, Tahoes and Ford Crown Victoria's, Police Interceptor Sedans and Utilities. There is a mix of vehicles so that the entire fleet is not down due to a safety recall of which there have been many the past few years. The new units were selected for patrol use because of the increased driver interior space and all-wheel drive capability for use in snow and ice events and are pursuit rated.

Normal replacement of marked patrol cars is 100,000 miles. Total repair and maintenance on same is \$118,745.97. Staff respectfully requests replacement of six (6) units. These units are scheduled replacement or require repairs in excess of their value. Staff respectfully requests to have the replacement units declared surplus and sold at public auction.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** Not applicable.

**FINANCIAL IMPACT:** The FY 2015 Budget includes the replacement of these vehicles under the FY 2015 Capital Lease - Capital Outlay Licensed Vehicles (40110131 - 72130). The budgeted amount is \$187,800. The replacement units will cost \$180,840. Stakeholders can locate this in the FY 2015 Budget Book titled "Other Funds & Capital Improvement Program" on page 264.

Respectfully submitted for Council consideration.

Prepared by: Rob Kronen, Superintendent of Fleet Maintenance

Reviewed by: Jim Karch, PE CFM, Director of Public Works

Financial & budgetary review by: Chris Tomerlin, Budget Analyst  
Carla A. Murillo, Budget Manager

Legal review by: Angela Fyans-Jimenez, Deputy Corporation Counsel

Recommended by:

David A. Hales  
City Manager

**Motion by Alderman Painter, seconded by Alderman Hauman that purchase six (6) Police Interceptor Utility vehicles utilizing State of Illinois Joint Purchasing Contract #4017160, from Morrow Brothers Ford, Greenfield, IL be approved, in the amount of \$180,840, and the Procurement Manager 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, Painter, Lower, Hauman, Sage, Fruin and Black.**

**Nays: None.**

**Motion carried.**

**The following was presented:**

SUBJECT: Amended Mutual Aid Box Alarm System (MABAS) Agreement

**RECOMMENDATION/MOTION:** Recommend that the amended agreement be approved, the Mayor and City Clerk authorized to execute the necessary documents, and the Resolution adopted.

**STRATEGIC PLAN LINK:** Goal 1. Financially sound City providing quality basic services.

**STRATEGIC PLAN SIGNIFICANCE:** Objective 1e. Partnering with others for the most cost-effective service delivery.

**BACKGROUND:** The Fire Department has been a member of MABAS Illinois since 1997. Resolution 1997 - 97 approved on November 24, 1997 allowed membership to MABAS.

The MABAS organization consists of approximately 1,100 Illinois Fire Departments that are grouped into sixty-nine (69) divisions including the City of Chicago. The organization was established to provide statewide mutual aid. The agreement replaced all existing individual mutual aid agreements. MABAS provides substantial resources required in a natural disaster either intrastate or interstate.

The amended agreement is in compliance with FEMA Recovery Policy (RP9523.6). This policy references the reimbursement claims for disaster mobilization, associated with the federal requirements of the Stafford Act.

The amendment establishes reimbursement for any assistance provided to a community exceeding eight (8) hours. It also provides the ability to recover salary expenses over the normal level of compensations such as the overtime and backfill.

The agreement offers eligibility to participate in deployments and the ability to recover added expenses created by a statewide or interstate deployment.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** Not applicable.

**FINANCIAL IMPACT:** Not applicable.

Respectfully submitted for Council consideration.

Prepared by: Les Siron, Interim Fire Chief

Financial & budgetary review by: Chris Tomerlin, Budget Analyst  
Carla A. Murillo, Budget Manager

Legal review by: Angela Fyans-Jimenez, Deputy Corporation Counsel



Recommended by:

David A. Hales  
City Manager

**RESOLUTION NO. 2014 – 63**

**A RESOLUTION TO AMEND THE FIRE MUTUAL AID BOX ALARM SYSTEM  
(MABAS) AGREEMENT**

WHEREAS, all parties have been participating in the Mutual Air Box Alarm System (MABAS) to provide for communication procedures and other necessary functions to further the provision of said protection of life and property from an emergency or disaster; and

WHEREAS, the first Addendum to the existing MABAS contract has been drafted to incorporate changes since 1997; and

WHEREAS, the Constitution of the State of Illinois, 1970, Article VII, Section 10, authorizes units of local government to contract otherwise associate among themselves in any manner not prohibited by law or ordinance; and

WHEREAS, 5 ILCS 220/1 et. seq., entitled “Intergovernmental Cooperation Act,” provides that any power or powers, privileges or authority exercised or which may be exercised by a unit of local government may be exercised and enjoyed jointly with any unit of local government; and

WHEREAS, 5 ILCS 220/5 provides that any one or more public agencies may contract with any one or more public agencies to perform any governmental service, activity or undertaking which any of the public agencies entering into the contract is authorized by law to perform, provided that such contract shall be authorized by the governing body of each party to the contract; and

WHEREAS, the parties hereto have determined that it is in their best interest to enter into this Agreement to secure to each the benefits of mutual aid in fire protection, firefighting, and the protection of life and property from an emergency or disaster; and

WHEREAS, the purpose of said organization is to establish procedures to be followed in an emergency situation that threatens or causes loss of life and property and exceeds the physical and organizational capabilities of a single unit of local government; and

WHEREAS, the City Council of the City of Bloomington after due investigation has determined that continued membership in said organization will benefit the residents of said City of Bloomington.

BE IT ORDAINED by the Mayor and City Council of the City of Bloomington, McLean County, Illinois as follow:

That the Mayor and City Clerk be and are hereby authorized to execute an Amended Agreement for participation in the Mutual Aid Box Alarm System, a copy of said Amended Agreement being attached hereto and being made a part thereof.

ADOPTED this 8<sup>th</sup> day of December, 2014.

APPROVED this 9<sup>th</sup> day of December, 2014.

APPROVED:

Tari Renner  
Mayor

ATTEST:

Tracey Covert  
City Clerk

(CONTRACT ON FILE IN CLERK'S OFFICE)

**Motion by Alderman Painter, seconded by Alderman Hauman that the amended agreement be approved, the Mayor and City Clerk authorized to execute the necessary documents, and the Resolution adopted.**

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

**Ayes: Aldermen Stearns, Mwilambwe, Schmidt, Painter, Lower, Hauman, Sage, Fruin and Black.**

**Nays: None.**

**Motion carried.**

**The following was presented:**

SUBJECT: Waiver of Bid #2015 - 37 for Topsoil Processing Machine

**RECOMMENDATION/MOTION:** Recommend that the City waive the formal bid process for Topsoil Processing Machine, City staff be granted authority to purchase the Royer 264 Topsoil Processing Machine from Royer Industries, in the amount of \$55,890, the Procurement Manager be authorized to issue a Purchase Order, and the Resolution adopted.

**STRATEGIC PLAN LINK:** Goal 1. Financially sound City providing quality basic services.

**STRATEGIC PLAN SIGNIFICANCE:** Objective 1a. Budget with adequate resources to support defined services and level of service and 1b. City services delivered in most cost-effective, efficient manner.

**BACKGROUND:** Bids were taken with a due date of October 9, 2014 and rebid with a due date of November 19, 2014. No proposals were received.

The Park Maintenance Division uses over 3,000 cubic yards of soil a year in backfilling of stump holes. These holes are typically in residential parkways and require quality soil for seed germination. In addition quality soil is constantly needed for filling of holes and washouts in the parks, golf courses, right of ways and Constitution Trail. All landscape beds and pots consistently need soil as well. The division currently acquires rough dirt from City stockpiles at Water Department, The Grove Subdivision and Mitsubishi Rd. extension. This dirt is then processed into quality soil through the machine. The current machine is a 1990 model Royer 300. It has had extensive repairs and is no longer useable. This new machine will be available to assist other departments as well in providing quality soil.

Royer Industries were contacted on November 20, 2014. A quote for a Royer 264 Topsoil Processing Machine was submitted. The quote includes a trade in for the 1990 Royer 300 valued at \$5,000.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** Published in The Pantagraph on September 17, 2014 and October 31, 2014. No submittals received by the bid deadline. The following companies requested and received a copy of Bid #2015 - 37.

Screen USA, Inc	Smyrna, GA
Royer Industries	OshKosh, WI
Argus Industrial	Pontiac, MI
Prime Vendor Inc.	Wilmington, NC
Finkbinder Equipment Co.	Burr Ridge, IL

**FINANCIAL IMPACT:** The FY 2015 Budget includes \$65,000 to replace the topsoil processing machine (listed as Dirt Grinder in FY 2015 Budget). This is budgeted in the FY 2015 Capital Lease - Capital Outlay Equipment Other than Office (40110131 - 72140). Stakeholders can find this in the FY 2015 Budget Book titled "Other Funds & Capital Improvement Program" on page 264.

Respectfully submitted for Council consideration.

Prepared by: David Lamb, Asst. Superintendent of Parks

Reviewed by: Robert Moews, Superintendent of Parks

Reviewed by: Bobbie Herakovich, Interim Director of Parks, Rec. & Cultural Arts

Financial & budgetary review by: Chris Tomerlin, Budget Analyst  
Carla A. Murillo, Budget Manager

Legal review by: Angela Fyans-Jimenez, Deputy Corporation Counsel

Recommended by:

David A. Hales  
City Manager

**RESOLUTION NO. 2014 - 64**

**A RESOLUTION WAIVING THE FORMAL BIDDING PROCESS AND  
AUTHORIZING THE PURCHASE OF TOPSOIL PROCESSING MACHINE FOR THE  
PARKS, RECREATION & CULTURAL ARTS DEPARTMENT FROM ROYER  
INDUSTRIES AT A PURCHASE PRICE OF \$55,890**

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

1. That the bidding process be waived and the Procurement Manager be authorized to Purchase a Topsoil Processing Machine at a Purchase Price of \$55,890.

ADOPTED this 8<sup>th</sup> day of December, 2014.

APPROVED this 9<sup>th</sup> day of December, 2014.

APPROVED:

Tari Renner  
Mayor

ATTEST:

Tracey Covert  
City Clerk

**Motion by Alderman Painter, seconded by Alderman Hauman that the formal bid process be waived for Topsoil Processing Machine, staff be granted authority to purchase the Royer 264 Topsoil Processing Machine from Royer Industries, in the amount of \$55,890, the Procurement Manager be authorized to issue a Purchase Order for the same, and the Resolution adopted.**

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

**Ayes: Aldermen Stearns, Mwilambwe, Schmidt, Painter, Lower, Hauman, Sage, Fruin and Black.**

**Nays: None.**

**Motion carried.**

**The following was presented:**

**SUBJECT:** Application of Around the Corner, Inc., d/b/a D R McKay's Bar & Grill, located at 909 N. Hershey Rd. Unit 2, requesting an TAS liquor license which would allow the sale of all types of alcohol by the glass for consumption on the premises seven (7) days a week

**RECOMMENDATION/MOTION:** Recommend that a TAS liquor license for Around the Corner, Inc., d/b/a D R McKay's Bar & Grill, located at 909 N. Hershey Rd. Unit 2, be created, contingent upon compliance with all applicable health and safety codes.

**STRATEGIC PLAN LINK:** Goal 4. Grow the local economy.

**STRATEGIC PLAN SIGNIFICANCE:** Objective 4.a. Retention and growth of current local business.

**BACKGROUND:** The Bloomington Liquor Commissioner Tari Renner called the Liquor Hearing to order to hear the application of Around the Corner, Inc., d/b/a D R McKay's Bar & Grill, located at 909 N. Hershey Rd. Unit 2, requesting an TAS liquor license which would allow the sale of all types of alcohol by the glass for consumption on the premises seven (7) days a week. Present at the hearing were Liquor Commissioners Tari Renner, Geoffrey Tompkins and Jim Jordan; George Boyle, Asst. Corporation Counsel, Clay Wheeler, Asst. Police Chief, and Tracey Covert, City Clerk; and Don Jones, owner/operator and Applicant's representative.

Commissioner Renner opened the liquor hearing and requested that the Applicant's representative address this request. Don Jones, owner/operator and Applicant's representative, addressed the Commission. His role would be operating manager and partner. Gary Biddle was the other corporate officer. Mr. Biddle held interest in two (2) other corporations with liquor licenses: Coppertop, Inc., d/b/a Coppertop Lounge located at 1107 W. Locust and Treehouse Lounge of Bloomington, Inc., d/b/a Treehouse Lounge located at 2060 Ireland Grove Rd. Both establishments held TAPS, (Tavern, All types of alcohol, Packaged sales, Sunday sales), liquor licenses. D R McKay's Bar & Grill would be located at the former Entourage Lounge.

Mr. Jones informed the Commission that he had twenty (20) years of restaurant experience. He was currently employed at Mugsy's Pub, 1310 N. Main St. D R McKay's would offer a pub atmosphere. There would be TV for watching sporting events. D R McKay's would offer lunch

specials and carry out service. It would be a nice place to grab a burger with friends. The emphasis would be on home cooked food. Four to five (4 – 5) craft beers would be on tap plus domestics. Entourage offered a great space with potential. He believed that there would be a good response from the community. People were looking for an alternative to the chain restaurants. There would be a manager on staff. Mr. Jones held the food service certificate and was also BASSET, (Beverage Alcohol Sellers and Servers Education and Training), certified.

Commissioner Renner questioned if there were other Tavern licenses in the area. Mr. Jones noted that there were a number of nearby restaurants.

Commissioner Tompkins cited the plan for home cooked food. Mr. Jones stated that due to the fact the percentage of food sales was unknown; the decision was reached to apply for a tavern license.

Commissioner Tompkins noted that the floor plan showed a gaming room. Mr. Jones informed the Commission that there would be dart boards and two (2) video gaming terminals. In addition, D R McKay's had a room for private parties.

Commissioner Renner questioned if Entourage had video gaming. Mr. Jones responded affirmatively, (*Entourage had been licensed for three/3 video gaming terminals*).

Commissioner Jordan noted that there was not a tavern located in this area. He questioned the logic of a tavern application. D R McKay's would offer comfort food and carry out service. He added that if there was no food available, then an establishment would need to offer entertainment. The Council had expressed concerns regarding video gaming. He noted that Mr. Jones was not comfortable committing to an "R" liquor license.

Mr. Jones reminded the Council that he had a business partner. Mr. Jones would oversee the day to day operations. His partner was the investor. Concerns had been raised regarding the percentage of food sales.

Commissioner Renner requested that City staff verify the type of license held by Entourage. (*Entourage held an RAS liquor license.*)

Commissioner Jordan believed that a Tavern license would open the door to video gaming.

George Boyle, Asst. Corporation Counsel, addressed the Commission. Video gaming was allowed if an establishment had a liquor license which allowed sale by the glass.

Commissioner Jordan stated that video gaming could be introduced at this establishment. He questioned neighborhood impact.

Commissioner Tompkins stated his comfort level with an RAS liquor license.

Commissioner Renner added that the City had recently amended the City Code to more clearly define the “R” license with an emphasis on food sales. He thought that this application represented a change of ownership. The Commission would not be setting a precedent.

Commissioner Jordan stated that there would not be live entertainment. D R McKay’s would offer some food. Video gaming would be a revenue source. He questioned the level of control. Liquor sales could not stand alone. Managing a liquor establishment was hard work. He expressed his concern as there was not a tavern in the area. He restated that video gaming would be a revenue stream.

Mr. Jones addressed his vision for D R McKay’s. He believed that there would be \$500,000 in food sales in the first year. The goal was fifty percent (50%) in food sales. Video gaming represented additional revenue. He believed that every tavern in the City offered video gaming.

Commissioner Renner cited a recent liquor violation hearing. He believed that the combination of a liquor license and video gaming can have a negative impact upon a neighborhood. D R McKay’s was not located in a residential neighborhood.

Commissioner Renner questioned if there was anyone presented who wished to speak in support of or in opposition to this application.

Rachel Jones, 1210 Bancroft Dr., Mr. Jones’ wife, addressed the Commission. She had been a frequent customer at Entourage. D R McKay’s would sell food. Her husband had twenty (20) years of experience in the restaurant business. This business opportunity was her husband’s dream. She requested that the Commission give consideration to this application. She added that there were numerous businesses in the City that offered video gaming.

Commissioner Tompkins questioned changing this application from a TAS to an RAS.

Commissioner Renner believed that there had been a tavern at this location in the past. (*VIV held a Tavern, Beer & wine only, Packaged sale, Sunday sales liquor license. This establishment closed in 2006*)

Commissioner Tompkins questioned if there would be an emphasis on video gaming, (i.e. signage). Mr. Jones informed the Council that D R McKay’s would be listed on a joint sign.

Commissioner Jordan expressed his appreciation to Mrs. Jones for her comments. Good food sells itself. He cited the applicant’s comfort level regarding an RAS license. A liquor license that allowed sales by glass would be eligible for video gaming. D R McKay’s would be advertised as a bar and grill. The Commission needed to be in line with the Council.

Commissioner Renner questioned if there were issues with Entourage. Clay Wheeler, Asst. Police Chief, addressed the Council. There had been calls for service. The incidents were not described as major.

Motion by Commissioner Tompkins, seconded by Commissioner Renner to recommend to the Council that a TAS liquor license for Around the Corner, Inc., d/b/a D R McKay's Bar & Grill, located at 909 N. Hershey Rd. Unit 2, be approved contingent upon compliance with all health safety codes.

Motion carried, (unanimously).

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** Public notice was published in the Pantagraph on October 27, 2014 in accordance with City Code. In accordance with City Code, approximately five (5) courtesy copies of the Public Notice were mailed on October 27, 2014. In addition, the Agenda for the November 4, 2014 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. Request is for a change of ownership. Annual fee for a TAS liquor license is \$2,210.

Respectfully submitted for Council consideration.

Recommended by:

Tari Renner  
Mayor

**Motion by Alderman Painter, seconded by Alderman Hauman that a TAS liquor license for Around the Corner, Inc., d/b/a D R McKay's Bar & Grill, located at 909 N. Hershey Rd. Unit 2, be created, contingent upon compliance with all applicable health and safety codes.**

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

**Ayes: Aldermen Stearns, Mwilambwe, Schmidt, Painter, Lower, Hauman, Sage, Fruin and Black.**

**Nays: None.**

**Motion carried.**

**The following was presented:**

SUBJECT: Council Meeting Dates for Calendar Year 2015

**RECOMMENDATION/MOTION:** That the Council Meeting dates be approved with the exception that the second meeting in December be held on December 21, 2015.



**STRATEGIC PLAN LINK:** Goal 1. Financially sound City providing quality basic services.

**STRATEGIC PLAN SIGNIFICANCE:** Objective 1d. City services delivered in the most cost-effective, efficient manner.

**BACKGROUND:** The Open Meeting Act, (OMA) requires that public notice be given of the regular schedule of meetings at the beginning of the calendar or fiscal year. The City has a history of preparing this list on the calendar year basis. City staff is currently in the process of preparing the Annual List of Meetings.

The Council's second meeting in December would fall on Monday, December 28, 2015, (the City's Christmas holidays will be Thursday and Friday, December 24 and 25, 2015). It is recommended that this meeting be moved to December 21, 2015. The OMA allows for a change to a single regular meeting date.

January 12 and 26, 2015	July 13, and 27, 2015
February 9 and 23, 2015	August 10 and 24, 2015
March 9 and 23, 2015	September 14 and 28, 2015
April 13 and 27, 2015	October 12 and 26, 2015
May 11 and 26 ( <i>Tuesday</i> ), 2015	November 9 and 23, 2015
June 8 and 22, 2015	December 14 and 21 ( <i>Third Monday</i> ), 2015

The Committee of the Whole meets on the third Monday of each. The exception would be that the Committee would not meet in December 2015.

January 20 ( <i>Tuesday</i> ), 2015	July 20, 2015
February 16, 2015	August 17, 2015
March 16, 2015	September 21, 2015
April 20, 2015	October 19, 2015
May 18, 2015	November 16, 2015
June 15, 2015	

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** Not applicable.

**FINANCIAL IMPACT:** Not applicable.

Respectfully submitted for Council consideration.

Prepared by: Tracey Covert, City Clerk

Recommended by:

David A. Hales  
City Manager

**Alderman Black expressed his interest in a joint meeting with McLean County and Town of Normal to address regional issues, (i.e. solid waste, water, MetCom, etc.).**

**Motion by Alderman Black, seconded by Alderman Schmidt that the Council Meeting dates be approved with the exception that the second meeting in December be held on December 21, 2015.**

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

**Ayes: Aldermen Stearns, Mwilambwe, Schmidt, Painter, Lower, Hauman, Sage, Fruin and Black.**

**Nays: None.**

**Motion carried.**

**The following was presented:**

**SUBJECT:** Application of 602604, LLC, d/b/a Pub America, located at 602 N. Main St., requesting an TAS liquor license which would allow the sale of all types of alcohol by the glass for consumption on the premises seven (7) days a week

**RECOMMENDATION/MOTION:** Recommend that a TAS liquor license for 602604, LLC, d/b/a, Pub America, located at 602 N. Main St., be created, contingent upon compliance with all applicable health and safety codes.

**STRATEGIC PLAN LINK:** Goal 4. Grow the local economy.

**STRATEGIC PLAN SIGNIFICANCE:** Objective 4.a. Retention and growth of current local business.

**BACKGROUND:** The Bloomington Liquor Commissioner Tari Renner called the Liquor Hearing to order to hear the application of 602604, LLC, d/b/a Pub America, located at 602 N. Main St., requesting an TAS liquor license which would allow the sale of all types of alcohol by the glass for consumption on the premises seven (7) days a week. Present at the hearing were Liquor Commissioners Tari Renner, Geoffrey Tompkins and Jim Jordan; George Boyle, Asst. Corporation Counsel, Clay Wheeler, Asst. Police Chief, and Tracey Covert, City Clerk; and Michael Manna and Phil Charleston, owners/operators, and Rich Marvel, Applicant's attorney and Applicant's representatives.

Commissioner Renner opened the liquor hearing and requested that the Applicant's representatives address this request. Rich Marvel, Applicant's attorney, addressed the Commission. Pub America would be located at the same location as the former Blue Line Night Club. Michael Manna, owner/operator and Applicant representative, owned the building and would be responsible for the structure. Phil Charleston, owner/operator and Applicant

representative, would be the Manager. Mr. Marvel cited the Applicants' belief that this corner was underutilized. Pub America would offer a different feel. The plan for the building included renting the three (3) apartments located on the building's upper floor.

Commissioner Renner cited the Council's mandate that there be no new net liquor licenses on Main St. He noted that Blue Line Night Club had been located at this address until July 1, 2014. Pub America seemed to be offering a different concept. He had spoken with the Council. He stated his intention that there be no disconnect between the Commission and the Council. He restated that the Council had no interest in new liquor licenses in this area of the Downtown.

Mr. Marvel restated that Blue Line Night Club held a TAS liquor license at this address. He hoped that the Commission would view this application as a change of ownership. This application would not result in a net increase in the number of liquor licenses in the Downtown.

Phil Charleston, owner/operator and Applicant representative, addressed the Commission. Currently, he was employed at the US Cellular Coliseum as the Events Manager. He also was employed at Pub II, in Normal, as a bartender. He had worked at Pub II since his attendance at Illinois State University. He had completed BASSET (Beverage Alcohol Sellers and Servers Education and Training), training. He cited his twenty (20) years of liquor sales experience. Pub America would be fun and upbeat. The atmosphere would be welcoming and inviting. Pub America would not offer live music or a dj. The atmosphere would be laid back with friendly staff. Mr. Charleston cited the fact the Pub America would be located along Rt. 66. The goal was to reopen the doors and as there was a foundation to build upon.

Michael Manna, owner/operator and Applicant representative, addressed the Commission. He was a long time Downtown developer and resident. He also cited Rt. 66. Pub America would be light tavern. He cited his intention to rent the three (3) upstairs apartments that were currently vacant. He hoped to enhance the overall picture of the Downtown.

Commissioner Tompkins questioned a floor plan. Mr. Manna had reached out to Jack Bataoel, owner/operator and form liquor license holder for Blue Line Night Club. He had hoped that Mr. Bataoel would grant permission to transfer Blue Line's floor plan to Pub America's file. Pub America would offer additional table seating.

Commissioner Tompkins questioned if the Applicants were familiar with Chapter 6. Alcoholic Beverages, (City Code). The Applicants responded affirmatively.

Commissioner Jordan questioned the Council's opinion regarding this application. He expressed his concern regarding the Downtown and the number of people on the streets at closing time. He questioned the occupancy for Pub America. Mr. Manna informed the Commission that the occupancy sticker at Blue Line Night Club stated 273. The inspection had been completed by one of the City's Fire Inspectors.

Commissioner Jordan restated that Pub America would not offer live music and/or a dj. Mr. Charleston informed the Commission that Pub America might offer acoustic music. He planned

to obtain a dance license. He restated that the plan included renting the three (3) upstairs apartments.

Commissioner Jordan understood that this application involved new ownership at an address which had recently held a tavern liquor license. He viewed this application as a new license. He recommended that the Commission refer this application to the Council without a recommendation. It appeared that the Applicant understood the requirements and had liquor sales experience. They also were familiar with Downtown issues. They would need to remain conscious of these facts. All Downtown taverns were heavily scrutinized.

Mayor Renner restated that there would be no net increase in the number of liquor licenses. This application involved a change of ownership. Blue Line Night Club had been at this address and held a Tavern liquor license. There would not be a net increase in the number of liquor licenses in the Downtown.

Commissioner Tompkins believed that two (2) Downtown Taverns had closed recently. (*Blue Line Night Club and Illinois Brewing Company which had been located at 102 n. Center St.*)

Commissioner Renner added that other Downtown establishments had closed, (*Lancaster's which had been located at 513 N. Main St. and Laugh Comedy Club which had been located at 108 E. Market St. Both establishments held Restaurant liquor licenses.*)

Commissioner Renner questioned if there was anyone present who wished to speak in support of or in opposition to this application. No one came forward to address the Commission.

George Boyle, Asst. Corporation Counsel, addressed the Commission. He questioned the impact on the neighborhood.

Clay Wheeler, Asst. Police Chief, addressed the Commission. The Police Department benefitted from less liquor licenses in the Downtown. He would have no objection if the Council chose to reduce the number of liquor licenses in the Downtown.

Commissioner Jordan restated his recommendation to defer a decision regarding this application to the Council. An additional 270 people on the Downtown streets had a potential to create issues. Pub II in Normal was a different operation. Pub II was well managed. Problems occur in the Downtown when individuals exit the licensed establishments.

Commissioner Tompkins disagreed with Commissioner Jordan. He cited the occupancy, 273. It was not the Commission's role to defer reaching a decision. He did not believe that issuing a liquor license for Pub America meant that an additional 273 individuals would come to the Downtown.

Commissioner Jordan noted that Lancaster's held a Restaurant liquor license. It attracted a different clientele. Pub America would be a tavern and would not offer any food for sale. The Commission's action should be prudent. He added that he would understand if the Council voted to deny this application. This application was an opportunity for issues.

Motion by Commissioner Tompkins, seconded by Commissioner Jordan to recommend to the Council that a TAS liquor license for 602604, LLC, d/b/a Pub America, located at 602 N. Main St., be approved contingent upon compliance with all health safety codes.

Motion carried, (unanimously).

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** Public notice was published in the Pantagraph on October 27, 2014 in accordance with City Code. In accordance with City Code, approximately eighty (80) courtesy copies of the Public Notice were mailed on October 27, 2014. In addition, the Agenda for the November 4, 2014 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. Request is for a change of ownership. Annual fee for a TAS liquor license is \$2,210.

Respectfully submitted for Council consideration.

Recommended by:

Tari Renner  
Mayor

**Alderman Stearns had received a number of telephone calls regarding this item. She cited the Downtown hire back program. She questioned the cost of this program.**

**David Hales, City Manager, addressed the Council. He was not aware of any changes to this program.**

**Mayor Renner cited the reduced the number of liquor violations in the Downtown.**

**Alderman Stearns acknowledged that there had been some positive changes in the Downtown. She cited the cost of the Downtown hire back program and questioned who bore the cost of same. She noted consideration of an increase to liquor license fees and a potential video gaming terminal fee. There was a financial and time drain. These costs should be shifted to the businesses. This item represented another liquor license in the Downtown. She cited the loss of Downtown businesses, (i.e. Lancaster's located at 513 N. Main St. and the Chocolatier located at 514 N. Main St.). This item represented a burden. It appeared that the new owners were responsible individuals. This was an expansion of Downtown liquor licenses. There had been no real change to the Downtown. She would not support this item. She was concerned about cost/image/safety in the Downtown.**

**Mayor Renner clarified that at the liquor hearing no one spoke in opposition to this application. There has been a decrease in the number of Downtown liquor licenses. This**

business would tie into the Rt. 66 theme. The applicants were Downtown residents and had experience in the liquor business. The building was currently vacant.

Alderman Schmidt expressed her appreciation to Alderman Stearns for her comments. She did not believe that the work of the Downtown Entertainment Task Force, (DETF), had been completed. She cited investment in the Downtown. This application did not represent an additional license. The owners viewed the Downtown as their backyard. The manager had experience in the liquor business. The building would be turned into a pub. It would be an improvement to the Downtown. She cited the efforts of the Liquor Commission to address Downtown issues. She was comfortable with this application.

David Hales, City Manager, addressed the Council. He noted the work of the DETF. City staff would prepare a report regarding the work completed and outstanding issues. This would form the base for further discussions.

Motion by Alderman Schmidt, seconded by Alderman Painter that a TAS liquor license for 602604, LLC, d/b/a, Pub America, located at 602 N. Main St., be created, contingent upon compliance with all applicable health and safety codes.

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

**Ayes:** Aldermen Mwilambwe, Schmidt, Painter, Lower, Hauman, Sage, Fruin and Black.

**Nays:** Alderman Stearns.

**Motion carried.**

**The following was presented:**

**SUBJECT:** Petition Submitted by Jeffrey and Janice Pfleeger Requesting Approval of Rezoning from R - 1C, Single Family Residence District to M - 1, Restricted Manufacturing District for 713 E. Lincoln St.

**RECOMMENDATION/MOTION:** Recommend that the Rezoning be approved and the Ordinance passed.

**STRATEGIC PLAN LINK:** Goal 3. Grow the local economy.

**STRATEGIC PLAN SIGNIFICANCE:** Objective 3a. Retention and growth of current local businesses.

**BACKGROUND:** The land is currently vacant and void of any structures and consists of approximately .42 acres. The owner intends to provide overflow parking for their customers and

employees. There is no intention of constructing any buildings. The petitioner will erect a fence or other opaque barrier to screen parking and business from adjacent residences.

The land is located on the south side of E. Lincoln St. just west of the intersection of Lincoln and Clinton St. The adjacent land to the east is a single family residence currently owned by the applicant. To the west is the applicant's auto repair business. A detention basin is located to the south. Across Lincoln St. to the north are residences.

This case was before the Planning Commission for a public hearing and review on November 12, 2014. Staff explained the request was an extension of the zoning from the west and southwest. There are several existing businesses and industrial uses in same. The residences to the north are buffered by Lincoln St. The petitioner noted that several neighbors supported the business plan.

No one else from the public spoke regarding the petition. The Planning Commission voted to recommend approval of the rezoning by a vote of 10 - 0. This recommendation is consistent with staff's position.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** Public notice was published in the Pantagraph in accordance with City Code. In accordance with the Zoning Code, (Ordinance No. 2006-137), courtesy copies of the Public Notice were mailed to approximately sixty-nine (69) property owners within 500'. In addition, a public notice/identification sign was posted on the property.

**FINANCIAL IMPACT:** The City may realize a slight increase in property taxes if the rezoning is approved.

Respectfully submitted for Council consideration.

Prepared by: Mark Woolard, City Planner

Reviewed by: Tom Dabareiner, Director of Community Development

Financial & budgetary review by: Chris Tomerlin, Budget Analyst  
Carla A. Murillo, Budget Manager

Legal review by: Angela Fyans-Jimenez, Corporation Counsel

Recommended by:

David A. Hales  
City Manager

**PETITION FOR ZONING MAP AMENDMENT**

State of Illinois            )  
  ) ss.  
County of McLean        )

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

Now comes Jeffrey and Janice Pfleeger, hereinafter referred to as your petitioners, respectfully representing and requesting as follows:

1. That your petitioners are the owners of the freehold or lesser estate therein of the premises hereinafter legally described in Exhibit A, which is attached hereto and made a part hereof by this reference, or are a mortgagee or vendee in possession, assignee of rents, receiver, executor (executrix), trustee, lessee or other person, firm or corporation or the duly authorized agents of any of the above persons having proprietary interest in said premises;
2. That said premises legally described in Exhibit "A" presently has a zoning classification of R – 1C, Single Family Residence District under the provisions of Chapter 44 of the Bloomington City Code, 1960;
3. That the present zoning on said premises is inappropriate due to error in original zoning, technological changes altering the impact or effect of the existing land uses, or the area in question having changed such that said present zoning is no longer contributing to the public welfare;
4. That your petitioners hereby request that the Official Zoning Map of the City of Bloomington, McLean County, Illinois be amended to reclassify said premises into the M – 1, Restricted Manufacturing District, zoning district classification;
5. That said requested zoning classification is more compatible with existing uses and/or zoning of adjacent property than the present zoning of said premises; and
6. That said requested zoning classification is more suitable for said premises and the benefits realized by the general public in approving this petition will exceed the hardships imposed on your petitioners by the present zoning of said premises.

WHEREFORE, your petitioners respectfully pray that the Official Zoning Map of the City of Bloomington, McLean County, Illinois be amended by changing the zoning classification of the above-described premises from R – 1C to M - 1.



December 8, 2014

847

Respectfully submitted,

By: Jeffrey Pfleeger  
Janice Pfleeger

**ORDINANCE NO. 2014 - 110****AN ORDINANCE REZONING 713 E. LINCOLN STREET FROM R- 1C, SINGLE FAMILY RESIDENCE DISTRICT TO M – 1, RESTRICTED MANUFACTURING DISTRICT**

WHEREAS, there was heretofore filed with the City Clerk of the City of Bloomington, McLean County, Illinois, a Petition for rezoning of certain premises hereinafter described in Exhibit “A”; and

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

WHEREAS, the City Council of said City has the power to pass this Ordinance and rezone said premises.

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

1. That the premises hereinafter described in Exhibit “A” shall be and the same are hereby rezoned from R – 1C, Single Family Residence District to M – 1, Restricted Manufacturing District.
2. The Official Zoning Map of said City shall be amended to reflect this change in zoning classification.
3. This Ordinance shall take effect immediately upon passage and approval.

PASSED this 8<sup>th</sup> day of December, 2014.

APPROVED this 9<sup>th</sup> day of December, 2014.

APPROVED:

Tari Renner  
Mayor

ATTEST:

Tracey Covert  
City Clerk

**EXHIBIT A**

Legal Description

County Clerks Subdivision east end of Lot 1 and all of Lots 3, 4, 5, & 9 in Hunt Subdivision, east ½ southeast quarter Section 9, Township 23 North, Range 2 East, (except north 15'), west 82.5' of Lot 17.

**Alderman Sage recuse himself from this item and left the dais.**

**Alderman Lower noted that this item addressed parking issues. These issues occurred not during regular business hours. The Petition would help to alleviate this issue.**

**Motion by Alderman Painter, seconded by Alderman Mwilambwe that the Rezoning 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, Painter, Lower, Hauman, Fruin and Black.**

**Nays: None.**

**Motion carried.**

**Alderman Sage returned to the dais.**

**The following was presented:**

SUBJECT: Enterprise Zone (EZ) Application

**RECOMMENDATION:** Recommended that the Intergovernmental Agreement be approved, the Ordinance passed, and the Mayor and City Clerk be authorized to execute the necessary documents.

**STRATEGIC PLAN LINK:** Goal 3. Grow the local economy and Goal 6. Prosperous Downtown Bloomington.

**STRATEGIC PLAN SIGNIFICANCE:** Objective 3a. Retention and growth of current local businesses; Objective 3b. Attraction of new targeted businesses that are the “right” fit for Bloomington; and Objective 3e. Strong working relationship among the City, businesses, economic development organizations.

**BACKGROUND:** Since 1985, the City partnered with the Town of Normal and McLean County in the formation of an EZ Program. Under this program, as authorized by the state, eligible

developments may qualify for investment tax credits, reduction in sales tax liability and utility tax credits provided certain investment and employment thresholds are met. That EZ is set to expire in 2016. Efforts are underway to secure a replacement EZ for the area. The proposed ordinance would authorize the City's participation in the new EZ. All participating agencies must adopt the ordinance for the proposed EZ to move forward.

The EZ is the only major economic development tool the City has in play at the present time. There are only ninety-seven (97) EZ authorized in the state and competition will be tough to secure the new EZ. Having the EZ allows the area to be competitive with other markets in the state. Lacking the EZ would definitely put the area at a competitive disadvantage to attract and retain businesses.

**COMMUNITY GROUPS/INTERESTED PARTIES CONTACTED:** The City has been working with the Bloomington Normal Economic Development Council (EDC), Town of Normal and McLean County in the structuring of the new EZ. Recently, the Council approved the boundaries of the EZ with respect to the City. These boundaries are part of the official submittal to the state.

A recent public hearing, (Wednesday, October 29, 2014), was held by the EDC as to the proposed EZ application. The City was represented at the hearing, along with the Town of Normal and McLean County. A copy of Ken Springer's, EDC's Vice President, presentation at the Public Hearing, along with a map of the proposed district boundaries, were provided to the Council.

**FINANCIAL IMPACT:** With respect to the request for the EZ, there is no direct financial impact. However, to the extent that companies considering locating or expanding in the area may seek assistance, such as consideration of property tax abatement, which is currently offered by the City, these impacts would be considered on a case by case basis.

Respectively submitted for Council consideration.

Prepared by: Austin Grammer, Economic Development/ED Coordinator  
Frank Koehler, Interim ED Coordinator

Legal review by: Angela Fyans-Jimenez, Deputy Corporation Counsel

Recommended by:

David A. Hales  
City Manager

**ORDINANCE NO. 2014 - 111**

**AN ORDINANCE DESCRIBING AND DESIGNATING AN AREA AS AN ENTERPRISE ZONE**

WHEREAS, the State of Illinois Enterprise Zone Act encourages local governmental participation in the promotion of private sector investment in economically depressed area throughout the State; and

WHEREAS, a large number of residents in the Bloomington-Normal area have experience pervasive property, unemployment, and economic distress; and

WHEREAS, the Illinois Enterprise Zone Act requires units of local government to pass an Ordinance establishing an Enterprise Zone before it can apply to the Department of Commerce and Economic Opportunity for certification of the Zone; and

WHEREAS, a public hearing on the establishment of such a Zone was conducted by the City of Bloomington, Town of Normal, City of Gibson City, County of Ford, and County of McLean on October 29, 2014;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL FOR THE CITY OF BLOOMINGTON, McLEAN COUNTY, ILLINOIS, AS FOLLOWS:

SECTION ONE: Definitions. As used in this ordinance:

“Act” means the Enterprise Zone Act (20 ILCS 655/).

“Department” means the Department of Commerce and Economic Opportunity.

“EDC” means the Economic Development Council of Bloomington Normal Area.

“IGA Parties” means the Town of Normal, the City of Bloomington, the City of Gibson City, the County of McLean, and the County of Ford.

“Zone Area” means the area described and depicted in Appendix A, which is incorporated into this ordinance.

SECTION TWO: Designation. The Zone Area is designated as an Enterprise Zone, subject to the approval of the Department as set forth under the Act.

SECTION THREE: Qualifications. The City Council finds and determines that the Enterprise Zone meets the qualifications set forth under Section 4 of the Act.

SECTION FOUR: Duration. The duration of the Enterprise Zone is the maximum duration allowed for the Zone under Section 5.3 of the Act, including allowable extensions.

SECTION FOUR: Incentive. The City, in an effort to facilitate the successful development of the Enterprise Zone, will provide for a limited, discretionary property-tax abatement on improvements as follows:

**A. Eligible Projects:** To be considered for an abatement under this Section, a new attraction or a competitively-bid expansion project must create or maintain 50 or more FTE jobs and meet one of the following minimum qualification criteria:

- (1) The enterprise has invested or intends to invest a minimum of \$5 million which is or will be placed in service in the qualified property; or
- (2) Result in the creation of a new property lease with a minimum term of 5 years whose value is \$600,000 annually.

**B. Demonstrated Need:** Each project must present a documented “but-for” case, either by providing a written offer from another locality or a signed affidavit.

**C. Two-track system:** Abatements will be offered in two different tracks, based on the impact of the project in question. Projects of a higher quality are eligible for a “high impact” abatement, and projects meeting only the minimum criteria are eligible for the “standard” abatement.

“High-Impact” Abatement: Five-year 100% abatement on improvements (existing tax revenue not jeopardized).

“Standard Abatement”: Five-year graduated abatement on improvements (existing tax revenue not jeopardized) as follows:

- (1) 100% of improvements in year one;
- (2) 80% of improvements in year two;
- (3) 60% of improvements in year three;
- (4) 40% of improvements in year four; and
- (5) 20% of improvements in year five.

Projects qualifying for the “High-Impact Abatement” are generally one or more of the following:

- (1) Projects in the industries of Agribusiness, Logistics & Warehousing, IT/Clean Tech Manufacturing, Finance, Insurance and Real Estate, or Education;
- (2) Projects that will create jobs whose average pay (wages + benefits), across all new positions, is greater than the McLean County per-capita income level, as determined by the most recent American Community Survey 5-year estimates (presently \$28,167);

- (3) Projects that will locate in a “targeted area.” Targeted areas include officially-designated brownfields, distressed areas as defined by the Federal New Markets Tax Credit program, designated shovel-ready sites, or similar areas; or
- (4) Projects that will derive a high percentage of revenue from exports.

**C. Restrictions:** The following types of projects are ineligible for abatement consideration:

- (1) Residential-only development; and
- (2) Wind Energy.

**D. Approval Process:** All projects requesting an abatement must apply to the EDC. The EDC will evaluate the applications and award the abatement to qualifying applicants. The EDC must notify each affected taxing body of the award.

**E. Clawbacks and Enforcement:** In all cases, individual abatement agreements must contain clawback provisions to ensure that the projects incentivized by this abatement program perform to the expectations set forth in the agreement.

Any project that receives an abatement but is found not to have created the number of jobs and quantity of investment set forth in its abatement agreement is required pay back previously received abatement amounts on a pro-rata basis. Each taxing body retains the right to terminate abatement agreements for non-performance.

Each project receiving property tax abatements must also agree to not challenge their property tax assessment for a period of 5 years following the end of the abatement period.

**F. Inspection & Monitoring:** Each abatement agreement must provide a mechanism for inspection to ensure that the investment promised by the company has taken place. This “audit” may occur no more than once annually and is the responsibility of the Economic Development Council to undertake at the request of a taxing body. The audit will include:

- (1) Inspection of employee records, date of hire, and salary information;
- (2) Review of construction budgets, building permits, and depreciation information on tax documents; and
- (3) On-site visual inspection of the investment.

**SECTION FIVE:** Additional incentives allowed. This Ordinance does not prohibit the City from extending additional tax incentives of reimbursement for business enterprises in this Enterprise Zone or its corporate limits by separate Ordinance.

**SECTION SIX:** Conformance to codes, ordinances, and regulations. No incentive is available to any project that is not constructed, used, or occupied in conformance with all City

codes, ordinances, and regulations. Except as expressly and specifically provided in this Ordinance, nothing contained in this Ordinance may be construed to waive, abrogate, lessen, or weaken the full force, effect, and application of all laws, resolutions, codes, regulations, and ordinances of the City to any project or any person or property.

SECTION SEVEN: Application and administration. That the City Manager is authorized and directed to (i) make an application to the Department under Section 5.1 of the Act, (ii) as he deems proper, to cause to be promulgated any program, directive, rule, or regulations, to make any recommendation, and to furnish any information for the purpose of securing certification of Zone Area as an Enterprise Zone, and (iii) to administer the Enterprise Zone and the related programs after the Zone is certified.

SECTION EIGHT: Zone Administrator. The position of “Zone Administrator” is created. The first Zone Administrator is the Executive Director of the EDC, and successors shall be designated pursuant to an Intergovernmental Agreement by and among the IGA Parties pertaining to the Zone. The duties of the Zone Administrator shall be performed in addition to the regular duties of the position of Executive Director. It is the power and duty of the Zone Administrator to:

- A. Supervise the implementation of the provisions of this Ordinance and the Illinois Enterprise Zone Act;
- B. Act as a liaison between the IGA Parties, the Department, any designated zone organization, and other State, federal, and local agencies, whether public or private;
- C. Conduct an ongoing evaluation of the Enterprise Zone program and submit such evaluative reports on at least an annual basis to the President and Board of Trustees;
- D. Promote the coordination of other relevant programs, including but not limited to housing, community and economic development, small business, financial assistance, and employment training within the Enterprise Zone;
- E. Recommend qualified designated zone organizations to the City Council; and
- F. Have other duties as specified by either the Mayor of the City Council.

SECTION NINE: Designated zone organizations. In order to facilitate the successful development of the Enterprise Zone and in accordance with the Act, the City may establish one or more designated zone organizations to carry out any or all of the functions provided for in Section 8 of the Act.

SECTION TEN: Certification fee. The Enterprise Zone Administrator is authorized and directed to collect a certification fee from any applicant for construction or renovation in the Enterprise Zone in order to be certified as eligible for enterprise zone benefits.



- A. The amount of the certification fee is 0.5% of the cost of the building materials of a project, as determined at the time of certification of the project by the Enterprise Zone Administrator. No fee, however, may exceed \$50,000.
- B. The certification fee must be paid at the time that the application for certification for eligibility for zone benefits is filed. The applicant and the Zoning Administrator, however, may arrange a different payment date for the fee with respect to any application.
- C. The proceeds of the certification fee shall be distributed to the Economic Development Council of Bloomington Normal Area.

SECTION ELEVEN: Prevailing wage. Any applicant (i) for certification of eligibility for a tax exemption for building materials on a project with an investment value of \$100,000 or more or (ii) the tax abatement under Section 4 must demonstrate that the applicant is paying prevailing wage for all work on the project. Nothing in this Section may be construed to relieve any person of any other duty under the Prevailing Wage Act.

SECTION TWELVE: Repeal of conflicting ordinances. The provisions of any ordinance that conflicts with the provisions of this Ordinance are repealed to the extent of the conflict.

SECTION THIRTEEN: Effective date. This Ordinance takes effect 10 days after the date of its publication and applies to such portion of the Zone as is or becomes a part of the City of Bloomington in the duration of the Zone.

APPROVED:

Tari Renner  
Mayor

ATTEST:

Tracey Covert  
City Clerk

**Intergovernmental Agreement  
Concerning Enterprise Zone Designation and Operation**

This agreement is dated \_\_\_\_\_, 2014 and is between the COUNTY OF McLEAN, the COUNTY OF FORD, the CITY OF BLOOMINGTON, the CITY OF GIBSON CITY, and the TOWN OF NORMAL.

In consideration of the mutual covenants contained in this contract and for other good and valuable consideration, the parties agree as follows:

Section 1. Purpose. The purpose of this agreement is to organize and coordinate the efforts of the parties in bringing about the designation and operation of an Enterprise Zone under the provisions of the Enterprise Zone Act (20 ILCS 655/).

Section 2. Description. The property that is the subject of this agreement is described in Exhibit A (“Zone Property”). The Zone Property is located partly in the jurisdiction of each of the parties.

Section 3. Enabling ordinance. Each party to this agreement agrees to adopt an ordinance meeting the requirements of the Enterprise Zone Act. Each party agrees to adopt any other ordinances or legislation as may be necessary to carry out the intent of the enabling ordinance.

Section 4. Application. The parties agree to submit to the Department of Commerce and Economic Opportunity a joint application for designation of the Zone Property as an Enterprise Zone in accordance with the requirements of the Enterprise Zone Act.

Section 5. Administrator. The Executive Director of the Economic Development Council of Bloomington Normal Area shall serve as the first administrator to administer the Zone. The parties agree to appoint, collectively, each successor. To that extent, each party agrees to adopt any ordinance or resolution that is necessary to empower the Administrator to act on behalf of that party with respect to the administration of the Zone within its jurisdiction. In selecting an Administrator, each party has one vote, which shall be cast by the chief executive officer of each party (mayor or county board chairman, as applicable). Each Administrator continues to hold the position until he or she resigns or dies or until the chief executive officers of at least 3 of the parties vote to discharge him or her.

Section 6. Specific performance. Because the success of the Zone depends upon the unified and coordinated actions of all of the parties to this agreement, and because it is impossible to calculate the damage that may be done by the failure to adhere to the provisions of this agreement, it is hereby declared by and among the parties that any obligations imposed upon any party by this agreement or undertaken through the submission of a joint application under the Enterprise Zone Act is specifically enforceable against any party by any or all of the other four parties.

The parties are signing this agreement as of the date set forth in the introductory clause.

**County of Ford**

By: \_\_\_\_\_  
County Board Chairman

**County of McLean**

By: \_\_\_\_\_  
County Board Chairman

ATTEST:

By: \_\_\_\_\_  
County Clerk

**City of Bloomington**

By: Tari Renner  
Mayor

ATTEST:

By: Tracey Covert  
City Clerk

**Town of Normal**

By: Chris Koos  
Mayor

ATTEST:

By: Wendellyn Briggs  
Town Clerk

**Mayor Renner introduced this item.**

**David Hales, City Manager, addressed the Council. He noted the work of the Town of Normal, McLean County, City and Economic Development Council (EDC) staff. It was wise and prudent to apply for an Enterprise Zone, (EZ). The application deadline was December 31, 2014. This item was a good representation of collaboration. He noted the economic incentives.**

**Austin Grammer, Economic Development Coordinator, addressed the Council. He cited the various incentives available. Many were from the State of IL. The number of Enterprise Zones would be limited to ninety-seven (97). He cited competitiveness issues. He cited cost savings to businesses either to locate or expand. He restated that the application deadline was December 31, 2014. He recognized the efforts of the EDC staff. He cited the collaboration with Mark Peterson, City Manager and Brian Day, Corporation Counsel for the Town of Normal.**

ATTEST:

By: \_\_\_\_\_  
County Clerk

**City of Gibson City**

By: \_\_\_\_\_  
Mayor

ATTEST:

By: \_\_\_\_\_  
City Clerk

**Alderman Lower commented on both sides of the issue. EZ would not be needed if the state was on firmer ground. He had spoken with Governor-Elect Bruce Rauner.**

**Motion by Alderman Black, seconded by Alderman Schmidt that the Intergovernmental Agreement be approved, the Ordinance passed, 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, Painter, Lower, Hauman, Sage, Fruin and Black.**

**Nays: None.**

**Motion carried.**

**The following was presented:**

**SUBJECT:** Text Amendment to Chapter 1. Adoption of Administrative Adjudication System

**RECOMMENDATION/MOTION:** Recommend that the Text Amendment to Chapter 1 of the Bloomington City Code Relating to Ordinance Enforcement through Administrative Adjudication be approved and the Ordinance passed.

**STRATEGIC PLAN LINK:** Goal 1. Financially sound City providing quality basic services.

**STRATEGIC PLAN SIGNIFICANCE:** Objective 1d. City services delivered in the most cost-effective, efficient manner.

**BACKGROUND:** For several months, City staff, including several City departments, have been working on the establishment of an administrative adjudication system to adjudicate City Ordinance Violations, (OV). To establish an administrative court, the City need only pass an ordinance creating a hearing unit. A hearing officer will also need to be appointed who must be an attorney licensed to practice law in the State of Illinois for at least three (3) years. Upon approval of the ordinance establishing the administrative adjudication system, staff will issue a Request for Qualifications (RFQ) to obtain the necessary hearing officers. Under administrative adjudication, fines cannot exceed \$50,000 and the hearing officer's decision can be enforced, after the appeal period, in the same manner as a court judgment. To ensure due process, decisions of the hearing officer are appealable under the Administrative Review Law.

As an overview of the process, complaints will be brought before the hearing officer by the filing of a written pleading by an authorized City official. Service of the pleading/complaint can simply be mailed to the defendant. A hearing will then be held, (at least fifteen/15 days after service), at the City Hall promptly after the pleading is filed and served.

Some of the benefits of administrative adjudication include: 1.) that the City will keep 100% of any fines and costs assessed as opposed to the portion of costs assessed by the county when the circuit court is utilized to handle complaints; 2.) convenience to residents and staff (e.g. establish hearing times that work for the City and held the hearings at City Hall); 3.) a hearing officer is appointed to specifically concentrate on and enforce local City issues; 4.) the formal rules of evidence do not apply; and 5.) certain procedures allow some decisions/fines to be collected as a special assessment.

In 2013, the City filed approximately 1,200 code violations in circuit court. The vast majority of these are behavioral violations, with typically ten (10) or fewer property/building code violations being filed each month. This last October, the City filed 151 complaints in circuit court. Note that number of complaints filed does not represent the number of citations actually issued. If a citation is paid and/or timely resolved, no complaint is filed on the matter.

Under the current system, if a defendant is found guilty of a violation and issued a fine of \$100, the circuit court also assesses "court costs" in the amount of \$127. The City also collects attorney fees in the amount of \$25. Accordingly, a \$100 fine quickly turns into an actual financial obligation of \$252 on the part of the violator. A fine of \$200 has court costs of approximately \$147 and those with multiple violations are charged higher court costs. The ordinance proposed by staff includes a hearing cost charge of \$100, which should equate to a savings of approximately \$52 for offenders while still allowing the City to recoup its costs.

Under the administrative adjudication ordinance being proposed to the Council, the administrative court will have jurisdiction over all OV, including property, building code and behavioral violations.

Staff believes that establishment of a City administrative court will create an easier process for prosecuting code violations and thus bring about more accountability and increased code enforcement.

Upon adoption, the goal would be to have the administrative court established and operating by January 2015. This will allow time to obtain the necessary hearing officers, order the necessary forms and have the Code Hearing Department operational. Staff anticipates the minimal costs associated with the establishment of the Code Hearing Department, including any necessary security at City Hall during hearings, will be more than offset by the assessment of the hearing costs, increased prosecutions, enforcement actions and collections.

**COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:** Not applicable.

**FINANCIAL IMPACT:** This is a new program for the City and financial impact is based on the data available and best estimates at this time. The financial impact of the program will be reevaluated after a few months and adjustments will be made if necessary.

The program will be managed by the Corporation Counsel Office and all accounts will be setup in this department. Corporation Counsel will issue an RFQ, (Request for Qualifications), to hire two (2) contractual hearing officers at an estimated cost of \$145 per hour. There will be the

potential for four (4) hours of hearings each Wednesday. The defendant will be charged \$100 per violation. Based on current historical data, there are 100 cases found in favor of the City. All non-compliant defendants who do not pay, will be turned over to a collection agency who will keep thirty percent (30%) of the fines. Bad debt is estimated at ten percent (10%).

If the program is approved, a budget amendment will be brought back to Council to adjust the current year budget for estimates of both revenues and expenditures.

Respectfully submitted for Council consideration.

Prepared by: Jeffrey R. Jurgens, Corporation Counsel

Financial & budgetary review by: Carla A. Murillo, Budget Manager

Recommended by:

David A. Hales  
City Manager

**ORDINANCE 2014 - 112**

**AN ORDINANCE AMENDING CHAPTER 1 OF THE BLOOMINGTON CITY CODE  
RELATING TO ORDINANCE ENFORCEMENT THROUGH ADMINISTRATIVE  
ADJUDICATION**

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

SECTION 1. That Chapter 1 of the Bloomington City Code, 1960, as amended, be further amended by adding Section 9.1 as follows:

Chapter 1: Section 9.1: Administrative Adjudication.

**(a) Definitions.**

For the purposes of this Section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

- (1) Alleged violator. Person charged with violating any ordinance or law in the City of Bloomington.
- (2) Building code. Any City ordinance or law that establishes construction, plumbing, heating, electrical, fire prevention, sanitation or other health and safety standards that are applicable to structures in the City.
- (3) Code violation. Non-compliance with any building code or non-building code ordinance or law adopted by the City.
- (4) Hearing Officer. A licensed attorney in the State of Illinois who is appointed by the City Manager and who meets the requirements of Section 9.1(d), whose duty it is to:
  - a. Preside at an administrative hearing called to determine whether or not a Code violation exists;
  - b. Hear testimony and accept evidence from the inspector, the building or property owner and all interested parties relevant to the existence of a Code violation;
  - c. Take judicial notice of all public records of McLean County, Illinois;
  - d. Preserve and authenticate the record of the hearing and all exhibits and evidence introduced at the hearing; and
  - e. Issue and sign a written finding, decision and order stating whether a Code violation exists.

- (5) Inspector. A City employee whose duties include the inspection and examination of structures or property in the City to determine if zoning or other Code violations exist.
- (6) Non-building code. Any City ordinance or law, except for a building code ordinance or law, which prohibit certain actions or behaviors that are contrary to the public's health, safety and welfare.
- (7) Officer. A full or part-time Bloomington Police Department Officer or Security Officer.

**(b) Code Hearing Division.**

- (1) There is hereby established a Code Hearing Division, the function of which is to expedite the prosecution and correction of Code violations in the manner set out in this Section. The hearing officer and such other agents or employees assigned to assist the hearing officer by the City Manager shall constitute the Code Hearing Division.
- (2) The adoption of this Section does not preclude the City from using other lawful methods to enforce the provisions of this Code.

**(c) Powers of the Hearing Officer.**

The Hearing Officer shall have the following powers:

- (1) Preside at an administrative hearing called to determine whether or not a Code violation exists;
- (2) Hear testimony and accept evidence that is relevant to the existence of a Code violation;
- (3) Issue subpoenas directing witnesses to appear and give relevant testimony at the hearing, upon the request of the parties or their representatives;
- (4) Preserve and authenticate the record of the hearing and all exhibits and evidence introduced at the hearing;
- (5) Issue a written determination based on the evidence presented at the hearing, stating whether a Code violation exists. The determination shall be in writing and shall include a written finding of fact, decision and order including the fine, penalty, or action with which the defendant must comply; and
- (6) Impose penalties consistent with applicable Code provisions and assess costs upon finding a party liable for the charged violation. The maximum monetary fine under this Section shall not exceed \$50,000.00. The fine shall be exclusive of costs of enforcement or costs imposed to secure compliance with the City's ordinances and shall not be applicable to cases to enforce the collection of any tax imposed and collected by the municipality.



**(d) Requirements of the Hearing Officer.**

Prior to conducting a hearing as provided under this Section, the Hearing Officer shall have successfully completed a formal training program which includes the following:

- (1) Instruction on the rule of procedure of the administrative hearings which he or she will conduct;
- (2) Orientation to each subject area of the Code violations that they will adjudicate;
- (3) Observation of administrative hearings;
- (4) Participation in hypothetical cases, including ruling on evidence and issuing final orders;

The Hearing Officer must be an attorney licensed to practice law in the State of Illinois for at least three years. The Corporation Counsel and City Manager shall certify that all requirements provided under this subsection (d) have been met.

**(e) Code Hearing Procedure.**

- (1) When an inspector or officer finds a code violation, he shall note the violation on a violation notice and report form, indicating the name and address of the property owner of alleged violator, the type and nature of the violation, the date and time the violation was observed, the names of witnesses to the violation, and the address of the property or location where the violation was observed.
- (2) The violation report form shall be forwarded by the inspector or officer to the Code Hearing Division where a docket number shall be affixed to the form and a hearing date noted in the blank spaces provided for that purpose on the form. For any Code violation, the hearing date shall not be less than 14 days after a Code violation is reported by the inspector or officer. Hearings shall be scheduled with reasonable promptness, provided that an alleged violator shall have at least 15 days after service of process to prepare for a hearing. If service is provided by mail, the 15-day period shall begin to run on the day that the notice is deposited in the mail.
- (3) One copy of the violation report form shall be maintained in the files of the Code Hearing Division and shall be part of the record of hearing; one copy of the report form shall be returned to the inspector or officer; and one copy of the report form shall be served by personal service or first class mail on the alleged violator or the owner of the property, in the case of a code violation, along with a summons commanding the owner to appear at the hearing. For Code violations, if the name of the owner of the property cannot be ascertained or if service on the owner cannot be made by mail, service may be made on the owner by posting or nailing a copy of the violation report form on the front door of the property where the violation was found, not less than 14 days before the hearing date.

- (4) Parties shall be served with process in a manner reasonably calculated to give them actual notice, including, as appropriate, personal service of process upon a party or its employees or agents; service by mail at a party's address; or notice that is posted upon the property where a Code violation is found when the party is the owner or manager of the property.
- (5) Parties shall be given notice of the hearing which includes the type and nature of the Code violation to be adjudicated, the date and location of the hearing, the legal authority and jurisdiction under which the hearing is to be held, and the penalties for failure to appear at the hearing.
- (6) Parties shall be provided with an opportunity for a hearing during which they may be represented by counsel, present witnesses, and cross examine opposing witnesses. Parties may request the Hearing Officer to issue subpoenas to direct the attendance and testimony of relevant witnesses and the production of relevant documents.

**(f) Subpoenas.**

At any time prior to the hearing date, the Hearing Officer assigned to hear the case may, at the request of the inspector, the officer, attorney for the City, or the alleged violator or his attorney, issue subpoenas directing witnesses to appear and give testimony at the hearing.

**(g) Default.**

- (1) If on the date set for hearing the alleged violator or his attorney fails to appear, the Hearing Officer may find the alleged violator in default and shall proceed with the hearing and accept evidence relevant to the existence of a Code violation.
- (2) No violation may be established except upon proof by a preponderance of the evidence; provided, however, that a violation notice or a copy thereof, issued and signed in accordance with subsection (e) shall be prima facie evidence of the correctness of the facts specified therein.

**(h) Representation at Code Hearings and Continuances.**

- (1) The case for the City may be presented by an attorney designated by the City Manager. However, in no event shall the case for the City be presented by an employee of the Code Hearing Division. The case for a dwelling owner involving a Code violation may be presented by the owner, his attorney, or any other agent or representative as allowed by law. The case for an alleged violator involving a Code violation may be presented by the alleged violator or his attorney.
- (2) For Code violations, continuances shall only be authorized by the Hearing Officer and/or by agreement with City Legal. Lack of preparation shall not be grounds for a continuance in proceedings under this Section except in cases where good cause is shown at the hearing.

**(i) Evidence at Hearing.**

- (1) At the hearing, a Hearing Officer shall preside and shall hear testimony and accept any evidence relevant to the existence or nonexistence of a Code violation. The strict rules of evidence applicable to judicial proceedings shall not apply to hearings authorized by this Section. Evidence, including hearsay, may be admitted only if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.
- (2) All testimony shall be given under oath or affirmation.

**(j) Retaliatory Action Against Occupants Prohibited.**

No action for eviction, abatement of a nuisance, forcible entry and detainer or other similar proceedings shall be threatened or instituted against an occupant of a dwelling solely because such occupant agrees to testify or testifies at a Code violation hearing.

**(k) Defenses to Code Violations.**

It shall be a defense to a Code violation charged under the Bloomington City Code if the owner, his attorney, or any other agent or representative proves to the Hearing Officer's satisfaction that:

- (1) The Code violation alleged in the notice did not in fact exist at the time of the alleged violation; or
- (2) For violations of a building code or property code, the Code violation has been removed or remedied by the alleged violator at the time of the hearing, but only if the alleged violator has not had a Code violation within the previous 24 months. The violator shall be required to provide proof of compliance.

**(l) Findings, Decision, Order of the Hearing Officer, Hearing Costs.**

- (1) At the conclusion of the hearing, the Hearing Officer shall make a determination, on the basis of the evidence presented at the hearing, whether or not a Code violation exists. The determination shall be in writing and shall be designated as the findings, decision and order. The findings, decision and order shall include the Hearing Officer's findings of fact, a decision whether or not a Code violation exists based upon the findings of fact, and an order, ordering the owner to correct the violation or dismissing the case in the event a violation is not proved. If a Code violation is proved, the order may also impose the sanctions that are provided in the Code for the violation proved. A copy of the findings, decision and order shall be served on the owner within five days after they are issued. Service shall be in the same manner as the report form and summons are served pursuant to subsection (e) of this Section. Payment of fines shall be made as directed by the City Manager and the disposition of fine money may be determined, from time to time, by separate ordinance or resolution of the City Council.

- (2) In the event that the order provided for the correction of the violation, the Hearing Officer shall establish a hearing date which would be after the date established for the correction of the violation in order to determine compliance with the order. At such time, the Hearing Officer shall hear testimony and accept any evidence relevant to the abatement of the violation in accordance with the order.
- (3) If the hearing officer determines that a Code violation exists, the Hearing Officer shall order payment to cover the costs of the hearing in the amount of \$100.00. The costs shall become an amount due and owing to the City and shall be part of the order issued against the violator.

**(m) Administrative Review Law to Apply.**

Any final decision by a Hearing Officer that a Code violation does or does not exist shall constitute a final determination for purposes of judicial review and shall be subject to review under the Illinois Administrative Review Law. Any person filing for judicial review under the Administrative Review Law shall be subject to the assessment of costs for the preparation and certification of the record of proceedings before the Hearing Officer. Any failure to pay such fee shall subject the party seeking review to the provisions of 735 ILCS 5/3-109, including dismissal of the complaint on a motion by the City.

**(n) Enforcement of Judgment.**

- (1) Any fine, other sanction, or costs imposed, or part of any fine, other sanction, or costs imposed, remaining unpaid after the exhaustion of or the failure to exhaust judicial review procedures under the Illinois Administrative Review Law are a debt due and owing the municipality and may be collected in accordance with applicable law.
- (2) After expiration of the period in which judicial review under the Illinois Administrative Review Law may be sought for a final determination of a Code violation, unless stayed by a court of competent jurisdiction, the findings, decision and order of the Hearing Officer may be enforced in the same manner as a judgment entered by a court of competent jurisdiction.
- (3) In any case in which a defendant has failed to comply with a judgment ordering a defendant to correct a Code violation or imposing any fine or other sanction as a result of a Code violation, any expenses incurred by a municipality to enforce the judgment, including, but not limited to, attorney's fees, court costs, and costs related to property demolition or foreclosure, after they are fixed by a court of competent jurisdiction or a Hearing Officer, shall be a debt due and owing the municipality and may be collected in accordance with applicable law. Prior to any expenses being fixed by a hearing officer pursuant to this subsection (3), the City shall provide notice to the defendant that states that the defendant shall appear at a hearing before the Hearing Officer to determine whether the defendant has failed to comply with the judgment. The notice shall set the date for such a hearing, which shall not be less than seven days from the date that notice

is served. If notice is served by mail, the seven day period shall begin to run on the date that the notice was deposited in the mail.

- (4) Upon being recorded in the manner required by Article XII of the Code of Civil Procedure or by the Uniform Commercial Code, a lien shall be imposed on the real estate or personal estate, or both, of the defendant in the amount of any debt due and owing the City under this Section. The lien may be enforced in the same manner as a judgment lien pursuant to a judgment of a court of competent jurisdiction.
- (5) A Hearing Officer may set aside any judgment entered by default and set a new hearing date, upon a petition filed within 21 days after the issuance of the order of default, if the Hearing Officer determines that the petitioner's failure to appear at the hearing was for good cause or at any time if the petitioner establishes that the City did not provide proper service of process. If any judgment is set aside pursuant to this paragraph (5), the hearing officer shall have authority to enter an order extinguishing any lien which has been recorded for any debt due and owing the City as a result of the vacated default judgment.

**(o) Findings and Sanctions to Run with Property on Code Violations.**

The order to correct a Code violation and the sanctions imposed by the City as the result of a fine of a Code violation under this Section shall attach to the property as well as to the owner of the property, so that a finding of a Code violation against one owner cannot be avoided by conveying or transferring the property to another owner. Any subsequent transferee or owner of property takes subject to the findings, decision and order of a Hearing Officer under this Section.

SECTION 2. Except as provided herein, the Bloomington City Code, 1960, as amended shall remain in full force and effect.

SECTION 3. The City Clerk is hereby authorized to publish this ordinance in pamphlet form as provided by law.

SECTION 4. This ordinance shall be effective ten (10) days after the date of its publication.

SECTION 5. This ordinance is passed and approved pursuant to the home rule authority granted Article VII, Section 6 of the 1970 Illinois Constitution.

PASSED this 8<sup>th</sup> day of December, 2014.

APPROVED this 9<sup>th</sup> day of December, 2014.

APPROVED:

Tari Renner  
Mayor

ATTEST:

Tracey Covert  
City Clerk

**Mayor Renner introduced this item.**

**Alderman Stearns had heard constituents' concerns. Administrative adjudication would be weighed in favor of the City. The adjudicator would be paid by the City. The process would be streamlined. There also was an appeal process. If a citizen was unhappy, he/she could appeal to the circuit court. She cited requests for monetary judgments. Adjudicators needed to be fair and reach balanced decisions. There would be time given to consider the facts. The City would have a process.**

**Jeff Jurgens, Corporation Counsel, addressed the Council. He informed them that a new law would take effect in January 2015. It addressed single/multiple family dwellings. The City would have an accurate record of all hearings. The courts would review same to determine if an adjudicator had acted in an arbitrary and/or capricious manner. Adjudicators needed to be fair.**

**Alderman Painter cited her support for this item. Administrative adjudication was a good idea. It would unclog the courts and provide quicker turnaround. She noted her comments made at the November 24, 2014 Public Hearing. There would be due process. An individual had the ability to appeal to the courts. Fines were capped. There would be increased code enforcement.**

**Alderman Black questioned the target start date: January 2015. Mr. Jurgens anticipated a February 2015 start date. Hearings would be held at City Hall in the Council Chambers. The City's recording equipment would be used.**

**Alderman Black questioned posting the hearings on line. Mr. Jurgens informed the Council not at this time. He cited privacy issues.**

**Alderman Black requested that City staff report back to the Council after six (6) months of hearings. This report could be made at a Committee of the Whole Meeting. He requested that City staff take before and after photographs. He believed that administrative adjudication would have a positive impact upon neighborhoods.**

**Alderman Lower was cautiously optimistic. He cited the current backlog. Adjudicators were not elected. The fines were too high. He cited demolition/foreclosure and requested that this type of case be move to the circuit court. The City would hire the adjudicators.**

**Mr. Jurgens restated that an individual had the ability to file in circuit court. The proposed ordinance tracked the statutory language of the state.**

**Alderman Stearns cited the appeal option. The language as structured did not include foreclosure.**

**Mr. Jurgens recommended moving forward with the proposed ordinance. It could be amended at a future time.**

**Alderman Lower recommended that two (2) amendments be made: one would address the \$50,000 fine and the other would address foreclosures. He restated that the adjudicator would be hired by the City.**

**Mr. Jurgens stated that \$50,000 was the statutory limit. The Council would have to make a decision regarding foreclosures.**

**Motion by Alderman Lower, seconded by Alderman Stearns to make the following amendment to the Text Amendment to Chapter 1 regarding administrative adjudication: 1.) the maximum fine amount be reduced to \$10,000 and 2.) foreclosures be removed from administrative adjudication.**

**Ayes: Aldermen Lower and Stearns.**

**Nays: Aldermen Sage, Mwilambwe, Painter, Schmidt, Black, Hauman and Fruin.**

**Motion failed.**

**Alderman Fruin recommended that this program be evaluated after six (6) months.**

**Motion by Alderman Painter, seconded by Alderman Black that the Text Amendment to Chapter 1 of the City Code Relating to Ordinance Enforcement through Administrative Adjudication be approved and the Ordinance passed.**

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

**Ayes: Aldermen Mwilambwe, Schmidt, Painter, Hauman, Sage, Fruin and Black.**

**Nays: Aldermen Stearns and Lower.**

**Motion carried.**

**The following was presented:**

**Acceptance of \$750,000 Legislative Appropriation.**

**Mayor Renner introduced this item. The \$750,000 legislative grant dated back to 2009. These funds were meant for City parks/trails. He had received conflicting reports. The key question was what the City's priorities were. The Council's decision would be sent**

to Springfield, (Department of Commerce and Economic Opportunity), and Senator Brady's advisory committee.

David Hales, City Manager, addressed the Council. Bobbie Herakovich, Interim Director of Parks, Recreation & Cultural Arts, had developed other options for the Council. One option addressed Constitution Trail and requesting \$450,000 for Sunnyside Park. Another option addressed Constitution Trail and requesting \$450,000 for Miller Park infrastructure. He also welcomed the Council's ideas.

Alderman Lower recommended that the City reach out to Senator Brady.

Mayor Renner stated that the Council would complete its due diligence and send the information to Senator Brady's advisory committee. The City would continue to move forward.

Alderman Lower believed that a decision this evening could be rescinded at a future meeting. These dollars could be spent on other priorities.

Alderman Sage supported options that were drawn from the Parks Master Plan which addressed underserved areas. He noted that Westwood and Wittenberg Parks had no opportunity to participate.

Bobbie Herakovich, Interim Director of Parks, Recreation & Cultural Arts, addressed the Council. She cited the costs for each of these parks. There was a priority list of projects which had been included in the FY 2016, 2017 and 2018 budgets.

Mr. Hales added that time was needed for plans and design. City staff focused on the care of existing parks.

Alderman Sage provided his feedback. He expressed his support for Miller Park infrastructure over golf cart paths at Prairie Vista. He also supported Constitution Trail maintenance and Sunnyside Park improvements.

Alderman Black expressed his frustration. He added his hope that Senator Brady would listen to the Council.

Alderman Fruin expressed his support for City staff's recommendation. He added his belief that a single project would have more impact. He questioned if the state would accept the Council's actions. He suggested one project such as Mille Park. He noted that City budget discussions were just around the corner.

Alderman Stearns believed that the Council was voting on a wish list. City staff had identified priorities. The fact was that taxpayer dollars would be spent. Senator Brady was aware of the Council's actions. She recommended that the City meet with Senator Brady and include him in the process. The Council had rejected his proposal.



**Motion by Alderman Sage, seconded by Alderman Black that the approval of: 1.) approximately \$300,000 be allocated to the resurfacing and/or expansion of Constitution Trail; 2.) approximately \$250,000 be allocated toward Miller Park infrastructure; and 3.) approximately \$200,000 be allocated toward Sunnyside Park renovation through which a community build initiative be undertaken where stakeholders and neighbors are involved in the renovation, authorize the City Manager to submit same to Department of Commerce and Economic Opportunity (DCEO) and Senator Bill Brady's advisory committee.**

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

**Ayes: Aldermen Mwilambwe, Schmidt, Painter, Lower, Hauman, Sage, Fruin and Black.**

**Nays: None.**

**Present: Alderman Stearns.**

**Motion carried.**

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

**MAYOR'S DISCUSSION: Mayor Renner thanked Alderman Schmidt for attending the Holiday Tree Lighting Ceremony on Friday, December 5, 2014 at Withers Park. He was out of town accepting an award that recognized the City's Pension Funding Policy.**

**Alderman Schmidt recognized the Park, Recreation & Cultural Arts Department staff for the Holiday Tree Lighting Ceremony.**

**Mayor Renner also thanked Alderman Black for his participation in the Pantagraph's Holiday Spectacular which was held at the Bloomington Center for the Performing Arts on December 5 – 7, 2014..**

**Mayor Renner informed the Council that a Not In Our Town event would be held tomorrow, (December 9, 2014), at the YWCA located at 1201 N. Hershey Rd. at 2:00 p.m. The City had proactive law enforcement. Training would be expanded and the Police Department would become connected to the neighborhoods.**

**ALDERMEN'S DISCUSSION: Alderman Stearns expressed her appreciation for the Holiday Tree Lighting Ceremony. This revived a childhood memory. She welcomed other symbols of the holiday season, (i.e. menorah as a symbol of Hanukkah).**

**Motion by Alderman Schmidt, seconded by Alderman Hauman, that the meeting be adjourned. Time: 8:06 p.m.**

**Motion carried.**

**Tracey Covert  
City Clerk**