

**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 7:40 p.m., Monday, October 26, 2009.

The Meeting was opened by Pledging Allegiance to the Flag followed by Silent Prayer.

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

Aldermen: Judy Stearns, Kevin Huetten, Bernie Anderson, David Sage, John Hanson, Jennifer McDade, Steven Purcell, Karen Schmidt, Jim Fruin and Mayor Stephen F. Stockton.

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

The following was presented:

Mayor Stockton introduced Scott Goldstein, Teska Associates, Inc.'s Principal, to address the Westside Bloomington Revitalization Partnership (WBRP) award. Mr. Goldstein introduced Rob Kowalski, Vice President of the Illinois Chapter of the American Planning Association (APA), as well as the City of Champaign Assistant Planning Director and Valerie Dumser, the WBRP Chairperson. Mr. Goldstein thanked the Mayor and Council for their support of the WBRP. He also acknowledged the participation of Marty Vanags, Economic Development Council's (EDC) Chief Executive Officer, and Stan Cain, Planning Commission Chair.

Mr. Kowalski presented the award for the West Bloomington Neighborhood Plan. He stated that the APA is a national non-for-profit educational organization that advocates 1.) excellence in community planning; 2.) promotes education; 3.) citizen empowerment; and 4.) provides tools and support necessary to meet the challenges of growth and change in communities. They have a national membership of 45,000 that included not only city planners but citizens, elected officials, planning commissioners, etc. The Illinois Chapter was the fourth largest in the nation, comprised of 1,600 members. They offer an awards program that recognizes excellence in planning.

The West Bloomington Neighborhood Plan received the award in the Strategic Plan Category. Mr. Kowalski was a member of the jury that made the award decisions. The jury appreciated three (3) aspects of the West Bloomington Neighborhood Plan: 1.) demonstration of a grass routes effort for a neighborhood plan; 2.) corporate/community partnership; and 3.) the plan felt real, was practical and achievable. Mr. Kowalski then, on

behalf of the Illinois Chapter of the APA, presented the Strategic Plan Award 2009 for the West Bloomington Revitalization Partnership to Mayor Stockton.

Mayor Stockton was honored to accept the award on behalf of the City and Council. He emphasized that this was a partnership. The EDC was instrumental in this process. He also recognized other sponsors, specifically State Farm as the main corporate sponsor. The award will be placed in the WBRP office that will be established as part of the plan. He then presented the award to Ms. Dumser. She addressed the Council and introduced the WBRP steering committee members. They were seeking a Director and had established an office at 800 W Washington. She introduced Dennis Arnold to address the Council.

Mr. Arnold noted that several short term goals, such as the Community Garden and the Farmers' Market, had been accomplished through the opportunities provided by the plan. He stated that growth will occur because of the increased participation of the citizens. He added that with the opportunities the plan has provided, the need was to move forward with volunteer partners. Opening of the office and retaining a Director would assist with volunteer coordination. The goal was to have the Director begin the first week of January 2010.

Mayor Stockton also acknowledged the private effort/funding for the plan. Mr. Arnold agreed and acknowledged the contributions of the project partners along with the West Bloomington residents.

The following was presented:

SUBJECT: Council Proceedings of September 11, 2006 and Executive Session of November 27, 2006

RECOMMENDATION: That the reading of the minutes of the previous Council Proceedings of September 11, 2006 and the Executive Session of November 27, 2006 be dispensed with and the minutes approved as printed.

BACKGROUND: The Council Proceedings of September 11, 2006 and the Executive Session of November 27, 2006 have been reviewed and certified as correct and complete by the City Clerk.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Not applicable.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

Tracey Covert
City Clerk

David A. Hales
City Manager

Alderman Stearns informed the Council of her discussion with David Hales, City Manager, regarding the backlog of Council minutes. She suggested televising Council meetings as a less expensive approach. Mr. Hales stated that meetings could be televised. However, there would still be the requirement for minutes/proceedings. Alderman Stearns commented that the Town of Normal televised its meetings. It provided a record. Mr. Hales responded that his goal to be current with recording minutes and televising would require budgetary consideration. Alderman Stearns had done an informal survey and found that many cities were televising meetings. She expressed her interest in placing a motion on a Council agenda. The General Fund had improved and some dollars could be directed toward televising. She believed that televising meetings provided good way to communicate with citizens.

Alderman Schmidt stated that the Council was in agreement. It would come down to the budget and the City's priorities. Mayor Stockton had asked IS (Information Services) for a cost estimate in order for the issue to be considered in the future.

Motion by Alderman Anderson, seconded by Alderman Purcell that the reading of the minutes of the previous Council Meeting of September 11, 2006 and Executive Session of November 26, 2006, and the Work Session Minutes of July 31, 2009 be dispensed with and the minutes approved as printed

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

Ayes: Aldermen Stearns, Huette, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Bills and Payroll

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

BACKGROUND: The list of bills and payrolls will be furnished to you in on Friday, October 23, 2009 by posting via the City's web site. After examination, I will notify the Council of any items which may need to be addressed.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Not applicable

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

Barbara J. Adkins
Deputy City Manager

David A. Hales
City Manager

(ON FILE IN CLERK'S OFFICE)

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

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

Ayes: Aldermen Stearns, Huette, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Payments from Various Municipal Departments

RECOMMENDATION: That the payments be approved.

BACKGROUND: All of the described payments are for planned and budgeted contracts previously approved by the City Council.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: As follows:

1. That third partial payment to Convention and Visitors Bureau in the amount of \$44,166.66 on a contract amount of \$530,000 of which \$176,666.65 will have been paid to date for work certified as 33% complete for the Convention and Visitors Bureau Funding Agreement. Completion date – June 2010.
2. The sixth partial payment to Economic Development Council of Bloomington/Normal in the amount of \$6,666.66 on a contract amount of \$80,000 of which \$39,999.96 will have been paid to date for work certified as 50% complete for the McLean County Economic Development. Completion date – April 2010.
3. The fourth partial payment to the Pantagraph in the amount of \$6,850 on a contract amount of \$46,580.16 of which \$14,297.72 will have been paid to date for work certified as 31% complete for the 2009-2010 Seasonal Advertising Services for the Bloomington Center for the Performing Arts. Completion date – April 2010.
4. The thirty-ninth partial payment to APACE Architects & Design in the amount of \$414.82 on a contract amount of \$349,800 of which \$349,533.66 (\$12,992.58 reimburseables) will have been paid to date for work certified as 96% complete for the Design of Fire Station #5. Completion date – August 2009.
5. The second partial payment to Pizzo & Associates Ltd. in the amount of \$45,429.81 on a contract amount of \$210,725.31 of which \$154,149.04 will have been paid to date for work certified as 73% complete for the Grove Phase I and 2nd Part – Prairie Grass and Ecological System. Completion date – December 2009.
6. The third partial payment to Farnsworth Group, Inc. in the amount of \$5,061.06 on a contract amount of \$108,600 of which \$56,094.33 (\$1,201.58 reimburseables) will have been paid to date for work certified as 51% complete for the Kickapoo Restoration Project – Phase II. Completion date – May 2010.
7. The fourteenth partial payment to Stark Excavating, Inc. in the amount of \$147,559.04 on a contract amount of \$2,589,000 of which \$1,961,159.93 will have been paid to date for work certified as 74% complete for the McGraw Park – Phase II – General Construction. Completion date – December 2009.
8. The fifteenth partial payment to Stark Excavating, Inc. in the amount of \$45,322.20 on a contract amount of \$2,589,000 of which \$2,006,482.13 will have been paid to date for work certified as 78% complete for the McGraw Park – Phase II – General Construction. Completion date – December 2009.
9. The third partial payment to Rowe Construction Co. in the amount of \$66,712.80 on a contract amount of \$746,708.79 of which \$122,359.23 will have been paid to date for work certified as 16% complete for the 2009-2010 General Resurfacing. Completion date – October 2009.

10. The eleventh partial payment to Rowe Construction Co. in the amount of \$326,735.58 on a contract amount of \$3,476,726.41 of which \$2,876,186.23 will have been paid to date for work certified as 83% complete for the Lincoln Street – Bunn to Morrissey. Completion date – November 2009.
11. The thirty-sixth partial payment to Clark Dietz, Inc. in the amount of \$726.39 on a contract amount of \$392,895 of which \$371,523.98 will have been paid to date for work certified as 95% complete for the Hamilton Road – Timberlake to Main. Completion date – December 2009.
12. The sixteenth partial payment to Farnsworth Group in the amount of \$744 on a contract amount of \$45,000 of which \$44,540.47 will have been paid to date for work certified as 99% complete for the Wastewater Treatment System at Lake Bloomington. Completion date – October 2010.
13. The twenty-third and final payment to Clark Dietz, Inc. in the amount of \$621.98 on a contract amount of \$22,000 of which \$22,000 will have been paid to date for work certified as 100% complete for the Water Department Emergency Response Plan. Completion date – December 2010.
14. The twenty-first partial payment to Whittman Hydro Planning Associates, Inc. in the amount of \$12,583.38 on a contract amount of \$868,846 of which \$642,755.68 will have been paid to date for work certified as 74% complete for the Strategic Source Water Study. Completion date – September 2010.
15. The sixteenth partial payment to Clark Dietz in the amount of \$4,243.75 on a contract amount of \$50,000 of which \$47,007.27 will have been paid to date for work certified as 94% complete for the Water Mapping Services. Completion date – December 2009.
16. The fourth partial payment to Consoer Townsend in the amount of \$3,071.10 on a contract amount of \$41,760 of which \$15,067.61 will have been paid to date for work certified as 36% complete for the Direct Injection of Carbon Dioxide at Treatment Plant. Completion date – December 2009.
17. The first partial payment to Consoer Townsend in the amount of \$2,284.22 on a contract amount of \$20,000 of which \$2,284.22 will have been paid to date for work certified as 11% complete for the Design of Dust Collection System for Lime Conveyance System at Lake Bloomington. Completion date – December 2010.
18. The fourth partial payment to Gildner Plumbing, Inc. in the amount of \$230,531.10 on a contract amount of \$1,186,825 of which \$727,464.39 will have been paid to date for work certified as 61% complete for the Division D Pipeline Rd. 36 Inch Transmission Main. Completion date – August 2010.

19. The twentieth partial payment to Clark Dietz in the amount of \$2,898.77 on a contract amount of \$60,000 of which \$59,073.69 will have been paid to date for work certified as 98% complete for the Observation/Inspection of Parkview Phase – I – Watermain Replacement. Completion date – January 2010.
20. The twenty-second partial payment to Clark Dietz in the amount of \$687.50 on a contract amount of \$305,000 of which \$209,412.40 will have been paid to date for work certified as 69% complete for the Locust/Colton Street Sewer Separation & Watermain Replacement. Completion date – March 2010.
21. The eighth partial payment to Farnsworth Group in the amount of \$21,965 on a contract amount of \$103,000 of which \$59,965 will have been paid to date for work certified as 58% complete for the Inspection Services for Pipeline Rd. Transmission Main Replacement. Completion date – December 2010.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Recommended by:

Tracey Covert
City Clerk

Timothy Ervin
Director of Finance

David A. Hales
City Manager

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

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

Ayes: Aldermen Stearns, Huette, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Audit of the Accounts for the Township Supervisor of General Assistance Fund and General Town Fund for the Month of September, 2009

RECOMMENDATION: That the audit of the bills and payrolls for the Township for the month of September, 2009 be made a matter of record.

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

The Audit of these accounts took place on Monday, October 26, 2009 at 6:30 p.m. in the Conference Room of Bloomington City Hall and should, at this time, be made a matter of record.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Not applicable.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

Tracey Covert
City Clerk

David A. Hales
City Manager

Motion by Alderman Anderson, seconded by Alderman Purcell that the audit of the bills and payroll be made a matter of record.

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

Ayes: Aldermen Stearns, Huette, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Report

RECOMMENDATION: That the report be received and placed on file.

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

1. Monthly Receipt & Expenditure Report, 2009.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable

FINANCIAL IMPACT: Not applicable.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by:

Recommended by:

Tracey Covert
City Clerk

Timothy Ervin
Director of Finance

David A. Hales
City Manager

Motion by Alderman Anderson, seconded by Alderman Purcell that the Monthly Receipt & Expenditure Report be placed on file and made a matter of record.

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

Ayes: Aldermen Stearns, Huette, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Payment to McLean County Museum of History

RECOMMENDATION: That the payment be approved.

BACKGROUND: The City has provided a grant to the McLean County Museum of History in various amounts for over seventeen (17) years. In 2008, the City provided a grant in the amount of \$20,000. The Museum provides free admission to local students. This includes both District 87 and Unit 5 schools. In 2008, free admission was given to over 3,000 students. The annual budget is \$716,881, which is down from \$780,009 for their previous year's budget (which equals a 9% decline).

The Museum relies highly on volunteers to offset the cost of additional staff and operations. It receives financial support through philanthropy from over 1,300 households. It also financially partners with McLean County and the Town of Normal, as well as in-kind services, in order to continue to provide a high level of service.

McLean County provides \$66,000 annually as well and has paid for major exterior and interior restorations to the building. The County performs day-to-day maintenance of the facility and pays the utilities costs for the building. In 2004, the Town of Normal provided \$10,000; in 2005 through 2009, that amount increased to \$10,200. Staff respectfully recommends that Council authorize a grant in the amount of \$20,000.

COMMUNITY GROUPS/INTERESTED PERSON CONTACTED: McLean County, Town of Normal, District 87, Unit 5, and citizens.

FINANCIAL IMPACT: \$20,000 was budgeted in the City's General Fund as approved by Council for the 2009-2010 fiscal year. Funds are available in Administration's Line Item 79990.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

Barbara J. Adkins
Deputy City Manager

David A. Hales
City Manager

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

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

Ayes: Aldermen Stearns, Huette, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Request for Proposals (RFP) for Medical Supplies and Equipment

RECOMMENDATION: That the proposal submitted by Henry Schein Matrix Medical be accepted in the amount of \$39,541.23 and the Purchasing Agent be authorized to issue a Purchase Order for same with three (3) optional annual renewal periods.

BACKGROUND: Request for Proposals (RFP) for Medical Supplies and Equipment were received until September 15, 2009 at 5:00 p.m. in the Office of the City Clerk. Nine (9) proposals were received. The goal was to obtain the lowest possible costs from a single vendor, one who could supply all or most of the (283) items listed. Vendors were not required to submit proposals on all items.

These items will be used to restock and equip the City's ambulances and alternative response vehicles. The three (3) vendors considered submitted proposals on most of the items listed. The table below is a summary of the request for proposals.

Vendor	# of items not bid	Total Cost	Shipping charges
BoundTree Medical LLC	0	\$44,919.35	Not specified
Midwest Medical	25	\$41,205.79	Not specified
Henry Schein Matr Medical	26	\$39,541.23	2 day shipping at no charge

The total cost was calculated by multiplying the actual amount of items used by the Fire Department in the preceding twelve (12) months by the proposed unit price of the vendor. Henry Schein Matr Medical offered both the lowest total cost and free two (2) day shipping. Staff respectfully requests that Council accept the proposal submitted by Henry Schein Matr Medical.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Payment for these supplies will be paid from the Fire Department Medical Supplies account #G15210-71120.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

Michael S. Kimmerling
Fire Chief

David A. Hales
City Manager

Motion by Alderman Anderson, seconded by Alderman Purcell that the proposal submitted by Henry Schein Matrix Medical be accepted in the amount of \$39,541.23 and the Purchasing Agent be authorized to issue a Purchase Order, with three (3) optional annual renewal periods.

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

Ayes: Aldermen Stearns, Huette, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Analysis of Water Treatment Chemicals

RECOMMENDATION: That the bids be awarded to the various vendors and the Purchasing Agent be authorized to issue Purchase Orders for same.

BACKGROUND: On September 30, 2009 bids were opened for the water treatment chemical needs for the twelve (12) months following the award of the bids. The responsive and qualified lowest bids are as follows:

CHEMICAL	VENDOR	CURRENT YEAR	LAST YEAR
Ferric Sulfate	General Chemical	\$234.40	\$465.95
Carbon Dioxide	PraxAir	\$48.90	\$49.50
Sodium Hexametaphosphate	Ashland, Inc.	\$1,112.00	\$4,000.00
Liquid Chlorine	Jones Chemical, Inc.	\$487.00	\$431.00
Anhydrous Ammonia	National Ammonia	\$1,360.00	\$1,580.00
Hydrofluosilicic Acid	LCI, Ltd.	\$722.00	\$605.00

It should be noted that two (2) bids were determined to be non-responsive and therefore rejected. One (1) bidder did not comply with the City's EEO (Equal Employment Opportunity) requirement and another did not provide a bid with the proper equipment as specified in the bid requirements.

Staff has speculated several reasons why the prices for chemicals were lower this year than last. Those reasons include lower fuel prices, decreased demand for some chemicals, greater natural gas supplies, and the overall economic downturn may have resulted in decreased demand.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Payment for these chemicals will be paid from the Water Department, Operations and Maintenance budget, Purification Division, Water Treatment Chemicals, and Account #5010-50100-50130-71720. There is \$550,000 budgeted for FY 2009-2010.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

Craig M. Cummings
Director of Water

David A. Hales
City Manager

Motion by Alderman Anderson, seconded by Alderman Purcell that the bids be awarded to the various vendors and the Purchasing Agent be authorized to issue Purchase Orders for same.

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

Ayes: Aldermen Stearns, Huette, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Resolution for the Appropriation of Motor Fuel Tax Funds for Improvement of Lincoln Street from Main Street to Mercer Avenue and Ireland Grove Road from the Kickapoo Creek Bridge to Dover Road (Wards 1, 4 & 8)

RECOMMENDATION: That the IDOT Local Agency Agreement be approved, the Resolution appropriating \$46,000 in Motor Fuel Tax Funds (MFT) be adopted, and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: On August 25, 2009 the City received notice from the State of Illinois that funding for this project would be provided through the Emergency Repair Program. The Illinois Department of Transportation (IDOT) is administering this state funded program. In order to proceed with the project and receive the funding, a City-State Agreement and the MFT Resolution need to be executed. The project is expected to be bid by the spring of 2010.

Staff respectfully recommends that the IDOT Local Agency Agreement be approved, the Resolution appropriating \$46,000 in MFT funds be adopted, and the Mayor and City Clerk be authorized to execute the necessary documents.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: IDOT, State Representative Dan Brady, and State Senator Bill Brady.

FINANCIAL IMPACT: The total estimated cost of the project is \$1,166,000. The City's estimated share of this project is \$46,000 which will be paid for using MFT Funds, (X20300-72530). IDOT is funding the remaining cost of the project. The agreement obligates the City to pay for all costs above the awarded funding of \$1,120,000. The project is not included in the City's current budget. However, since the project will be bid this spring, execution of the contract could be delayed until FY 2010-2011.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed as to legal sufficiency:

Reviewed by:

Jim Karch
Director of Public Works

Todd Greenburg
Corporation Counsel

Timothy Ervin
Director of Finance

Recommended by:

David A. Hales
City Manager

(RESOLUTION NO. 2009 - 50 ON FILE IN CLERK'S OFFICE)

**ILLINOIS DEPARTMENT OF TRANSPORTATION
Local Agency/State Agreement**

Local Agency: Bloomington, City of

Job Number – Construction: C-95-317-10

Section: 09-00344-00-RS

Job Number – Engineer/ROW

This Agreement is made and entered into between the above local agency hereinafter referred to as “LA”, and the State of Illinois, acting by and through its Department of Transportation, hereinafter referred to as “STATE”. The STATE and LA jointly propose to improve the designated location as shown below.

Location

Local Name: Lincoln Street & Ireland Grove Road

Route: FAU6365&6370

Length: 1.72 miles

Termini: Lincoln St from Main Street to Mercer Avenue with an omission between Bunn Street and Morrissey Drive and Ireland Grove Road from the Kickapoo Creek Bridge to Dover Road

Current Jurisdiction: City of Bloomington

Project Description

Resurfacing the existing street, adjusting and repairing manholes and inlets

Division of Cost

Type of Work	STATE	LA	Total
Participating Construction	1,120,000	46,000 Bal	1,166,00
Non-Participating Construction			0
Preliminary Engineering			0
Construction Engineering			0
Right-of-Way			0
			0
			0

TOTAL \$1,120,000 \$46,000 \$1,166,000

Note: *100% ERP funds not to exceed \$1,120,000 to be used first; balance is responsibility of local agency

Payment Method (check one):

- _____ Upon award of the project and request of payment from the LA, the STATE will pay the LA 100% its share of the project costs.
- X Upon execution of the construction contract and request of payment from the LA, the STATE will pay the LA 95% of its share of the project costs. The remaining 5% will be paid to the LA upon receipt of the final invoice.
- _____ The STATE will reimburse the LA for the STATE share of the project on the basis of periodic billings provided said billings contain sufficient cost information and show evidence of payment by the LA.

Agreement Provisions

1. It is mutually agreed that the PROJECT will be processed, let and constructed in accordance with Motor Fuel Tax standards, policies and procedures.
2. The LA will certify to the STATE that all necessary right-of-way, temporary and permanent easements, and temporary use permits have been obtained or are not required, prior to the LA advertising for bids for the PROJECT.
3. The PROJECT will be let and awarded by the LA upon approval of the plans and specifications by the STATE.
4. The LA agrees to retain jurisdiction and to maintain or cause to be maintained the completed PROJECT in a manner satisfactory to the STATE unless otherwise specified by addendum.
5. Upon approval of the final plans and specifications by the STATE and the LA, the LA agrees to accept bids and award the contract to the lowest responsible bidder after receipt of a satisfactory bid and concurrence in the award has been received from the STATE. If necessary the LA agrees to provide, or cause to be provided, all of the initial funding necessary to complete the project subject to reimbursement by the STATE.
6. The LA shall maintain, for a minimum of 3 years after the completion of the project, adequate books, records, and supporting documents to verify the amounts, recipients and uses of all disbursements of funds passing in conjunction with this Agreement. All books, records, and supporting documents related to the project shall be available for review and audit by the Auditor General and the Department. The LA agrees to cooperate fully with any audit conducted by the Auditor General and the Department and to provide full

access to all relevant materials. Failure to maintain the books, records and supporting documents required by this section shall establish a presumption in favor of the STATE for the recovery of any funds paid by the STATE under the contract of which adequate books, records, and supporting documentation are not available to support their purported disbursement.

7. To complete this phase of the project within three years from the date this agreement is approved by the STATE if this portion of the project described in the Project Description does not exceed \$1,000,000 (five years if the project costs exceed \$1,000,000).
8. Upon completion of this phase of the project, the LA will submit to the STATE a complete and detailed final invoice with all applicable supporting documentation of all incurred costs, less previous payments, no later than one year from the date of completion of this phase of the project. If a final invoice is not received within one year of completion of this phase of the project, the most recent invoice may be considered the final invoice and the obligation of funds closed.
9. Obligations of the STATE shall cease immediately without penalty or further payment being required if, in any fiscal year, the Illinois General Assembly fails to appropriate or otherwise make available funds for the work contemplated herein.
10. All projects for the construction of fixed works which are financed in whole or in part with funds provided by this Agreement shall be subject to the Prevailing Wage Act (820 ILCS 130/0.01 et seq.) unless the provisions of that Act exempt its application.
11. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns.

EXHIBITS

Additional information and/or stipulations are hereby attached and identified below as being a part of this Agreement. Exhibit A - Location Map.

The LA further agrees, as a condition of payment, that it accepts and will comply with the applicable provisions set forth in this Agreement and all exhibits indicated above.

APPROVED: Local Agency

APPROVED: IDOT

Stephen Stockton
Mayor
Date: 10/27/2009

Gary Hannig
Secretary of Transportation
Date: 12/2/2009

Christine M. Reed
Director of Highways/Chief
Engineer

Date: 11/23/2009

Ellen J. Schanzie-Haskins
Chief Counsel
Date: 11/20/2009

Ann L. Schneider
Director of Finance and Administration
Date: 11/24/2009

(EXHIBIT A – LOCATION MAP ON FILE IN CLERK’S OFFICE)

Alderman Sage questioned a phrase in the staff report. He questioned the steps the City used to manage risks associated with cost overruns. David Hales, City Manager mentioned this boilerplate language was used with IDOT. Alderman Fruin offered to explain steps in more detail.

He stated that the question became how to mitigate risk at the department level. There were engineering inspectors who coordinated with the management team to track project costs. Towards the end of the project, they have the option to stop short, if needed, to stay within the project’s costs.

Motion by Alderman Anderson, seconded by Alderman Purcell that the IDOT Local Agency Agreement be approved, the Resolution appropriating \$46,000 in Motor Fuel Tax Funds (MFT) be adopted, and the Mayor and City Clerk be authorized to execute the necessary documents.

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

Ayes: Aldermen Stearns, Huette, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Application of Peggy Ann Bateman, d/b/a Digger’s Again!, located at 230 E. Front St., for a TAS liquor license, which will allow the sale of all types of alcohol by the glass for consumption on the premises seven (7) days a week

RECOMMENDATION: Based upon the report from the Liquor Hearing, the Liquor Commission recommends to the City Council that a TAS liquor license for Peggy Ann Bateman, d/b/a Digger's Again!, located at 230 E. Front St., be created, contingent upon compliance with all applicable health and safety codes with the condition that the outdoor area may be subject to Commission regulation based upon any concerns being raised by the neighborhood.

BACKGROUND: The Bloomington Liquor Commissioner Steve Stockton called the Liquor Hearing to hear the application of Peggy Ann Bateman, d/b/a Digger's Again!, located at 230 E. Front St., requesting a TAS liquor license which allows the sale of all types of alcohol by the glass for consumption on the premises seven (7) days a week. Present at the hearing were Liquor Commissioners Steve Stockton; Tracey Covert, City Clerk; and Peggy Ann Bateman, owner/operator and Applicant representative.

Commissioner Stockton opened the liquor hearing. He requested that the Applicant present the business plan. He noted that Digger's liquor license had been held by Doug Wunderle. He expressed his sympathy to Ms. Bateman. Ms. Bateman noted that Mr. Wunderle had not been in the best of health for the past year. She had managed the business during that time. Digger's was a Downtown neighborhood bar with loyal clientele. The average age of the bar's patrons was thirty-five to forty (35 - 40) years of age. She noted that business had been good. Issues were a rarity. There also was a ping pong table which attracted younger customers.

Commissioner Stockton noted that based upon his visits to Digger's, it appeared that everyone knew each other. Ms. Bateman informed the Commission that Digger's had been in business for twelve (12) years. Business had been good this summer.

Commissioner Stockton questioned the impact of the smoking ban upon business. Ms. Bateman noted that Digger's had a patio out back (in the alley). There was a table and chairs for smoking purposes. No alcohol is allowed outside. She had a good Asst. Manager who was adamant that there would not be any smoking indoors. She did not believe that it had been a real issue.

Commissioner Stockton questioned if the City could be of assistance to Ms. Bateman at this time. Ms. Bateman did not have any complaints. She described the Police Department as professional when officers had visited the bar performing identification checks. Calls for service were a rarity. Digger's worked with its patrons. She did not believe that there were any other issues. She added that the City's PACE inspectors and the County Health Department had completed their inspection work.

Ms. Bateman informed the Commission that Digger's would occasionally host a band. She cited Springfest and Pub Crawl as examples.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Public notice was published in the Pantagraph in accordance with City Code. In accordance with City Code, approximately six (6) courtesy copies of the Public Notice were mailed.

FINANCIAL IMPACT: None, replacement of an existing liquor license.

Respectfully,

Reviewed and concur:

Stephen F. Stockton
Chairman of Liquor Commission

Randall D. McKinley
Police Chief

Motion by Alderman Anderson, seconded by Alderman Purcell that a TAS liquor license for Peggy Ann Bateman, d/b/a Digger's Again!, located at 230 E. Front St., be created, contingent upon compliance with all applicable health and safety codes with the condition that the outdoor area may be subject to Commission regulation based upon any concerns being raised by the neighborhood.

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

Ayes: Aldermen Stearns, Huette, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Petition for the Partial Vacation of a Utility Easement on the south side of Lot 391 in the 15th Addition to Old Farm Lakes (Ward 9)

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

BACKGROUND: On August 14, 2009 the City issued a permit to construct a garage addition on the south side of 917 Eddy Road. After construction began it was noticed that the garage addition encroached into a utility easement. Work was halted on the construction until the issue was resolved.

The petitioner has contacted the utilities and there are no known conflicts or issues with vacating the north three feet (3') of the ten foot (10') utility easement. Staff respectfully recommends that Council approve the Vacation and that the Ordinance be passed.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: The following utility companies: Verizon; Nicor Gas; Corn Belt Energy; Comcast; and City Water and Sewer.

FINANCIAL IMPACT: Not applicable.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed as to legal sufficiency:

Recommended by:

Jim Karch
Director of Public Works

J. Todd Greenburg
Corporation Counsel

David A. Hales
City Manager

PETITION FOR VACATION OF UTILITY EASEMENT

STATE OF ILLINOIS)
) ss.
COUNTY OF MCLEAN)

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

Now comes Jennifer Knight hereinafter referred to as your Petitioner, respectfully representing and requesting as follows:

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

WHEREFORE, your Petitioner prays that the utility easement be vacated with such reservation of utility easements as may seem proper.

Respectfully submitted,

By: Jennifer Knight

ORDINANCE NO. 2009 - 68

**AN ORDINANCE PROVIDING FOR THE VACATION OF
A UTILITY EASEMENT**

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

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

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

WHEREAS, it is reasonable and proper to vacate said utility easement as requested in this case.

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

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

PASSED this 26th day of October, 2009.

APPROVED this 27th day of October, 2009.

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

EXHIBIT A

Old Farm Lakes No. 15 Lot 391

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

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

Ayes: Aldermen Stearns, Huette, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Petition from Harvest Developers, Inc., Requesting Annexation and Rezoning of a 0.248 Acre Tract in the Harvest Pointe Subdivision Development

RECOMMENDATION: That the Annexation and Rezoning be approved and the Ordinance passed.

BACKGROUND: On November 14, 2005, Council approved an Annexation Agreement by and between the City, RBT of Illinois, LLC, an Illinois Limited Liability Company, and St. Patrick's Church of Merna. The proposed Annexation and Rezoning is in accordance with this agreement. This petition requests that the subject property be rezoned from A-Agriculture to R-2, Mixed Residence District.

The subject area is immediately north of IL Route 9 and east of Towanda Barnes Road. The original annexation left off this small piece of property as it was not owned by the developer at that time. The developer has ownership and has petitioned to annex and rezone the remainder of his holdings for this subdivision. Staff respectfully recommends that Council approve this petition and pass the ordinance to Annex and Rezone the 0.248 acre tract.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: All of the required public hearings for the Annexation Agreement were held by the Planning Commission and City Council in 2005.

FINANCIAL IMPACT: The future residential properties will generate property tax revenue and annexation fees. There are revenues and costs associated with the entire Harvest Pointe Development that are detailed in the approved annexation agreements, and are triggered by construction of utilities or final platting.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed as to legal sufficiency:

Recommended by:

Jim Karch
Director of Public Works

J. Todd Greenburg
Corporation Counsel

David A. Hales
City Manager

PETITION FOR ANNEXATION TO THE CITY OF BLOOMINGTON, MCLEAN COUNTY, ILLINOIS AND FOR AMENDMENT OF THE OFFICIAL ZONING MAP OF THE CITY OF BLOOMINGTON, MCLEAN COUNTY, ILLINOIS

State of Illinois)
)ss.
County of McLean)

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

Now comes Harvest Developers, Inc., an Illinois corporation, hereinafter referred to as your petitioner, respectfully representing and requesting as follows:

1. That your petitioner is the owner of the premises hereinafter legally described in Exhibit A which is attached hereto made and a part hereof, by this reference;
2. That said premises presently have a zoning classification of Agricultural under the provisions of the McLean County Zoning Ordinance;
3. That there is attached hereto and made a part hereof an Annexation Agreement between said City and your petitioner which provides for the annexation of the premises described in Exhibit A to said City;
4. That said Annexation Agreement provides that, upon annexation of said premises to said City, said premises would be zoned as follows under the provisions of Chapter 44 of the Bloomington City Code-1960, as amended: R-2 Mixed Residence District;
5. That your petitioner hereby requests that the Honorable Mayor and City Council of the City of Bloomington, McLean County, Illinois annex said premises to said City and amend the Official Zoning Map of said City to reclassify said premises into the zoning district classification;
6. That said requested zoning classification is more compatible with existing uses and/or zoning of adjacent property than the zoning of said premises to the A-Agriculture District; and

7. 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 petitioner by the zoning of said premises to the A-Agriculture District.

WHEREFORE, your petitioner respectfully prays that said premises be annexed to the City of Bloomington, McLean County, Illinois, and 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 to R-2 Mixed Residence District.

Respectfully submitted,

By: Harvest Developers, Inc., an Illinois Corporation

By: William Peifer, Vice President

ORDINANCE NO. 2009 - 69

AN ORDINANCE ANNEXING CERTAIN TERRITORY AS HEREINAFTER DESCRIBED TO THE CITY OF BLOOMINGTON, MCLEAN COUNTY, ILLINOIS

WHEREAS, there has heretofore entered into a certain Agreement for Annexation between the City of Bloomington and Harvest Developers, Inc., an Illinois corporation, the owner of the premises hereinafter described, which Agreement is attached hereto and made a part hereof by this reference as Exhibit A; and

WHEREAS, the City Council of the City of Bloomington, after proper notices were given, conducted a Public Hearing on said Annexation Agreement; and

WHEREAS, the City Council of the City of Bloomington has considered the question of annexation and has determined that said Annexation Agreement is proper and in due form according to the statutes of the State of Illinois as in such case made and provided. Said City Council has further determined that the proposed zoning, as established in the aforesaid Agreement, follows the general comprehensive plan and development theme heretofore established by the corporate authorities of the City of Bloomington and should be place in effect as to said land upon the annexation of same, all as by Statute specifically provided.

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

SECTION ONE: That the City Council of the City of Bloomington, Illinois, determines that the territory described in the attached Exhibit B is not within the confines of any municipality of the State of Illinois, but is however, contiguous to the City of Bloomington.

SECTION TWO: That the property hereinabove described is by this Ordinance hereby annexed to and does by said Ordinance become a part of the incorporated City of Bloomington, McLean County, Illinois and that the boundary of said City is hereby changed to include the property hereinabove described.

SECTION FOUR: That the Annexation Agreement, hereinabove referred to and hereto attached be and the same hereby is ratified, affirmed, and incorporated into this Ordinance.

SECTION FIVE: That the premises described in Exhibit B be hereby zoned as follows under the provisions of Chapter 44 of the Bloomington City Code-1960, as amended: R-2 Mixed Resident District;

SECTION FIVE: That this Ordinance shall be in full force from the date of its passage.

PASSED this 26th day of October, 2009.

APPROVED this 27th day of October, 2009.

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

EXHIBIT A

(Annexation Agreement March 9, 2006 as Document No. 2006-5822 between the City of Bloomington, RBT of Illinois, LLC, and the St. Patrick's Church of Merna)

ANNEXATION AGREEMENT

THIS AGREEMENT is made and entered into by and between the City of Bloomington, McLean County, Illinois, herein referred to as "City", and RBT of Illinois, LLC, an Illinois Limited Liability Company, as "Owner", and the St. Patrick's Church of Merna, herein as "Church".

WHEREAS, the Owner is the record owner in fee simple or contract buyer of the real estate which is legally described in Exhibit A hereto and is herein referred to as the Exhibit A Premises.

WHEREAS, the Church is the record owner in fee simple of the real estate which is legally described in Exhibit B hereto and is herein referred to as the Exhibit B Premises.

WHEREAS, the Church and Owner are desirous of having both Exhibit A and Exhibit B Premises annexed to the City and the City is desirous of annexing said property.

WHEREAS, the Owner and City are desirous of having the Exhibit A Premises zoned into the R-1C, High Density Single Family Residence District, the R-2, Mixed Residence District, the S-2, Public Lands and Institutions District, and the B-1, Highway Business District.

THEREFORE, IT IS AGREED BY THE CITY, the CHURCH, and OWNER AS FOLLOWS:

1. Upon submission of a properly executed Petition to Annex, and upon satisfying the legal requirements of contiguity to the corporate limits of the City, the City agrees to annex both the Exhibit A and B Premises.
2. Upon submission of a properly executed Petition to Rezone, the City shall zone the Exhibit A Premises as follows: a) between 14-15 acres along Route 9 as depicted on Exhibit C to the B-1, Highway Business District, b) any park land and detention areas to the S-2, Public Lands and Institutions District, c) between 14-15 acres along the B-1

Highway Business District to the R-2, Mixed Residence District, and the balance of the premises to the R-1C, High Density Single Family Residence District.

3. The Owner agrees that upon the annexation of the Exhibit A Premises to the City, the Owner shall petition for annexation on the Exhibit A Premises to the Bloomington-Normal Airport Authority District and the Bloomington-Normal Water Reclamation District.
4. The Owner agrees to submit a preliminary subdivision plan or plans in substantial conformity with Exhibit C, which is attached hereto and made a part hereof. The City agrees to approve one or more preliminary subdivision plans for the intended subdivision of the Exhibit A Premises, with said subdivision to be known as Wynncrest Subdivision or some other name mutually agreeable to the parties hereto, which shall be developed in phases. Each phase may have a separate subdivision name. The initial preliminary subdivision plans will be submitted to the City in substantial compliance with the City's Subdivision Code as it exists on the date of the initial filing of this Annexation with the City Clerk. Any over sizing of utilities and streets shall be at the City's expense (except where otherwise provided herein.) The City agrees to approve the final subdivision plats of each phase of a preliminary plan provided they are in substantial compliance with the approved preliminary plan and this Agreement. Should Owner request a major amendment in the preliminary plan, the applicable Subdivision Code of the City shall be the one in existence on the date the major amendment is requested and shall only apply to the area affected by the amendment. The Owner shall be allowed to construct an earthen berm along the South 33 feet of the Exhibit A Premises. Said earthen berm may be up to six feet high and landscaped. The preliminary plan shall include a landscaping plan for said earthen berm acceptable to the City.
5. The City shall allow the Owner to construct up to ten model homes on the Exhibit A Premises for presentation and sale purposes. The location of the model homes may change from time to time and place to place as the Owner may desire and as the development or sales occur within the proposed subdivision. A model home may not be constructed unless the lot is pinned, water and sanitary sewer mains are extended to the lot, access to it is provided for by a compacted gravel or other hard surface and a grading plan for the lot has been accepted by the City's staff. Notwithstanding the foregoing, no conveyance of title or certificate of occupancy for any model home shall take place until a final subdivision plat is of record for the real estate on which said model home is located and until access is available from a paved street.
6. This Agreement shall be enforceable for a period of 20 years from the date of the passage of the annexation ordinance contemplated by this Agreement. This Agreement is binding upon the parties hereto, and their heirs, successors, and assigns.
7. The dry bottom storm water detention facilities, after completion, shall be dedicated to the City for maintenance. At the City's option, the owner agrees to plant the detention area with native plantings acceptable to the City and to maintain same until basin is accepted for maintenance by the City. The City hereby agrees to the Owner providing

certain storm water storage to the Church, subject to agreement between the Owner and the Church.

8. The Owner shall have the right to construct landscaped berms on the Exhibit A Premises within outlots. The Owner may construct development or subdivision identification signs in any boulevard entrance or landscaped berm, provided the location of the sign is on an outlot. The Owner shall be allowed to locate an outlot within a boulevard entrance and to use said outlot as a sign location. Ownership and maintenance of the landscaped berms and development signs shall be by the Owner or an Association of lot owners. Signage on the berms shall not be situated to obstruct sign/distance visibility requirements.
9. The Owner shall fulfill the bonding requirements of the City's Code by posting a \$250,000.00 revolving commercial surety bond from an insurance company acceptable to the City. The bonds posted shall apply to all final plats until final acceptance by the City.
10. The Owner shall have no perimeter road improvement obligations.
11. The Owner shall satisfy the park land dedication requirements per City Code by dedication of an area of sufficient acreage in the general location designated on Exhibit A. The area of the detention basin shall not be considered towards meeting park requirements.
12. The Owner shall construct the water mains for the Exhibit A Premises with the City paying for the cost of any oversizing above the minimum required eight inch main. The Owner shall pay for the cost of the improvements described in this paragraph 12 to the extent of the cost of the improvements adequately sized to service the Exhibit A Premises. Oversizing shall mean the cost associated with increasing the capacity of the improvements and locating the improvements so that they will serve an area greater than the Exhibit A Premises. Oversizing costs shall be agreed between the parties prior to any construction. The Owner shall extend a sanitary sewer to the premises from the present terminus of the City's sewer system with the City paying for the cost of any oversizing. Oversizing of any streets in the premises shall be at the expense of the City.
13. The Owner shall pay tap on fees for sanitary sewers to which this development is tributary.
14. The Owner may elect to construct one or more entrance gates for certain residential streets under the following conditions:
 - A) The street (including gate, pavement, curb, gutter, & sidewalk) and storm sewer (including inlets and manholes) on the street thereby affected shall be considered a private street.

- B) A viable homeowners association or other responsible agency shall be transferred the maintenance responsibility (including snow removal) for said private street.
- C) The City shall be granted access to said private street for maintenance of other utilities such as water and sanitary sewer.
- D) Provisions shall be made to grant unimpeded access to said private street for all emergency vehicles and services. (Such as attachment of a Knox Box).
- E) The City agrees to continue garbage collection on said private street(s) only to the extent there is unimpeded access for the City's collection vehicles and provisions of a "hold harmless" agreement.

Upon doing so, the City shall thereafter continue to provide garbage pickup for the affected streets. After the installation of the entrance gates, the street thereby affected shall be considered to be a private street.

15. The Church shall fulfill the obligations of the Customer provided for in the Water & Proposed Water Main Extension Agreement which is attached thereto as Exhibit D.

This agreement is made on the dates indicated below.

Date: November 15, 2005

City of Bloomington

By: Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Date: July 13, 2005

RBT of Illinois, LLC, an Illinois
Limited Liability Company

By: _____
Its Member

Date: July 13, 2005

St. Patrick's Church of Merna

By: Fr. Jerry Ward

EXHIBIT A

All that part of the Southwest Quarter of Section 32, Township 24 North, Range 3 East of the Third Principal Meridian, McLean County, Illinois, lying north of F.A.P. 693 (Illinois Route 9) Right-of-Way and lying east of the Northerly Extension of the East Line of a Tract of Land conveyed per Warranty Deed recorded February 10, 1997 as Document No. 97-3108.

EXHIBIT B

TRACT NO. 1:

Lot 1 in St. Patrick's Roman Catholic Congregation of Merna Subdivision, a Subdivision according to the plat thereof recorded March 23, 1984 as Document Number 84-3373, EXCEPT that part Conveyed to the State of Illinois, Department of Transportation by Deed Recorded April 28, 1995 as Document Number 95-7785, in McLean County, Illinois.

TRACT NO. 2:

A Strip of Land 35 feet wide North and South lying North of and Adjacent to the Following Described Tract: Lot 1 in St. Patrick's Roman Catholic Congregation of Merna Subdivision, a Subdivision according to the Plat thereof Recorded March 23, 1984 as Document Number 84-3373, in McLean County, Illinois, being a Part of the Southwest ¼ (except the West 467 feet and the South 467 feet) of Section 32, Township 24 North, Range 3 East of the Third Principal Meridian, in McLean County, Illinois.

TRACT NO. 3:

A Part of the Southwest ¼ of Section 32, Township 24 North, Range 3 East of the Third Principal Meridian, more particularly described as follows: Commencing at the Southwest corner of said Section 32; thence, North 01 degree 43 minutes 00 seconds East, 502.00 feet along the West Line of said Section 32 to the Point of Beginning; thence, North 01 degree 43 minutes 00 seconds East, 819.84 feet to the South Line of said Section 32; thence, South 89 degrees 58 minutes 54 seconds West, 350.00 feet along the South Line of said Section 32; thence, South 89 degrees 58 minutes 54 seconds West, 467.00 feet to the Point of Beginning, in McLean County, Illinois.

EXHIBIT C

(NOT PROVIDED BY PETITIONER)

EXHIBIT D

Water and Proposed Water Main Extension Agreement recorded February 20, 2002 as Document No. 2002R07088, and as approved by Bloomington City Council on May 14, 2001. (ON FILE IN THE CITY CLERK'S OFFICE)

EXHIBIT B

(Annexation Parcel)

DESCRIPTION OF PROPERTY

A part of the Southwest Quarter of Section 32, Township 24 North, Range 3 East of the Third Principal Meridian, McLean County, Illinois, more particularly described as follows: Commencing at the Northwest Corner of Harvest Pointe Subdivision according to the Plat recorded as Document No. 2006-30281 in the McLean County Recorder's Office, said Northwest Corner being on the East Line of a parcel of land conveyed to St. Patrick's Roman Catholic Congregation of Merna by Deed recorded as Document No. 97-3108 in said Recorder's Office, thence north 281.90 feet along said East Line and the Northerly Extension thereof to the Point of Beginning. From said Point of the Beginning, thence east 120.09 feet along a line which forms an angle to the right of 270°-00'-44" with said Northerly Extension; thence north 1.00 foot along a line which forms an angle to the right of 90°-00'-00" with the last described course; thence east 180.00 feet along a line which forms an angle to the right of 270°-00'-00" with the last described course; thence south 5.00 feet along a line which forms an angle to the right of 270°-00'-00" with the last described course; thence east 120.00 feet along a line which forms an angle to the right of 90°-00'-00" with the last described course; thence north 29.00 feet along a line which forms an angle to the right of 90°-00'-00" with the last described course; thence north 29.00 feet along a line which forms an angle to the right of 90°-00'-00" with the last described course to appoint lying 1430.64 feet normally distant west of the East Line of said Southwest Quarter; thence west 420.09 feet along a line which forms an angle to the right of 90°-00'-00" with the last described course to a point on said Northerly Extension; thence south 25.00 feet along said Northerly Extension which forms an angle to the right of 89°-59'-16" with the last described course to the Point of Beginning, containing 0.248 acre, more or less.

Motion by Alderman Anderson, seconded by Alderman Purcell that the Annexation and Rezoning be approved and the Ordinance passed.

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

Ayes: Aldermen Stearns, Huette, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Change Order for Fire Station #5

RECOMMENDATION: That the Change Order be approved.

BACKGROUND: During construction of Fire Station #5, the general contractor noted that excessive moisture was retained in the exterior block after heavy rains. The contractor believed that there may have been problems with the masonry block and/or mortar. Samples of both were

sent to an independent lab for testing. These tests determined that the masonry units failed to comply with the specifications for water repellency.

The solution developed by the general contractor and approved by the architect, is the application of an exterior sealer that has a ten (10) year manufacturer's warranty. The sealer would be applied three (3) times over a thirty (30) year period. The initial treatment will be completed by the masonry subcontractor who will also provide any maintenance necessary for a five (5) year period, under a warranty bond against moisture infiltration.

Additionally, the general contractor has provided a credit for the cost of the two (2) additional applications of the sealer with additions for inflation and a credit for up to four (4) man-days of cost for any possible servicing or repairs above the sealing costs. With each additional application of sealer, the product will carry the manufacturer's ten (10) year warranty.

The overall solution provides for a thirty (30) year net effective moisture penetration resistance for the structure. This solution would be above what would have been expected under the original specifications. The solution was reviewed by both Corporate Counsel and Facilities Management.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: The deductive Change Order would show a credit of \$16,960.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed as to legal sufficiency:

Recommended by:

Michael S. Kimmerling
Fire Chief

J. Todd Greenburg
Corporation Counsel

David A. Hales
City Manager

Alderman Sage requested information on the plan for Fire Station #5. David Hales, City Manager, informed the Council there would be a Work Session on Monday, November 2, 2009. Topics on the agenda included Downtown TIF, FY 2009 – 2010 Budget Update, Long Range Projections, and Property Tax Levy. This would be the time to discuss items not covered this evening. The meeting would also address the current fiscal year's budget and how to reduce the expenditures to match the fall in revenues. Several departments including the Fire Department's staffing levels would be discussed. Fire Station #5 would be a part of the presentation along with Fire Station #6. Alderman Sage requested that part of the discussion include frequency of calls and response times. He specifically cited more detail to help clarify future decisions. Mr. Hales indicated that Mike Kimmerling, Fire Chief, would participate in this meeting.

Alderman Stearns questioned the sealer and if there was a warranty. She also expressed concern regarding the building's defects. Chief Kimmerling and Bob Floyd, Facilities Manager, were present to address this question. Mr. Floyd responded that they

had spoken with the architect and contractor. The City would receive a manufacturer's warranty for ten (10) years and a bond for labor that was good for five (5) years. After five (5) years, there would be funding for an additional application of the water repellent sealer.

Alderman Stearns questioned if the defect found in the blocks had been found in other structures. Chief Kimmerling was made aware of the issue during construction. He also had spoken to the general contractor. The blocks had been tested to ensure the water repellent had been added. The result of lab testing was negative. He introduced Ben Kauffman, Apace Design's Project Manager, to provide further explanation.

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

Motion carried.

Mr. Kauffman addressed the Council. He stated that the contractor noticed the defect and had the blocks tested. They failed the test. It was determined to be a manufacturer's defect. A surface applied product was added to resolve the issue. There would be a ten (10) year manufacturer's warranty each time the sealer is applied. It would be applied three (3) times for a total warranty period of a thirty (30) years. There was no longevity testing for the water repellent. He was confident in the product. He believed that this was the best solution considering all the factors.

Alderman Anderson expressed his concern. He cited his experience at NICOR's facility located at 1305 N. Martin Luther King Dr. NICOR had a similar situation. It took three (3) times to correct the problem. He added that there still were water issues at his office to this day. He denied any mold issues when questioned. Mr. Kauffman responded that the first five (5) years the contractor and subcontractor will be paid to apply the sealer and resolve any maintenance issues. Additional coatings for the twenty to thirty (20 - 30) year period will be covered by a contractor selected by the City.

Alderman Stearns questioned what other alternatives were considered. Mr. Kauffman replied that the most extreme case would be to take down the walls which in this case would be difficult because of the extra design work. Another alternative would be to paint it with a water proof coating. This would take away from the initial design and impact appearance.

Alderman Sage requested clarification concerning the three (3) applications. Mr. Kauffman confirmed that one (1) application of sealant had been applied and there was noted improvement. There will be a second application soon and the sealer would be applied again if there were concerns. Mayor Stockton confirmed that the warranty was good for the first five (5) years for unlimited applications and after that there will be two (2) more applications within thirty (30) years.

Alderman Sage questioned the criteria or the agreement between the City and the contractor that would determine the need for additional applications. Mr. Kauffman stated that the decision would be made by the manufacturer.

Alderman Anderson questioned from a legal standpoint when a contractor can hold a manufacturer responsible for a defective sealer. Todd Greenburg, Corporation Counsel, addressed the Council. There would have to be a valid breach of contract lawsuit to determine the measure of damages. He read from the result from an 1989 Illinois case. The courts would not grant the City the cost to tear down the fire station. The court may grant the measures of damages, i.e. how much less the fire station was worth because of the breach.

Alderman Anderson suggested that the agreement be amended and state that the contractor absorbs all costs as a more satisfactory solution. Chief Kimmerling noted an issue with that solution was that he could not guarantee how long the contractor would be in business. He suggested a guarantee for the life of the building even if that meant receiving money from the City now to pay for any future issues. He stated that the first five (5) years were guaranteed by the five (5) year bond. He questioned who would be responsible if the contractor was not in business in twenty-five to thirty (25 - 30) years. Alderman Anderson agreed that after the first five (5) years there was a risk that the contractor might no longer be in business. Mr. Kauffman explained that they had initially attempted to obtain a ten (10) year bond. He could not find a company to provide same.

Mayor Stockton responded this was not an ideal situation. He understood why the courts would not have building torn down and allow the City to start over.

Alderman Stearns expressed concern about diminutive value and whether the sealer would fix the problem. She did not understand what the \$17,000 covered. Mayor Stockton responded that there would always be some risk no matter how the situation was handled. He questioned whether this action was going to mitigate the problem with reasonable certainty. Mr. Kauffman replied that five (5) years down the road the City would be absorbing the cost to maintain the building. He indicated that the money would cover the second five (5) years. After ten (10) years, there would be a credit given to apply the sealer as well as for the thirty (30) year period.

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

Motion carried.

Alderman Schmidt inquired about other alternatives. Alderman Fruin suggested that the item be laid over until the November 9, 2009 Council Meeting to seek other alternatives. Alderman Stearns concurred with Alderman Fruin and suggested obtaining a real estate appraisal. The fire station was a \$3 million investment and expressed concern that the guarantee had holes in it. She wanted to see more options presented. Mayor Stockton agreed that there was some uneasiness among the Council and suggested that

other alternatives be researched. He indicated that the issue may need to be pulled from the agenda.

Alderman Stearns reemphasized that she wanted to see more options, of particular interest was the value of the building with a major defect. Mr. Greenburg suggested retaining an expert and suspected that it might take two (2) weeks to find one.

Alderman Purcell stated that the firm who manufactured the sealant be present to confirm (or not) if the sealant could solve this issue or to recommend another product. Mr. Hales expressed his interest in the advantages and disadvantages of each product and their warranties.

Motion by Alderman Anderson, seconded by Alderman Schmidt that the item be laid over until the Council's November 9, 2009 meeting.

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

Ayes: Aldermen Stearns, Huette, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

MAYOR'S DISCUSSION: None.

CITY MANAGER'S DISCUSSION: David Hales, City Manager provided a memorandum regarding whom to invite to the Citizen Summit on November 30, 2009 at 6:00 p.m. The Summit would last for approximately three (3) hours. He emphasized that the group should be diverse. Alderman Fruin requested additional time to turn in names, addresses and telephone numbers of citizens. Mr. Hales offered to extend the deadline until November 6, 2009. Alderman Stearns questioned who would be present at the Summit. Mr. Hales replied the Mayor, Council, and the department heads would be in attendance. He recommended that the Council invite citizens from within their wards. Alderman Sage requested an electronic version of the second page for people requesting an invitation via email. Mr. Hales offered to email it to everyone.

ALDERMEN'S DISCUSSION: Alderman Anderson thanked Rowe Construction for completion of the pavement project. He wanted to commend their Foreman who went door to door regarding the project. He publicly acknowledged and thanked Rowe Construction.

Alderman Purcell thanked the Economic Development Council (EDC) for their presentation on Saturday, October 24, 2009. It helped people understand what the EDC does and how it benefited the community. It was useful and worthwhile.

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

Motion carried.

**Tracey Covert
City Clerk**