

**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 7:36 p.m., Monday, February 9, 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 Huette, Allen Gibson, David Sage, Jim Finnegan, Steven Purcell, Karen Schmidt, Jim Fruin and Mayor Stephen F. Stockton.

Alderman Absent: John Hanson.

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

The following was presented:

Presentation regarding Economic Stimulus Bill

David Hales, City Manager, introduced the Federal Economic Stimulus Bill. Aldermen had presented several questions. Staff compiled a list of shovel ready projects. He traveled to Springfield to present an initial list to Representative Dan Brady. These were projects which met the requirements and were also a high priority. The list would be presented to the Council at a future meeting.

He introduced Neil Finlan, Principal, and Aaron Quick, Vice President – Governmental Affairs, with the Farnsworth Group. They would provide a quick overview of future issues for the Council to keep in mind as the list is prioritized.

Mr. Finlan addressed the Council. He noted capitol projects which would be in addition to the Stimulus Package. The Engineering, Water, and Parks and Recreation Departments were all knowledgeable. Mr. Hales was staying apprised of all proposed projects.

The list had been reviewed. He knew that the budget was a large concern. The goal would be to come up with new money. Council needed to remember that the parameters for this money were fluid. He would do his best to keep the Council informed of additions or changes.

Mr. Quick addressed the Council. The Senate would vote on this bill tomorrow. It would then go to a Conference Committee. Final passage was scheduled for the following week. He was fairly certain it would pass.

The infrastructure portion of the bill, (the part pertaining to the City), was focused on transportation. The State of Illinois could expect approximately \$1 billion for highway and bridge repair. The first half of the money would be required to be spent within the first six (6) months on shovel ready projects. The remainder would need to be spent within one (1) calendar year. Illinois Department of Transportation (IDOT) would probably use the first half of the funds for paving and bridge repair.

Opportunities for local governments were within the second half of the money. There was no match required, but municipalities must comply with federal regulations for these projects. This would be critical to remember during prioritizing discussions.

Money was also available for waste water. The State of Illinois would receive approximately \$350 million. This would become part of the state's revolving loan fund. It was important to be on the priority list if waste water was an issue for the City. This was different in that the first half would need to be spent within the first year, and the second half within the second year. All federal requirements would need to be met again as well.

Currently, these would be zero interest (0%) loans through the state. Community Development Block Grants (CDBG) might also be part of the bill to help fund infrastructure. All totaled, the State of Illinois was expected to receive approximately \$1.8 billion. This was not a lot of money when considering other issues going on within the state. There was general agreement that the gas tax would be increased.

The best advice for the Council and staff was to prioritize the list. Send letters to the appropriate departments and meet with state legislators.

Another piece of legislation was the state's Capitol bill. This bill allowed municipalities to plan and design long term projects. The funding for this bill could not be used for any type of parks.

Staff had already prepared two (2) lists. Staff was now working to prioritize them. There were no matches with these grants. Sixty percent (60%) would go to state projects and forty percent (40%) would be used by local municipalities.

Alderman Stearns questioned if these funds could be used for sewer separation mandates. Mr. Quick responded it may be possible, however, the project needed to be shovel ready. Mr. Hales added that the state Capitol bill may be a better option for this issue.

Alderman Purcell questioned the number of projects within the lists from the different departments. Mr. Hales was unsure of the total number. He requested that

department heads meet with Farnsworth Group to refine the list. Once that was done, he would share it with the Council.

Mr. Quick provided the Council with various options. The Locust/Colton CSO separation could be addressed as part of the revolving loan option. Resurfacing programs would be the best use of the Economic Stimulus program. The Constitution Trail should be another priority. Longer term projects that will need funding included the Hamilton Road crossing and CSO.

Mr. Hales expressed his intention to present a list to the Council at their February 23, 2009 meeting. Tonight was a primer to elicit interest and begin discussions.

Mr. Hales thanked the Mr. Finlan and Mr. Quick for their time and working with staff.

Mayor Stockton stated the City should coordinate with other government agencies in this endeavor.

The following was presented:

To: Honorable Mayor and Members of the City Council
From: Staff
Subject: Council Proceedings of June 25, 2007 and Work Session Minutes of August 11, 2008

The Council Proceedings of June 25, 2007 and Work Session Minutes of August 11, 2008 have been reviewed and certified as correct and complete by the City Clerk.

Respectfully,

Tracey Covert
City Clerk

David A. Hales
City Manager

Motion by Alderman Finnegan, seconded by Alderman Gibson that the reading of the minutes of the previous Council Meeting of June 27, 2007 and Work Session Minutes of August 11, 2008 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, Finnegan, Gibson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

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

The following list of bills and payrolls have been furnished to you in advance of this meeting. After examination I find them to be correct and, therefore, recommend their payment.

Respectfully,

Barbara J. Adkins
Deputy City Manager

David A. Hales
City Manager

(ON FILE IN CLERK'S OFFICE)

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

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

Ayes: Aldermen Stearns, Huette, Schmidt, Finnegan, Gibson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council
From: Staff
Subject: Payments from Various Municipal Departments

1. The first partial payment to Technical Design Services in the amount of \$12,204.51 on a contract amount of \$99,619 of which \$10,050 (\$2,154.51 reimbursable) will have been paid to date for work certified as 10% complete for the Enterprise Resource Planning (ERP) Full System Selection Process – Phase 1. Completion date – August 2009.

2. The thirty-second partial payment to APACE Architects & Design in the amount of \$1,536.94 on a contract amount of \$349,800 of which \$326,516.69 will have been paid to date for work certified as 93% complete for the Design of Fire Station #5. Completion date – May 2008.
3. The second partial payment to Farr Associates in the amount of \$4,777.14 on a contract amount of \$56,910 of which \$8,982.04 will have been paid to date for work certified as 16% complete for the Form Based Code/Main Street Corridor. Completion date – May 2009.
4. The fourteenth partial payment to Farnsworth Group in the amount of \$9,844 on a contract amount of \$246,100 of which \$244,971.79 will have been paid to date for work certified as 99% complete for the Kickapoo Creek Restoration Project. Completion date – October 2008.
5. The fourteenth partial payment to Thompson Dyke & Associates in the amount of \$1,376.50 on a contract amount of \$248,500 of which \$236,567 will have been paid to date for work certified as 95% complete for the McGraw Park Phase II. Completion date – December 2009.
6. The second partial payment to Illinois Department of Transportation in the amount of \$13,431.47 on a contract amount of \$42,604 of which \$25,459.30 will have been paid to date for work certified as 60% complete for the Downtown Main Street - Front to Washington Beautification. Completion date – July 2009.
7. The third partial payment to Farnsworth Group in the amount of \$33,082.95 on a contract amount of \$84,800 of which \$62,810.20 will have been paid to date for work certified as 66% complete for the Constitution Trail Extension Phase II – Grove to Croxton. Completion date – January 2010.
8. The twenty-eighth partial payment to Clark Dietz, Inc. in the amount of \$3,375.45 on a contract amount of \$392,895 of which \$318,269.56 will have been paid to date for work certified as 81% complete for the Hamilton Rd. – Timberlake to Main Street, f/k/a Hamilton & Main St. Completion date – January 2009.
9. The first partial payment to William Masters, Inc. in the amount of \$12,312 on a contract amount of \$103,800 of which \$12,312 will have been paid to date for work certified as 12% complete for the Installation of New Transformer at the Water Treatment Plant. Completion date – December 2009.
10. The twenty-sixth partial payment to Consoer Townsend & Associates in the amount of \$2,963.77 on a contract amount of \$185,000 of which \$127,953.79 will have been paid to date for work certified as 71% complete for the Electrical Improvements at Lake Bloomington. Completion date – December 2009.

11. The third partial payment to Clark Dietz, Inc. in the amount of \$2,650.56 on a contract amount of \$16,500 of which \$10,820.32 will have been paid to date for work certified as 66% complete for the Knowledge Transfer Project – Distribution System. Completion date – May 2009.
12. The second partial payment to Leak Detection Services in the amount of \$2,574 on a contract amount of \$39,600 of which \$9,900 will have been paid to date for work certified as 25% complete for the Leak Detection. Completion date – December 2009.
13. The fifteenth partial payment to Consoer Townsend & Associates in the amount of \$6,252.32 on a contract amount of \$74,800 of which \$72,578.19 will have been paid to date for work certified as 97% complete for the In-Line Booster Station at Mitsubishi Motorway. Completion date – May 2009.
14. The second partial payment to Consoer Townsend in the amount of \$2,758.59 on a contract amount of \$41,760 of which \$4,035.23 will have been paid to date for work certified as 10% complete for the Direct Injection of Carbon Dioxide at Treatment Plant. Completion date – December 2009.
15. The eighth partial payment to Clark Dietz in the amount of \$2,132.50 on a contract amount of \$50,000 of which \$18,306.02 will have been paid to date for work certified as 37% complete for the Water Mapping Services. Completion date – December 2009.
16. The sixth and final payment to Clark Dietz, Inc. in the amount of \$825 on a contract amount of \$18,600 of which \$18,580.05 will have been paid to date for work certified as 100% complete for the Inspection Services for Division Street Lighting Service. Completion date – December 2009.
17. The eighth partial payment to Clark Dietz, Inc. in the amount of \$2,246.25 on a contract amount of \$20,000 of which \$13,438.15 will have been paid to date for work certified as 67% complete for the Inspection Services for Water Main Installation on West Miller Street. Completion date – December 2009.
18. The third partial payment to Clark Dietz, Inc. in the amount of \$1,510 on a contract amount of \$21,700 of which \$10,829.99 will have been paid to date for work certified as 50% complete for the Lincoln St. – Bunn to Morrissey Drive Observation. Completion date – July 2009.
19. The first partial payment to Clark Dietz, Inc. in the amount of \$2,986.41 on a contract amount of \$20,000 of which \$2,986.41 will have been paid to date for work certified as 15% complete for the Inspection of Water Main Construction on Ireland Grove – Kickapoo Creek to Benjamin School. Completion date – December 2009.

20. The fourth partial payment to Clark Dietz, Inc. in the amount of \$175 on a contract amount of \$20,000 of which \$4,364.68 will have been paid to date for work certified as 22% complete for the Towanda Barnes Inspection Services – Route 9 to Oakland. Completion date – March 2009.
21. The twelfth partial payment to Village of Downs in the amount of \$12,216.95 on a contract amount of \$435,000 of which \$304,469.87 will have been paid to date for work certified as 70% complete for the Downs Sewerage Improvements Project. Completion date – September 2009.

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

Respectfully,

David A. Hales
City Manager

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

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

Ayes: Aldermen Stearns, Huette, Schmidt, Finnegan, Gibson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

To: Members of the City Council

From: Stephen Stockton, Mayor

Subject: Appointment(s) and Reappointment(s) to Various Boards and Commissions

I ask that you concur with the following appointment:

Historic Preservation Commission:

John Elterich, 409 E. Grove, Bloomington, IL 61701. He is replacing Pablo Eves. His term will expire 4/30/13.

Respectfully,

Stephen F. Stockton
Mayor

Alderman Schmidt stated she would abstain due to the fact the appointee was her husband.

Motion by Alderman Finnegan, seconded by Alderman Gibson that the appointment be approved.

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

Ayes: Aldermen Stearns, Huette, Finnegan, Gibson, Sage, Fruin and Purcell.

Nays: None.

Abstains: Alderman Schmidt.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Waive the Formal Bidding Requirement and Purchase a Bus for the Bloomington-Normal Public Transit System

The Bloomington-Normal Public Transit System, (B-NPTS) is a joint venture between the City and the Town of Normal. Bloomington Ordinance 1972-96 placed various conditions on the operation of the Transit System, among which was the requirement that any purchases over \$1,000 be pursuant to a public bid process.

The Transit System has the opportunity to purchase one 35-foot low floor bus from Gillig Corporation, pursuant to an assignment of a purchase contract from the Greater Lafayette Public Transportation Corporation (CityBus) of Lafayette, Indiana. This process is commonly used in the public mass transit industry and is commonly known as "piggybacking." The base price of the bus is \$284,182. The base price will be inflated by the percentage change in the Producer Price Index (PPI 1413) from the time of the initial contract award (March, 2006) and the time that the Transit System executes an award for the bus.

The purchase price for the bus would be financed through an existing federal grant providing a total of \$330,000. The Transit System believes that this amount will be sufficient to pay for the

new bus, but if necessary, the remainder of the purchase price would be paid by funds on hand with Transit Authority and earmarked for capital purchases. A letter from Peter Weber, General Manager of B-NPTS has been received regarding this purchase. Staff respectfully recommends that Council approve waiving the formal bidding process and that the Resolution be adopted.

Respectfully,

J. Todd Greenburg
Corporation Counsel

David A. Hales
City Manager

RESOLUTION 2009 - 12

A RESOLUTION AUTHORIZING THE BLOOMINGTON-NORMAL PUBLIC TRANSIT SYSTEM TO WAIVE BIDS AND PURCHASE ONE 35-FOOT GILLIG LOW FLOOR BUS

WHEREAS, the Bloomington-Normal Public Transit System (“Transit System”) is required, pursuant to City of Bloomington Ordinance 1972-96 to purchase property with public bidding when the price exceeds \$1,000.00; and

WHEREAS, the Board of Trustees of the Transit System has the opportunity to purchase one new bus pursuant to an assignment of an existing contract between Gillig Corporation (the manufacturer of the bus) and the Greater Lafayette Public Transportation Corporation (CityBus) of Lafayette, Indiana; and

WHEREAS, the contract between CityBus and Gillig Corporation was arrived at as a result of a competitive bid process; and

WHEREAS, the process of purchasing buses by a purchaser other than a party to the original contract is termed “piggybacking” and is widely used in the public mass transit industry because it mitigates the considerable administration time and expense that would otherwise be incurred by the benefiting agency if that agency implemented the request for proposal or public bidding process on its own; and

WHEREAS, the waiver of bids will not result in lower quality public transportation for the citizens of the City of Bloomington and the Town of Normal.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BLOOMINGTON:

That the Board of Trustees of the Bloomington-Normal Public Transit System be authorized to purchase one 35-foot Gillig low floor bus pursuant to an assignment agreement with the Greater Lafayette Public Transportation Corporation (CityBus) of Lafayette, Indiana, and that included in such authorization is a waiver of the requirements of City of Bloomington Ordinance 1972-96 that purchases over \$1,000.00 must be subjected to the public bid process. The bus has a base

price of \$284,182.00, and the City acknowledges that the price will be inflated by the percentage change in the Producer Price Index (PPI 1413) from the time of the initial contract award (March 2006) between CityBus and Gillig Corporation and the time that the Transit System executes an award for said bus.

PASSED this 9th day of February, 2009.

APPROVED this 10th day of February, 2009.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Motion by Alderman Finnegan, seconded by Alderman Gibson that the formal bidding process be waived and the Resolution adopted.

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

Ayes: Aldermen Stearns, Huette, Schmidt, Finnegan, Gibson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Analysis of Request for Proposals for Carpet and Floor Protection Services

In an effort to reduce costs and increase efficiency, staff has been researching areas where strategic sourcing can benefit the City. Staff has agreed that carpet and floor protection is an area that should be centralized into one contract.

Proposals were requested from qualified vendors to supply carpet, floor protection, and entry mat services for various City locations. Currently each department either utilizes a rug replacement service (independent contracts) or purchases their own rugs (vacuumed by City staff). This is not an option for other departments that track chemicals, solvents, and other heavy duty agents onto the rugs that may require deep cleaning.

All departments were provided the opportunity to join the service contract. The departments that participated were the Parks & Recreation, Public Service, and Police. The Parks and Recreation Department locations include the Lincoln Leisure Center, Miller Park Pavilion, White Oak Pavilion, Highland Park Golf Course, Prairie Vista Golf Course, and the Den at Fox Creek Golf Course. The new contract will allow for the addition or deletion of any City location/department for this service.

Three (3) proposals were received. The term for the contract is for two (2) years with (2) one year (1 yr.) renewals. The following rates are based upon the estimated usage for year one for all of the participating locations and departments:

Aramark Uniform Services	Bloomington	\$3,541.86
Cintas Corporation	Normal	\$4,144.71
Unifirst Corporation	Bloomington	\$5,439.08

The Public Service Department *alone* paid \$5,278.49 in Fiscal Year 06-07 and \$6,015.45 in Fiscal Year 07-08 for comparable services without a contract. The Parks and Recreation Department has computed the costs of purchasing their own entry mats and replacing them once a year. A significant cost savings can be realized by contracting with Aramark for the replacement services over the price of the mats alone, without factoring in the additional manpower costs to vacuum, clean, and purchase the mats.

Staff did obtain informal quotes on mat purchases on various sized mats. The purchase cost ranged from \$23.00 - \$35.00 for a 3' x 4' (smallest size) mat and \$56.00 - \$85.00 for 3' x 10' (largest size) mat. The price is relevant to the quality of thread material. Some locations would require purchasing mats several times per year. The purchase cost does not include the labor costs involved with staff maintaining the mats.

While purchasing mats and having staff vacuum the mats may seem to offer low costs, depending on the traffic area, mats may need to be replaced on a regular basis. The mat service will replace mats with normal wear at no extra cost. This is important because some locations are rented to the public and the mats may need to be cleaned on short notice. The contract provides this benefit at no additional cost. Excessively worn or damaged mats will be replaced at a mutually agreed upon cost between the parties.

Staff respectfully requests that Council accept the proposal from Aramark Uniform Services for a period of two (2) years, with two (2) one year (1 yr.) renewals.

Respectfully,

Kim Nicholson
Purchasing Agent

David A. Hales
City Manager

Alderman Schmidt complimented staff on the cost savings associated with this item.

Motion by Alderman Finnegan, seconded by Alderman Gibson that the proposal from Aramark Uniform Services be accepted in the amount of \$3,541.86 per year, for a period of two (2) years, with two (2) one year (1 yr.) renewals, 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, Finnegan, Gibson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Change Order No. 2 to the Contract with Rowe Construction Co. for General Resurfacing 2008-2009

On May 12, 2008, Council approved a "unit price" contract with Rowe Construction Co. in the amount of \$2,376,000 for the 2008-2009 General Resurfacing. Most infrastructure contracts are based on estimated plan quantities and agreed unit prices for each individual pay item. Therefore the total amount due the contractor is subject to change based on the number of units of work actually performed for each item in the contract.

The work is now complete and the actual number of units for each pay item is now known. Change Order No. 1 was approved by Council on December 12, 2008. At that time, staff believed that this change order would be sufficient to make final payment to the contractor. Upon examining the final quantities and unit prices, two (2) omissions were discovered as follows:

1. The unit price for Topsoil Placement had been transcribed incorrectly into the spread sheet as \$25 per square yard rather than the actual agreed unit price of \$35 per square yard. There

were 112 square yards of topsoil placed. The contract needs to be adjusted by \$1,120 to correct this error.

2. Longden Avenue from Six Points Rd. to Hollycrest Dr. was one of the alternate routes around the Morris Ave. reconstruction project. The additional traffic accelerated the failure of this street. An item for "Alternate A Aggregate Base Course 12 inch" was added to the contract in order to repair the failed sub-grade prior to resurfacing. There were 383 square yards placed at an agreed unit price of \$25 per square yard for a total addition of \$9,575. This extra work was omitted from the previous contract total.

Original Contract	\$2,376,000.00
Change Order No. 1	\$48,422.50
<u>Change Order No. 2</u>	<u>\$10,695.00</u>
New Contract Total	\$2,435,117.50

This work was necessary for the orderly and proper completion of the project improvements. Staff respectfully recommends that Council approve a change order to Rowe Construction Co. in the amount of \$10,695 for the 2008-2009 General Resurfacing with the additional funding from Capital Improvement Funds X40100-72530.

Respectfully,

Douglas G. Grovesteen
Director of Engineering

David A. Hales
City Manager

RESOLUTION NO. 2009 - 13

A RESOLUTION AUTHORIZING A CHANGE ORDER IN THE AMOUNT OF \$10,695 IN THE CONTRACT BETWEEN THE CITY OF BLOOMINGTON AND ROWE CONSTRUCTION CO. FOR THE 2008-2009 GENERAL RESURFACING

WHEREAS, the City of Bloomington has previously entered into a contract with Rowe Construction Co. for the 2008-2009 General Resurfacing; and

WHEREAS, for the reasons set forth in a staff report dated February 9, 2009 the following changes were necessary:

1. The unit price for Topsoil Placement had been transcribed incorrectly into the spread sheet as \$25 per square yard rather than the actual agreed unit price of \$35 per square yard. There were 112 square yards of topsoil placed. The contract needs to be adjusted by \$1,120 to correct this error;

2. Longden Avenue from Six Points Rd. to Hollycrest Dr. was one of the alternate routes around the Morris Ave. reconstruction project. The additional traffic accelerated the failure of this street. An item for “Alternate A Aggregate Base Course 12 inch” was added to the contract in order to repair the failed sub-grade prior to resurfacing. There were 383 square yards placed at an agreed unit price of \$25 per square yard for a total addition of \$9,575. This extra work was omitted from the previous contract total; and

WHEREAS, it is the finding of the City Council that the decision to perform the work described in the February 9, 2009 memo was in the best interest of the citizens of the City of Bloomington.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BLOOMINGTON, ILLINOIS:

That a change order in the amount of \$10,695 in the contract between the City of Bloomington and Rowe Construction Co. for the 2008-2009 General Resurfacing be approved.

ADOPTED this 9th day of February, 2009.

APPROVED this 10th day of February, 2009.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Alderman Stearns appreciated that unit prices were listed on the Change Order to help understand the logic behind same.

Motion by Alderman Finnegan, seconded by Alderman Gibson that the Change Order to the Contract with Rowe Construction Co. for the 2008-2009 General Resurfacing be approved in the amount of \$10,695 and the Resolution adopted.

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

Ayes: Aldermen Stearns, Huette, Schmidt, Finnegan, Gibson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council
From: Staff
Subject: Change Order for the Improvements of Towanda Avenue from Rowe Drive to Orleans Drive

On June 25, 2007, Council approved a “unit price” contract with Stark Excavating in the amount of \$1,183,030.68 to construct improvements to Towanda Avenue from Rowe Drive to Orleans Drive. Most infrastructure contracts are based on estimated plan quantities and agreed unit prices for each individual pay item. Therefore the total amount due the contractor is subject to change based on the number of units of work actually performed for each item in the contract.

The work is now complete and the actual number of units for each pay item is now known. During the construction of this project three (3) items were encountered which resulted in additional costs as follows:

1. Staff discovered several areas where the existing sub-grade was found to be unsuitable. The additional cost to remove the unsuitable material and replace it with suitable granular material was \$23,266.92.
2. The last section of new concrete pavement was constructed late in the year. To protect the fresh concrete from winter damage, it was necessary to apply protective coat linseed oil. The additional cost to apply the protective coat linseed oil was \$8,100.30.
3. To properly match the existing yards, it was necessary to construct an additional quantity of concrete retaining wall. The additional cost to construct the extra retaining wall was \$12,489.91.

Original Contract	\$1,183,030.68
This Change Order	<u>43,857.13</u>
Completed Contract	\$1,226,887.81

This work was necessary for the orderly and proper completion of this project. Staff respectfully recommends that Council approve a change order to Stark Excavating, Inc., in the amount of \$43,857.13 for the improvements of Towanda Avenue from Rowe Drive to Orleans Drive, with the additional funding from Capital Improvement Funds X40100-72530.

Respectfully,

Douglas G. Grovesteen
Director of Engineering

David A. Hales
City Manager

RESOLUTION NO. 2009 - 14

**A RESOLUTION AUTHORIZING A CHANGE ORDER IN THE
AMOUNT OF \$43,857.13 IN THE CONTRACT BETWEEN THE CITY
OF BLOOMINGTON AND STARK EXCAVATING, INC. FOR THE IMPROVEMENTS
OF TOWANDA AVENUE FROM ROWE DRIVE TO ORLEANS DRIVE**

WHEREAS, the City of Bloomington has previously entered into a contract with Stark Excavating, Inc. for Improvements of Towanda Avenue from Rowe Drive to Orleans Drive; and

WHEREAS, for the reasons set forth in a staff report dated February 9, 2009, during the construction of this project three (3) items were encountered which resulted in additional costs as follows:

1. Staff discovered several areas where the existing sub-grade was found to be unsuitable. The additional cost to remove the unsuitable material and replace it with suitable granular material was \$23,266.92;
2. The last section of new concrete pavement was constructed late in the year. To protect the fresh concrete from winter damage, it was necessary to apply protective coat linseed oil. The additional cost to apply the protective coat linseed oil was \$8,100.30;
3. To properly match the existing yards, it was necessary to construct an additional quantity of concrete retaining wall. The additional cost to construct the extra retaining wall was \$12,489.91; and

WHEREAS, it is the finding of the City Council that the decision to perform the work described in the February 9, 2009 memo was in the best interest of the citizens of the City of Bloomington.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BLOOMINGTON, ILLINOIS:

That a change order in the amount of \$43,857.13 in the contract between the City of Bloomington and Stark Excavating, Inc. for Improvements of Towanda Avenue from Rowe Drive to Orleans Drive be approved.

ADOPTED this 9th day of February, 2009.

APPROVED this 10th day of February, 2009.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Motion by Alderman Finnegan, seconded by Alderman Gibson that the Change Order to the Contract with Stark Excavating, Inc. for the Improvements of Towanda Avenue from Rowe Drive to Orleans Drive be approved in the amount of \$43,857.13 and the Resolution adopted.

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

Ayes: Aldermen Stearns, Huette, Schmidt, Finnegan, Gibson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: License Agreement with Norfolk Southern Railway Company for a 24" Water Main to Cross Under the Railroad at Hershey Road

McLean County Unit District 5 Schools, as part of their effort to construct a new middle school on the southwest corner of Morrissey Drive (US Route 150) and TR 1750 East (County Highway 30), will be extending a 24" water main to the school site. The proposed water main will cross the Norfolk Southern railroad tracks near the intersection of Hershey Road and Hamilton Road.

As the proposed water main will be owned and maintained by the City upon completion, Norfolk Southern Railway Company requires the City to execute a License Agreement. The License Agreement and insurance fees totaling \$27,000 will be paid by McLean County Unit District 5 per the pre-annexation agreement between the City and Unit 5 approved by Council on December 26, 2007.

Staff respectfully recommends that Council approve the License Agreement with Norfolk Southern Railway Company and that the Mayor and City Clerk be authorized to execute the necessary documents.

Respectfully,

Douglas G. Grovesteen
Director of Engineering

Hannah R. Eisner
Deputy Corporation Counsel

David A. Hales
City Manager

Motion by Alderman Finnegan, seconded by Alderman Gibson that the License Agreement be approved and the Mayor and City Clerk be authorized to execute the necessary documents.

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

Ayes: Aldermen Stearns, Huette, Schmidt, Finnegan, Gibson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Professional Services Contract

Staff respectfully requests approval of a contract to engage artist(s) represented by Agency for the Performing Arts, Inc. to perform services at the Bloomington Cultural District on May 23, 2009. Base expenses for this contract will be \$18,500.

Selection of these artist(s) was coordinated with the Cultural Commission and the Cultural District's Programming Advisory Committee. Staff and community advisors agree that the event will attract broad, positive community involvement and contribute to the public service mission of the Cultural District and the Bloomington Center for the Performing Arts. Staff further respectfully advises Council that contract provisions prohibit public announcements of any persons/groups and/or dates of services until said contracts have been executed by both parties.

Staff respectfully recommends accepting the contract for the performance and further that the Mayor and City Clerk be authorized to execute the necessary documents. Funding for this contract will come from account X21100-70220 of the Cultural District budget, to be offset by event revenues.

Respectfully,

C. Bruce Marquis
Executive Director, Cultural District

David A. Hales
City Manager

(ON FILE IN CLERK'S OFFICE)

Motion by Alderman Finnegan, seconded by Alderman Gibson that the Contract from Agency for the Performing Arts Inc. be accepted 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, Finnegan, Gibson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Text Amendment Revising Chapter 29, Section 119.3 - Parking on Snow Routes

It has recently come to staff's attention that Chapter 29, Section 119.3 – Parking on Snow Routes providing for the announcement and enforcement of a parking ban does not include accumulations of ice in excess of one inch, or by reason of a natural disaster as reasons for a parking ban. The proposed Ordinance adds these two reasons for parking bans. Staff respectfully recommends that the Text Amendment be approved and the Ordinance passed.

Respectfully,

Jim Karch
Director of Public Service

J. Todd Greenburg
Corporation Counsel

David A. Hales
City Manager

ORDINANCE NO. 2009 - 03

**AN ORDINANCE AMENDING SECTION 119.3 OF
CHAPTER 29 (MOTOR VEHICLES) OF
THE CITY CODE, RELATING TO PARKING BANS BY REASON OF ICE**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BLOOMINGTON

Section One:

That Section 119.3 of Chapter 29 of the Bloomington City Code, 1960, as amended, be further amended as follows (additions are indicated by underlines; deletions are indicated by strikeouts):

Section 119.3: Parking on Snow Routes

a) Whenever the Director of Public Service or his or her appointed representative finds, on the basis of natural disaster, falling snow, ice or on the basis of a forecast by the U.S. Weather Service of an accumulation of two inches (2") or more of snow or ~~both~~ one half inch (1/2") or more of ice, that weather conditions will make it necessary that parking on city streets be prohibited or restricted for snow plowing and other purposes, the Director shall put into effect a parking prohibition on parts of or all Snow Routes as necessary by declaring it in a manner prescribed by this Ordinance. The Director may at that time announce the starting time of enforcement procedures under Section 119.7 and 119.8 of this Chapter, which may be conditioned on the existence of precipitation at such starting time.

(b) Once in effect, a prohibition under this Section shall remain in effect until terminated by announcement of the Director in accordance with this Ordinance. While the prohibition is in effect, no person shall park or allow to remain parked any vehicle on any Snow Route. However, nothing in this Section shall be construed to permit parking at any time or place where it is forbidden by any other provision of law.

Section Two:

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

Section Three:

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

Section Four:

This ordinance shall be effective ten days after the date of its publication.

Section Five:

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

PASSED this 9th day of February, 2009.

APPROVED this 10th day of February, 2009.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Motion by Alderman Finnegan, seconded by Alderman Gibson that the Text Amendment be approved and the Ordinance passed.

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

Ayes: Aldermen Stearns, Huette, Schmidt, Finnegan, Gibson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Text Amendment – Chapter 34, Plumbing Code

During the past several months, there have been several discussions between staff and members of the public concerning the operation and enforcement of the City's Cross Connection Control program. These discussions brought to light a few discrepancies and ambiguities in the Chapter 34 of the City Code - Plumbing.

The proposed changes clean-up these issues. In short, they will clarify when water service can be discontinued due to a failure to comply with the program; correct inconsistent cross-references; and update citation of state law. These changes will not alter current operational policies or enforcement procedures. Staff respectfully requests that the Text Amendment be approved and the Ordinance be passed.

Respectfully,

Mark R. Huber
Director of PACE

Hannah R. Eisner
Deputy Corporation Counsel

David A. Hales
City Manager

ORDINANCE NO. 2009 - 04

AN ORDINANCE AMENDING BLOOMINGTON CITY CODE CHAPTER 34

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

SECTION 1. That Bloomington City Code Chapter 34, Section 42, shall be and the same is hereby amended to read as follows (additions are indicating by underlining; deletions are indicated by strikeouts):

It shall be the duty of the customer to cause surveys and investigations to be made of the customer's properties served by the public water supply to determine whether actual or potential hazards to the public water supply may exist. Such surveys and investigations shall be completed by a certified cross-connection inspector (see Sec. 49 Survey and Investigations and shall be filed with the ~~Department of Water~~ Planning and Code Enforcement Department and made a matter of public record and shall be repeated at least every two years, or as often as the Director of Water shall deem necessary. Records of such surveys shall be maintained and available for review for a period of at least five years.

SECTION 2. That Bloomington City Code Chapter 34, Section 44, shall be and the same is hereby amended to read as follows (additions are indicating by underlining; deletions are indicated by strikeouts):

The Director of Water of the City of Bloomington is hereby authorized and directed to discontinue, after reasonable notice to the occupant thereof, the water service to any property wherein any connection in violation of the provisions of this Ordinance is known to exist, or where the owner has failed to comply with the survey requirements of this ordinance, and to take such other precautionary measures as he may deem necessary to eliminate any danger of contamination of the public water supply distribution mains. Water service to such property shall not be restored until such conditions have been eliminated or corrected in compliance with the provisions of this Ordinance, and until reconnection charges are paid as per Section 30 to the City of Bloomington. Immediate disconnection with verbal notice can be effected when the Director of Water is assured that imminent danger of harmful contamination of the public water supply system exists. Such action shall be followed by written notification of the cause of disconnection. Immediate disconnection without notice to any party can be effected to prevent actual or anticipated contamination or pollution of the public water supply, provided that, in the reasonable opinion of the Director of Water or the Illinois Environmental Protection Agency, such action is required to prevent actual or potential contamination or pollution of the public water supply. Neither the Public Water Supply, the Director of Water, or its agents or assigns shall be liable to any customer for any injury, damages or lost revenues which may result from termination of said customer's water supply in accordance with the terms of this Ordinance, whether or not said termination was with or without notice.

SECTION 3. That Bloomington City Code Chapter 34, Section 49(c), shall be and the same is hereby amended to read as follows (additions are indicating by underlining; deletions are indicated by strikeouts):

(c) It shall be the responsibility of the water customer to arrange periodic surveys of water use practices on his premises to determine whether there are actual or potential cross-connections to his water system through which contaminants or pollutants could back flow into his or the public potable water system. All cross-connection control or other plumbing inspections must be conducted in accordance with ~~Ill. Rev. Stat. 1987, ch. III, 225 ILCS 320/3, ch. 111, par. 1103(1).~~

SECTION 4. That Bloomington City Code Chapter 34, Section 55(a), shall be and the same is hereby amended to read as follows (additions are indicating by underlining; deletions are indicated by strikeouts):

(a) There shall be a \$40.00 fee for filing the survey required under Section ~~37~~ 42 of this Chapter. The fee shall be assessed for each survey filed. This fee shall be assessed each time a survey is filed, regardless of whether the survey submitted had been filed previously and is being resubmitted to correct deficiencies or errors in a previously filed survey.

SECTION 5. That except as provided herein, the Bloomington City Code, as amended, shall remain in full force and effect.

SECTION 6. The City Clerk shall be, and she is hereby directed and authorized to publish this Ordinance in pamphlet form as provided by law.

SECTION 7. This Ordinance is enacted pursuant to the authority granted to the City as a home rule unit by Article VII, Section 6 of the 1970 Illinois Constitution.

SECTION 8. This Ordinance shall take effect ten (10) days after passage and approval.

PASSED this 9th day of February, 2009.

APPROVED this 10th day of February, 2009.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Alderman Schmidt cited the Cross Connection Control Program. She received several questions regarding expectations and costs for small business owners who were

required to comply with this program. She suggested a brochure be developed explaining that this was an Environmental Protection Agency mandate. It could include costs and expectations associated with same. It would also be beneficial to place the information on the City's web site.

Motion by Alderman Finnegan, seconded by Alderman Gibson that the Text Amendment be approved and the Ordinance passed.

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

Ayes: Aldermen Stearns, Huette, Schmidt, Finnegan, Gibson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Special Use Permit for 804 W. Olive Street, to Allow for a Duplex in an R-1C, Single Family Residence District

The status of occupancy for the property located at 804 W. Olive Street had an uncertain past. However, with the implementation of the City's rental inspection program, staff was able to determine the non-conforming status of the building (three units in an R-1C, Single Family Residence District) and further develop a history. Since that time, the use of the property was discontinued in excess of one (1) year. This break in timing caused the nonconforming use status to be lost, allowing only uses permitted by the R-1C single family district.

In November 2008, Christian Faith Center filed petitions for a Special Use Permit and required variances to allow the building to be used as a duplex. These petitions were heard by the Zoning Board of appeals on January 21, 2009. The Zoning Board of Appeals voted 6-0 to recommend to Council that the Special Use Permit be granted to allow a duplex in the R-1C, Single Family Residence District. The Board further voted 6-0 to approve the variances needed for this project to move forward.

Staff respectfully recommends that Council approve a Special Use Permit to allow a duplex in the R-1C Single Family Residence District, for the property located at 804 W. Olive Street.

Respectfully,

Mark R. Huber
Director of PACE

David A. Hales
City Manager

BACKGROUND INFORMATION:

Adjacent Zoning

north: R-2Mixed Residence
south: R-1C Single Family
east: R-1C Single Family
west: R-1C Single Family

Adjacent Land Uses

north: Church
south: Single Family Dwellings
east: Single Family Dwellings
west: Single Family Dwellings

The property in question is a 64' by 119' (7,616 sq. ft.) site formerly used as a three-unit dwelling which was vacant for more than a year and lost its non-conforming status. To occupy the structure as a duplex requires a special use permit in the R-1C, Single Family Residence zoning district. The structure is 2,069 sq. ft. in size.

The City of Bloomington Comprehensive Plan recommends low /medium density residential use for this area.

The Zoning Code stipulates the following standards and conditions for Two-Family Dwellings as a Special Use:

- (1) Minimum fencing/screening requirements: none.
- (2) Minimum lot area: ten thousand (10,000) sq. ft.
- (3) Minimum lot width: seventy (70) ft.
- (4) Minimum yard requirements: same as required in the zoning district in which the proposed use is to be located. (Front Yard – 25 feet, or the average for block frontage, Side Yard – 6 feet, Rear Yard – 25 feet)
- (5) Maximum height: thirty-five (35) ft. or two (2) stories, whichever is lower.
- (6) Additional requirements: two (2) parking spaces shall be provided for each dwelling unit in accordance with Section 7.22 of the Zoning Code.

The subject property does not meet the 70 foot minimum lot width requirement nor the 10,000 square foot minimum requirement for this special use permit. The subject property does not meet the required minimum yard requirements of 33 foot front yard (block average) six foot side yards and 25 foot rear yard. In addition, the subject property does not provide four off-street parking spaces.

The petitioners have filed a separate application requesting a 2,384 foot variance of the 10,000 square foot minimum lot area and a six foot variance of the 70 foot minimum lot width requirement. They have filed a 15 foot variance of the front yard, two foot variance of the west side yard, and a 22 foot variance of the rear yard requirements. They have also filed for a variance of two of the four required parking spaces.

The applicants must secure the Board of Zoning Appeal's approval of such variances before the City Council could approve this petition for this special use permit.

Most other lots in the vicinity of the subject property are of similar size. There are three existing duplexes in the same block, an additional duplex across Olive Street to the north, and a four-unit dwelling across Allin Street to the east.

STAFF RECOMMENDATION:

The staff recommends that the Board of Zoning Appeals pass a motion recommending City Council approval of this petition in Case SP-07-08 to allow a special use permit for duplex, provided these variances are granted.

Respectfully submitted,

Timothy Potts
Associate Planner

- a. a side yard variance of 2 feet because the side yard distance is presently 4 feet as depicted on the attached site plan;
 - b. a rear yard variance of 22 feet because the rear yard is presently 3 feet as depicted on the attached site plan;
 - c. a front yard variance of 7 feet because the front yard is presently 18 feet as depicted on the attached site plan;
 - d. a parking variance because the minimum requirement is 4 parking spaces and there are only presently 2 parking spaces without stacking;
 - e. total square footage variance of 2384 feet of land because there is currently 7616 square feet in the land and the minimum requirement is 10,000 square feet; and
 - f. a variance width of 7 feet for width of lot because presently there is a 63 foot width.
10. Denying these variances will create a hardship since the City of Bloomington had already announced support of duplex use prior to the purchase of the property;
 11. No detriment to neighboring property will occur as no change in the building is proposed;
 12. Conditions of this property do not apply generally to other properties in the City of Bloomington.

Wherefore, the Petitioner respectfully request that the variances be permitted for this property.

Respectfully Submitted,

Christian Faith Center

Mercer Turner
Its Attorney

ORDINANCE NO. 2009 - 05

**AN ORDINANCE APPROVING A SPECIAL USE PERMIT FOR A
DUPLEX FOR PROPERTY LOCATED AT: 804 W. OLIVE STREET**

WHEREAS, there was heretofore filed with the City Clerk of the City of Bloomington, McLean County, Illinois, a petition requesting a Special Use Permit for a duplex for certain premises hereinafter described in Exhibit A; and

WHEREAS, the Bloomington Board of Zoning Appeals, after proper notice was given, conducted a public hearing on said petition; and

WHEREAS, the Bloomington Board of Zoning Appeals, after said public hearing made findings of fact that such Special Use Permit would comply with the standards and conditions for granting such special permitted use for said premises as required by Chapter 44, Sections 7.30(K) of the Bloomington, City Code, 1960; and

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

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

1. That the Special Use Permit for a duplex use on the premises hereinafter described in Exhibit A shall be and the same is hereby approved.
2. This Ordinance shall take effect immediately upon passage and approval.

PASSED this 9th day of February, 2009.

APPROVED this 10th day of February, 2009.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

EXHIBIT A

Legal description for 804 W. Olive, Bloomington, IL

The East 24 Feet of Lot 10 and West 40 feet of Lot 9 all in Monroe's Subdivision of North End of Block 6 in Hinshaw's Grove Addition to the City of Bloomington, in McLean County, Illinois

Motion by Alderman Finnegan, seconded by Alderman Gibson that the Special Use 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, Finnegan, Gibson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

To: Honorable Mayor and Members of the City Council
From: Staff
Subject: Amendment to Contract for Private Development between City and Interchange City West, LLC

In October of 2000, the City entered into an agreement with Interchange City West, LLC (ICW) and the Town of Normal (Town) to develop property owned by ICW which eventually became the west side Wal-Mart and surrounding strip mall. For the reasons which follow, staff is requesting that the agreement be amended.

The “West Side Wal Mart” Agreement

Among the infrastructure covered by the agreement was the construction of portions of J.C. Parkway, Bettis Drive, sanitary and storm sewers, sidewalks, traffic signals, and professional fees such as engineering, appraisal, soil testing, and legal fees. In addition, repayment for the engineering fees for the extension of J.C. Parkway south of IL Route 9 was included in the agreement. Finally, the agreement specified that interest on loans taken out by ICW to finance the cost of the infrastructure planning and construction would also be covered by the reimbursement provisions. The agreement was for a ten (10) year period, which will expire in November 2010.

Costs incurred by ICW, the developer, for the project’s public infrastructure were to be reimbursed by payment utilizing one percent, (1%) of the City’s sales taxes received from retail

sales in the developed area. Since the development is in the Metro Zone, and an intergovernmental agreement between the City and the Town requires all revenues and expenses to be shared equally between the two (2) entities, the Town needed to agree to the Development Agreement.

The agreement has accomplished its goal, which was the building of infrastructure to facilitate the location of the west side Wal-Mart. However, in the implementation of the agreement, some problems arose which, in staff's opinion, require Council action.

Unforeseen Delay in Designs due to IL Route 9 Widening

After the agreement was executed by all parties, IDOT announced its intention to widen IL Route 9 at this location. If engineering plans were finalized prior to the widening, those plans would have to be modified after the state's road improvements. This action would have needlessly added to the expense of the project. Everyone agreed to wait until the state finalized its plans. However, the parties did not *formally* extend the life of the agreement, which is still scheduled to expire in 2010. In effect, ICW would be forced to absorb the public infrastructure expense because the source of repayment would no longer be available.

The Current Expiration Date will Not Reimburse the Developer

At this point, if the agreement is permitted to expire in November 2010, the engineering plans' expenses for the southward extension of J.C. Parkway would not be fully repaid. The parties have calculated that the agreement would need to be extended to August 2016 to repay the engineering expenses along with accrued interest. The original expense of the engineering plans was \$888,801.47. The longer the City takes to repay the expenses, the larger the interest on the ICW notes will be. The construction plans for the southerly extension of J.C. Parkway have been reviewed by the City's Engineering Department staff and are in full compliance with City standards. The City is in effect buying the plans from ICW.

Since the southerly extension of J.C. Parkway is outside the Metro Zone, the Town is not required to continue to forego its half (½) of the sales tax generated by the Metro Zone after 2010. The City is contractually obligated to reimburse the Town for its portion of the Metro Zone revenues used to pay for the south extension of the road so the Town's actions do not increase the City's reimbursement obligation.

Extension of the Agreement to 2016 is a Fair Resolution

The agreement made by the parties was to use the sales tax generated by the development to pay for the public infrastructure costs paid for in advance by the developer. Although there was always some risk to the developer that the Wal-Mart and adjacent strip mall might not generate enough revenue to pay for all expenses, it was not anticipated that the development would be delayed by mutual agreement of all parties. The developer's position is that it has lived up to its side of the bargain; it put the project on hold with the full awareness and agreement of all parties to the contract, and the fair thing to do is to extend the repayment provisions. City staff concurs. The amendment would extend the repayment portions of the agreement to 2016, using the City's

portion of the one percent, (1%), City sales tax generated by the west side Wal-Mart and adjacent strip mall as repayment revenue.

Staff recommends that the amendment be approved, and the Mayor and City Clerk be authorized to execute the necessary documents.

Respectfully,

J. Todd Greenburg
Corporation Counsel

David A. Hales
City Manager

**AMENDMENT TO CONTRACT FOR PRIVATE DEVELOPMENT
BETWEEN CITY OF BLOOMINGTON AND INTERCHANGE CITY WEST, LLC**

WHEREAS, on October 23, 2000, the City of Bloomington, the Town of Normal and Interchange City West, LLC (hereafter ICW”), entered into a Contract for Private Development for property located between Wylie Drive and the Interstate Center and between Route 9 and Enterprise Drive, on the west side of the City of Bloomington and the Town of Normal; and

WHEREAS, said Contract for Private Development involved, in part, the planning and construction of public infrastructure for retail activity on the property described in said Agreement; and

WHEREAS, said Contract for Private Development also involved a promise by ICW to prepare engineering plans for the extension of J.C. Parkway south of Route 9, said extension located entirely in the City of Bloomington; and

WHEREAS, said Contract for Private Development called for ICW to be reimbursed for the cost of planning and constructing the public infrastructure described in the Contract for Private Development by receiving the revenue received by the City of Bloomington and the Town of Normal from 1% of the Municipal Retailers’ Occupation Tax generated by the development itself, starting from the effective date of the Agreement and ending on November 1, 2010; and

WHEREAS, on March 25, 2002, said Contract for Private Development was amended to include additional roadwork on Route 9, but did not change the original expiration date; and

WHEREAS, for reasons unforeseen by any of the parties in 2000, the development project was delayed by reason of plans by the Illinois Department of Transportation to widen Route 9 at the location of the development; and

WHEREAS, if the original Contract for Private Development expires on November 1, 2010, ICW will not recoup the amounts spent in the engineering plans for the south extension of J.C. Parkway in the City of Bloomington; and

WHEREAS, the parties believe it is reasonable and proper to amend the Contract for Private Development to give ICW additional time to recoup the money spent by ICW in planning the south extension of J.C. Parkway (said fund coming from the City's portion of the Municipal Retailers' Occupation tax generated from the development), and further that it is not the responsibility of the Town of Normal to pay for the plans for the extension of J.C. Parkway south of Route 9.

the parties hereby agree as follows:

The expiration date of the Contract for Private Development of October 23, 2000, as amended on March 25, 2002, is hereby extended from November 1, 2010 until such time as ICW is fully reimbursed for the expenses incurred as a result of said Agreement, which is currently projected to be November 1, 2016, said extension applicable only to the City of Bloomington and Interchange City West, L.L.C. The expiration date for the Town of Normal will remain November 1, 2010. In return for the extension of the expiration date of said Contract, all engineering plans for the southern extension of J.C. Parkway prepared or caused to be prepared by ICW, LLC, will become the property of the City of Bloomington. ICW LLC shall be reimbursed its costs for said engineering plans solely from Bloomington's share (½ of 1%) of the Municipal Retailers' Occupation Tax generated from the development as projected in Exhibit 1 attached hereto.

CITY:
City of Bloomington, Illinois,
A Municipal Corporation

DEVELOPER:
Interchange City West, LLC

Stephen F. Stockton
Mayor

Its Manager

ATTEST:

Tracey Covert
City Clerk

David Hales, City Manager, addressed the Council regarding this item. There had been a number of questions raised. He requested that this item be laid over for at least an additional month. Additional financial analysis was needed. He had contacted the Town of Normal and Bob Lenz, the developer's attorney. He also welcomed the Council's questions.

Alderman Stearns read from the original agreement. She addressed completion of JC Parkway to the south. She questioned why there had not been a formal amendment to the agreement as an estimate had been provided. She also questioned the legal standing of the letter from George Drye, former Director of Engineering and Water. She cited the impact of this item upon the City's financial situation.

Mayor Stockton stated that the documentation was confusing. He addressed the chronology and the City's financial obligations for Phases I and II.

Alderman Sage expressed his appreciation to Mr. Hales for his willingness to research this item.

Alderman Purcell requested a map of the metro zone and a copy of the agreement. He also questioned other commercial developments.

Motion Alderman Purcell, seconded by Alderman Stearns to lay this item over until March 9, 2009.

Ayes: Alderman Gibson, Huette, Stearns, Purcell, Schmidt, Fruin, Sage and Finnegan.

Nays: None.

Motion carried, (viva voce).

The following was presented:

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Public hearing on the petition submitted by Deborah D. Foreman, as Trustee of Deborah D. Foreman Revocable Trust dated September 29, 1994 requesting approval of an Annexation Agreement and Petition for Annexation for land located south of Hamilton Road, a/k/a the future extension of Hershey Road consisting of approximately 20 acres. Case Z-03-09 (Ward 8)

The Planning Commission opened a public hearing on this petition on January 28, 2009. Staff respectfully recommends that Council open the public hearing and that the item be laid over until the February 23, 2009 Council meeting.

Respectfully,

Tracey Covert
City Clerk

David A. Hales
City Manager

Mayor Stockton introduced this item. This Annexation had to do with land south of Hamilton Road for a new Unit 5 school.

Todd Greenburg, Corporate Counsel, addressed the Council. The annexations must be done in order for the proper contiguity. The City needed a three hundred foot (300') right of way necessary for water mains. The right of way will be donated.

The City had received a deed from the seller with conditions which staff was not comfortable with due to timing and the current economic conditions. Mr. Greenburg recommended this issue be laid over until the February 23, 2009 Council meeting, and at that time go forward.

Mayor Stockton questioned if fee simple versus an easement had been resolved. Mr. Greenburg stated he would need to defer that question to Hannah Eisner, Deputy Corporate Counsel.

Mayor Stockton opened the Public Hearing. No one came forward to address the Council. Mayor Stockton closed the Public Hearing.

Motion by Alderman Finnegan, seconded by Alderman Schmidt that the public hearing be opened and the item laid over until the February 23, 2009 Council meeting.

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

Ayes: Aldermen Stearns, Huette, Schmidt, Finnegan, Gibson, Sage, Fruin and Purcell, and Mayor Stockton.

Nays: None.

Motion carried, (viva voce).

The following was presented:

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Public hearing on the petition submitted by Sunrise LLC requesting approval of an Annexation Agreement and Petition for Annexation for land located north of US 150, a/k/a the future extension of Hershey Road, consisting of approximately 20 acres. Case Z-04-09 (Ward 8)

The Planning Commission opened a public hearing on this petition on January 28, 2009. Staff respectfully recommends that Council open the public hearing and that the item be laid over until the February 23, 2009 Council meeting.

Respectfully,

Tracey Covert
City Clerk

David A. Hales
City Manager

Mayor Stockton stated this item was related to the Foreman annexation above.

Mayor Stockton opened the Public Hearing. No one came forward to address the Council. Mayor Stockton closed the Public Hearing.

Motion by Alderman Purcell, seconded by Alderman Schmidt that the public hearing be opened and the item laid over until the February 23, 2009 Council meeting.

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

Ayes: Aldermen Stearns, Huette, Schmidt, Finnegan, Gibson, Sage, Fruin and Purcell, and Mayor Stockton.

Nays: None.

Motion carried, (viva voce).

The following was presented:

To: Honorable Mayor and Members of the City Council

From: Staff

Subject: Petition submitted by Michael T. Franks requesting the rezoning from R-2, Mixed Residence District, to B-2, General Business Service District, for the vacant lot commonly located at 405 North Morris Avenue (Ward 6) (Case Z-08-08)

BACKGROUND INFORMATION:

Adjacent Zoning

north: B-2, General Business Service District
south: R-2, Mixed Residence District
east: R-2, Mixed Residence District
west: M-2, General Manufacturing District

Adjacent Land Uses

north: Motor vehicle repair garage
south: Duplex & single family dwelling
east: Single family dwelling
west: Morris Avenue and railroad tracks

Comprehensive Plan: recommends “Low/Medium Density Residential” use for the subject property.

The property in question initially was zoned “Residential” under the City’s first zoning ordinance that was adopted in 1941. It was rezoned to the “M-2 Heavy Industrial District” in 1956, and was rezoned to the “B-2 General Business Service District” in 1979 as part of the comprehensive amendment of the City’s zoning code. In 1998, the Community Development Division of the PACE Department purchased the subject lot together with another lot located south and adjacent for redevelopment. This tract was rezoned from B-2 to the “R-2 Mixed Residence District.” The property was formerly the site of a florist shop and an automobile repair service garage. The lot to the south at 1017 West Monroe Street was subsequently sold and developed as the site of a two (2) family dwelling.

The petitioner is a licensed electrician and purchased the subject property in 2008. He now wishes to construct a commercial building thereon for the storage of a motor vehicle and other equipment used in his business. Staff is concerned about the wide range of business and commercial uses that are permitted in the B-2 district and the negative impact that some uses (such as a car wash) could have on the dwellings located to the south and east of the property in question. The approval of B-2 zoning for this property would not be consistent with the Comprehensive Plan and would not be in the public interest.

PLANNING COMMISSION PUBLIC HEARING:

The Planning Commission held a public hearing on this petition on Wednesday, January 14, 2009. Arguments in favor of this petition were presented by Mr. Brian Garwood, Attorney at Law, 308 E. Washington Street, Mr. Michael Franks, 2914 Dodge Drive, and Ms. Cathy Rexroad, 4 Marsh Drive.

Mr. Garwood reported that the property was zoned B-2 prior to 1998. He noted that the City’s Community Development Division had purchased three (3) lots and rezoned them for redevelopment. He said the subject property has remained vacant for eleven (11) years and opined that the site is not a prime location for a residence as it is adjacent to an auto service station to the north and faces railroad right of way to the northwest. He testified that Mr. Franks intends to erect a structure for vehicle and equipment storage.

Commissioner Baughan questioned whether Mr. Franks had been aware of the zoning the property was purchased. Mr. Franks responded that he was aware of the zoning but did not realize that such zoning would not allow a storage building. He had walked to every home in a two (2) block area and talked to everyone who opened their door. He reported that he encountered no one expressing opposition to his plans. Commissioner Morton questioned whether the entrance would be from Morris Avenue. Mr. Franks responded that he would prefer to access the property from the alley to the north if allowed.

Ms. Rexroad testified that she supports the rezoning to B-2, General Business Service District. She related that she and her husband operate the tax service business located at 302 N. Morris Avenue, which she estimated to be about 150 feet to the southwest.

The following persons also came forward to ask questions, Mr. Ray Beard, 2806 Arrowhead Drive, and Mr. Doug Klawitter, 1608 Fairfield Court. Mr. Klawitter stated that he and his

partner own the truck testing facility located directly north of the subject property. He testified that such a facility had been at that location for over fifty (50) years. He pointed out that trucks sometimes line up along this block of Morris Avenue as drivers await their turn for service. He hoped no conflict would be created with a new entrance being allowed off Morris. Chairperson Cain noted that parking along the street right of way is open to anyone and a blocked drive would be something the owner could speak to the police about. Mr. Franks said the storage facility might be accessed as infrequently as once or twice a week. He said he did not foresee a problem and would be willing to work with neighbors to avoid a conflict.

Mr. Mark Huber, Director of Planning and Code Enforcement, related that this lot was once part of a three-lot tract with dilapidated buildings that the City had purchased, re-subdivided and rezoned to residential to match the neighborhood. The corner lot was developed with a duplex and it was sold together with the vacant lot to the north. The owner subsequently sold the north lot (the subject property) to the petitioner. Mr. Huber opined that the alley is a good place to split zoning. He regarded it as a bad precedent to re-encroach into the residential area.

Chairperson Cain questioned whether a storage building would be allowed in R-2. Mr. Huber said a garage, or a building for storage is allowed in R-2 only as an accessory to the principal structure. Mr. Huber explained that a warehouse use is not permitted in B-2 although it would allow a business. Mr. Shaw questioned what would distinguish a business use. Mr. Huber replied it would have an office, water and sewer service. Commissioner Dulac requested an example of a possible objectionable use in B-2. Mr. Huber offered that a liquor store is permitted in B-2. Chairperson Cain noted that B-2 zoning already encroaches the eastern part of the block. Mr. Franks had stressed his intention to use the building only for personal storage.

PLANNING COMMISSION RECOMMENDATION:

After having given due consideration to this petition and the testimony presented at the public hearing, the Planning Commission passed a motion by a vote of 6 to 2 for the rezoning of Case Z-08-08.

STAFF RECOMMENDATION:

Staff is maintaining its objection to the rezoning of this property. There was a concerted effort by the City in the past to clean-up this corner of this west side neighborhood. Dilapidated structures were removed, the land re-subdivided into substandard lots, and the commercial zoning pushed out of this portion of the neighborhood. To rezone this property back to commercial would reverse previous efforts. Staff respectfully requests that Council reject this rezoning request, leaving the property zoned R-2, Mixed Residential.

Respectfully,

Mark R. Huber
Director PACE

David A. Hales
City Manager

David Hales, City Manager, noted the Planning Commission recommended approval of this rezoning. Staff recommended denial of this rezoning. He asked Mark Huber, Director PACE, to come forward and address the Council.

Mr. Huber explained that over the past several years, the City had used Community Development Block Grants (CDBG) to demolish three (3) dilapidated structures on the land in question. The City resubdivided the lots and rezoned the area from B – 2, General Business District to R -2 , Mixed Residence District.

Staff objected to this petition. The area needed to be redeveloped. The petitioner came to the Planning Commission requesting the area be rezoned back to B-2. Mr. Huber believed the Planning Commission may have thought the lot was undesirable for residential uses. Staff's argument was that the land had not been marketed as residential. While staff respected the Planning Commission's decision, they respectfully disagreed.

Alderman Finnegan questioned the size of the lot. Mr. Huber responded the area was approximately seven thousand (7,000) square feet. The lot was irregularly shaped and it would take design savvy to place a residence on that lot. The two (2) adjacent lots were built upon.

Alderman Schmidt stated the land in question was within her ward. She appreciated Mr. Huber's willingness to speak against this redevelopment.

Alderman Huette noted neighbors did not object to this petition. Mr. Huber explained that many of the signatures in support were actually tenants and not the property owners.

Alderman Sage questioned if the petitioner purchased the land knowing it was R-2 zoning. Mr. Huber stated the owner knew, but may have had misconceptions as to what was allowed on land zoned R-2.

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

Motion carried.

Michael Franks, 2914 Dodge Drive, petitioner, addressed the Council. Mr. Franks was dismayed about the fact that he had gone through the procedure. There had been a Public Hearing on January 14, 2009. People were allowed to voice their concerns. The Planning Commission agreed to the rezoning by a vote of seven to two (7 – 2).

This piece of property was completely undesirable for residential use. No one had come forward to develop it. His understanding was that the land had been vacant for the last ten (10) years.

The building would be 1,400 square feet with one (1) overhead door. It would be for personal use. No business would be operated out of the building. He respectfully requested approval of the petition.

Mayor Stockton stated that it was not the City itself which was opposed to this rezoning. It was staff's opinion which was opposed. Mr. Franks thanked the Mayor for that correction. He restated his dismay at the fact the Planning Commission had approved it and staff remained opposed.

Alderman Finnegan questioned the intended use of the building. Mr. Franks responded it would be for his own personal use, (i.e. storage of personal items). He would make the building as secure as possible. He was willing to address any aesthetic issues the City might bring forward.

Alderman Stearns questioned if the petitioner had personally collected the signatures on the petition. Mr. Franks responded affirmatively. He had gone out on a cold day. Some were owners, while some were tenants. No one was opposed to this building. He was not aware of any opposition. Anyone who opposed this zoning change had an opportunity to speak at the Public Hearing in January.

Alderman Stearns questioned Mr. Franks' impression of City staff when this issue was brought forward to them. Mr. Franks had met with Mr. Huber. He was informed that under no circumstances would staff cooperate as his petition went through the process. Mr. Franks decided to pursue this request.

Alderman Schmidt noted that the structure would not be compatible with the zoning. Mr. Franks was willing to cooperate with staff. He was an electrician and had worked with City staff on many occasions.

Alderman Schmidt questioned if staff's response was simply an interpretation of the code. Mr. Franks acknowledged that Alderman Schmidt was familiar with the area in question. He restated no one would build a residential structure on that lot.

Alderman Schmidt stated the West Side Revitalization Project (WBRP) was just beginning. The West Bloomington Neighborhood Plan was recently approved by the Council. Rezoning the lot to mixed use would be detrimental to the area and the plan.

Mr. Franks owned the land in question and would not build a residential structure on the property. In the beginning of the process, he did not know rezoning would be so complicated. He thought it would be relatively easy to rezone the land.

Dennis Arnold, 504 N. Lee, addressed the Council. He was unable to attend the Planning Commission Public Hearing. He thanked the Council and the City for their support regarding the West Side programs. This lot was zoned residential and should stay residential. It had been an inexpensive lot. Mr. Franks planned to build another

warehouse, and the area did not need another warehouse. Single Family homes and/or retail were needed there. He requested the Council deny the rezoning request.

Alderman Stearns questioned if there was a neighborhood association and if so, what was their opinion. Mr. Arnold noted the neighborhood association believed that the lot should stay residential. It was located at the end of a residential block. Form based zoning needed to be expanded. The City needed to look to the future regarding zoning issues.

Heather Paul, 1213 Stile Dr., Normal, West Side Task Force member, addressed the Council. During meetings regarding the west side revitalization, there were many engaged residents. The task force heard many times that people believed this was a historic area where they could grow families. Citizens did not want the west side to become a storage area with another warehouse. Zoning must stay consistent. The City had a Comprehensive Plan. It was understood what was able to be done. She requested the Council support the denial of the rezoning.

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

Motion carried.

Alderman Huette cited the Planning Commission vote. The Commission must have had reasons for agreeing to the rezoning. He requested Mr. Huber recap what their decision was based upon.

Mr. Huber believed the Planning Commission agreed with Mr. Franks due to the very small likelihood that the lot would be used for residential. This lot was in the City's inventory for many years. It was sold to generate funds for the City. This lot was never marketed as residential and was not the most desirable lot.

The initial request by Mr. Franks was for a garage. Code stated that a principal use structure would need to be on the lot prior to a garage being placed there.

Alderman Sage questioned the terms and conditions of the purchase by Mr. Franks. Many times, it was stated within the contract for the sale to be contingent upon rezoning of a lot. Mr. Huber stated that was not the case for the sale of this lot. Alderman Sage added that this petition was viewed by some as a step backwards.

Alderman Gibson questioned if there were any individuals in opposition to the rezoning at the Planning Commission. Mr. Huber responded negatively. There had been questions, but no objections. Alderman Gibson stated the Council should listen to the Planning Commission. This type of building would not detract from the neighborhood.

Alderman Huette questioned when the lot was rezoned to residential. Mr. Huber believed it was approximately ten (10) years ago.

Alderman Stearns questioned if it was a buildable lot. Mr. Huber responded affirmatively, although it was not the most desirable shape.

Alderman Fruin stated the Council should find a win-win situation while trying to keep the lot zoned residential.

Alderman Purcell cited efforts being made to redevelop the City's West Side. He would not support this rezoning.

Alderman Stearns noted an important consideration was the impact this rezoning would have on the neighborhood. She was concerned about a change of ownership after the structure was built. She had hopes for the area.

Alderman Gibson stated the Council did make exceptions to zoning requests. He did not see the detriment to the neighborhood by allowing this rezoning.

Motion by Alderman Schmidt, seconded by Alderman Purcell that the Rezoning be denied.

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

Ayes: Aldermen Stearns, Schmidt, Sage, Fruin and Purcell.

Nays: Alderman Huette, Gibson, and Finnegan.

Motion carried.

MAYOR'S DISCUSSION: None.

CITY MANAGER'S DISCUSSION: Staff was working on several changes. The agenda packets would be out to Aldermen one (1) week in advance of the meeting. There was also a new format for Council memorandums. He requested that the Council watch for these changes and provide feedback.

ALDERMEN'S DISCUSSION: Alderman Fruin appreciated the hard work done by David Hales, City Manager, and the Finance Department staff. There was much for the City to tackle over the next several months. It would be important to prioritize the issues.

Alderman Schmidt stated there had been a West Side Committee meeting regarding how to move ahead with a business plan to bring structure to the project. The City did not have the resources to spear head this project. It would need to be done with private dollars.

Alderman Schmidt questioned the next step for the Main Street Form Based Code. She noted the Chamber of Commerce would host additional meetings. She questioned the next step after intake sessions. Mayor Stockton noted the Chamber of Commerce would

funnel the information to the City's PACE Department. Alderman Schmidt questioned if the information would be provided to Farr Associates. David Hales, City Manager, stated the Council was waiting for the Planning Commission to take definitive action.

Mark Huber, Director - PACE, addressed the Council. He noted that the City and Council had received feedback regarding the Main Street Form Based Code. The Chamber of Commerce held an informational meeting last week and would be holding another later this month. During this time, the moratorium would stay in effect.

Mayor Stockton heard that a number of the Chamber of Commerce members were against the Main Street Corridor revitalization. The Chamber would be a vehicle to highlight specifics regarding concerns.

Alderman Purcell read from a prepared statement regarding the Main Street Corridor. He noted it ran through several wards within the City. This would have an impact on businesses, marketability and flexibility. He encouraged input.

Alderman Stearns thanked Mr. Hales for his work on the budget process.

She had planned ward meetings and was thankful that Mr. Hales was available to attend.

Alderman Gibson commented on the Main Street Corridor. He believed that due to City finances, now was not the time. The City did not need another study. There were more important issues facing the City. The Council needed to make intelligent decisions for the good of the City.

Mayor Stockton noted there needed to be some distinction between a Form Based Code and general revitalization of Main Street. The Council must think in broad terms.

Motion by Alderman Schmidt, seconded by Alderman Purcell to recess to Executive Session, Purchase or Lease of Real Estate, Section 2(c)(5). Time: 9:05 p.m.

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

Ayes: Aldermen Stearns, Huette, Schmidt, Finnegan, Gibson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

Motion by Alderman Finnegan, seconded by Alderman Schmidt, to return to Regular session and adjourn. Time: 9:26 p.m.

Motion carried.

**Tracey Covert
City Clerk**

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