



# City of Bloomington Common Council

## Legislative Packet

Regular Session

07 May 2008

Office of the Common Council  
P.O. Box 100  
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Bloomington, Indiana 47402

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## Packet Related Material

### Memo

### Agenda

### Calendar

### Notices and Agendas:

*None*

### Legislation for Final Action:

- **Ord 08-05** To Amend Title 2 of the Bloomington Municipal Code Entitled “Administration and Personnel” - Re: Repealing and Deleting Section 2.12.040, Entitled “Tree Commission” and Adding Section 2.20.150, Entitled “Tree Commission”
  - Am 1 (Sponsor: Sturbaum) – Would expand duties to include advising the Plan Commission on tree-related matters.

*Contact: Margie Rice at 349-3426 or [ricem@bloomington.in.gov](mailto:ricem@bloomington.in.gov)*
- **Ord 08-06** To Amend Title 12 of the Bloomington Municipal Code Entitled “Streets, Sidewalks and Storm Sewers” – Re: Repealing Chapter 12.24 Entitled “Trees” and Replacing it with Chapter 12.24 Entitled “Trees and Flora”

*Contact: Margie Rice at 349-3426 or [ricem@bloomington.in.gov](mailto:ricem@bloomington.in.gov)*

  - Am 1 (Sponsor:Sturbaum) – Would establish an appeal procedure when the City removes a tree (except in an emergency), changes reference from calendar to working days wherever it appears, and corrects minor errors in drafting.

*Please see the [16 April 2008 Legislative Packet](#) for the legislation, summary, and related materials.*

## **Legislation and Background Material for First Reading:**

- **Ord 08-07** To Amend Title 4 of The Bloomington Municipal Code Entitled “Business Licenses and Regulations” (To Repeal and Replace Chapter 4.18 Entitled “Pawnbrokers”)
  - Memo to Council from Patty Mulvihill, Assistant City Attorney; Current Version of BMC 4.18 (Pawnbrokers)  
*Contact: Patty Mulvihill at 349-3426 or mulvihip@bloomington.in.gov*
- **Ord 08-08** Ordinance Authorizing the City of Bloomington, Indiana to Issue Its "City Of Bloomington, Indiana Economic Development Revenue Bonds, Series 2008 (Henderson Court Apartments Project)" and Approving and Authorizing Other Actions in Respect Thereto
  - Memo to Council from Susan Failey, Assistant City Attorney, and Danise Alano, Director of Economic Development; Memo to Susan Failey from Thomas Peterson, Bond Counsel; List of Financing Agreement Documents on File in the Clerk/Council Office  
*Contact: Danise Alano at 349-3406 or alanod@bloomington.in.gov*

## **Minutes from Regular Session:**

- December 19, 2008

### **Memo**

#### **Two Ordinances Ready for Final Action and Two Ordinances Ready for Introduction at the Regular Session on May 7<sup>th</sup>**

There are two ordinances ready for final action and two ordinances ready for introduction at the Regular Session next week. Please note that the two ordinances ready for final action can be found in the [16 April 2008 Council Legislative Packet](#) and will each be accompanied by an amendment. The amendments are included in this packet and briefly mentioned below. Please also note that the legislation to be introduced next week, along with the summary and background material, is part of this material.

## **Amendments to Items Ready for Final Action**

Councilmember Sturbaum has sponsored one amendment for each of the two tree-related ordinances ready for final action next Wednesday. The first, amends **Ord 08-05**, which repeals and re-enacts provisions establishing the Tree Commission, by adding a new duty of advising the Plan Commission on tree-related matters. The second, amends **Ord 08-06**, which repeals and re-enacts the City's Tree Ordinance, by changing the timeframes from calendar to working days wherever they appear in the ordinance, correcting some minor drafting errors and adding an appeal procedure when the City removes a tree unless the removal is due to an emergency. That appeal procedure will give someone aggrieved of the proposed removal seven working days after the posting of the notice on the tree (which will be stated in the notice) to file a written appeal with Board of Park Commissioners.

### **First Readings**

#### **Item One - Ord 08-07 - Amending Title 4 of the BMC Entitled "Business Licenses and Regulations" by Repealing and Replacing Chapter 4.18 Entitled "Pawnbrokers"**

**Ord 08-07** repeals and replaces Chapter 4.18 entitled "Pawnbrokers." According to the *Memo* from Patty Mulvihill, Risk Attorney, the changes bring the twenty-six year old ordinance up to date with the current pawn industry by helping local law enforcement identify and address "certain criminal behaviors." She notes that upon passage of this ordinance, representatives of Monroe County government intend to do the same for pawnshops in the County.

Mulvihill's *Memo* emphasizes four major changes in our regulation of pawnbrokers which include establishing:

- an application procedure that properly vets persons wishing to operate a pawnshop;
- explicit standards for operating a pawnshop;
- a procedure for the electronic transmission of information about receipt of property to the Bloomington Police Department; and
- specific and escalating fines for violations of this Chapter.

The following paragraphs outline and highlight features of the proposed ordinance and note major changes from the current one:

**Definitions (4.18.010).** The definitions have been expanded from three to eight. Here are some key definitions:

- “Pawnbroker” is a person whose business is to lend money on security of personal property deposited with or pledged to him or her. The proposed ordinance specifically excludes transactions at garage sales, scrap yards, and charitable events or sales.
- “Person” is broader than natural person and includes legal entities and “any other group acting as a unit.”
- “Personal property” means “all property subject to ownership except choses in action (law suits), securities, and printed evidence of indebtedness.” Note – this conforms to the current provisions and IC 28-7-5-2.

**Licensing Regulations (4.18.020).** This provision requires all persons conducting business as a pawnbroker to maintain a license with the City and includes these transactions within the definition of this business:

- Loaning or advancing money to any person on deposit of personal property as security for such loan or advancement when the personal property may be repurchased upon paying a sum of money;
- Loaning or advancing money via a secured transaction on personal property where the property is taken by the lender as security for the loan or advancement and will yield future earnings for the lender; and
- Purchasing or trading used personal property on the condition that it may be repurchased by the seller within a fixed period of time for a fixed amount of money.

**Application.** The Application will continue to be handled by the Office of Controller but the process will be much more involved than the current one which merely requires that the address of the business be listed along with the people who will own it and that the owners agree that they have no right to stolen property and will surrender any such property upon request of a police officer who has probable cause to believe it was stolen. These provisions will now:

- Require the applicant to provide the name (as well as any aliases), birthplace and date, and residence of the applicant; the name and address of any persons who are part of a partnership, corporation, or company applying for the license; the name and address of the business and its owner; and the name of the manager;
- Require the applicant and manager to be at least 18 years of age;

- Prohibit persons convicted of a felony or theft-related offense in the previous five years from obtaining a license;
- Authorize the Bloomington Police Department to investigate the foregoing applicants and furnish a report to the Office of Controller;
- Require the applicant to provide a copy of a current and valid State pawnbroker license;
- Raise the annual fee for the license from \$25 to \$100 (due to the increased work associated with the application); tie the license to the calendar year; and set the deadline for submitting an application for renewal at December 10<sup>th</sup>;
- Prohibit the transfer of the license or relocation of the business; and
- Make any violation of this Chapter reason for denying, suspending, or revoking the license.

**General Regulations (4.18.030)**      These provisions are all new and require the licensee to:

- Prominently display the license in a conspicuous manner at the pawnshop at all times;
- Allow the inspection of the premises (including off-site storage areas) and property stored therein during regular business hours upon request of the Chief of Police or his/her designee;
- Hire employees who are at least 18 years of age and have not been convicted of a felony or theft-related offense in the previous five years;
- Avoid transactions with persons who are intoxicated or under the age of 18; and
- Avoid transactions of property which have had the original serial or identification number removed, altered, or rendered unreadable.

**Records (4.18.040)**      The provisions on records greatly expand upon the current ones. The current code requires licensees to: maintain their records in a manner that enables the police to determine whether they are in compliance with the ordinance; keep those records in compliance with State law; preserve them for at least two years; and provide certain information on property they have received to the Police Department on a weekly basis. The proposed provisions will now require the licensee to:

- Allow the examination of any record required by this Chapter by the Police Chief or his/her designee during regular business hours upon their request;
- Maintain a permanent electronic record, in English, with a complete description of all regulated transactions (including voided and deleted ones) and all parties to those transactions;

- See a government-issued ID of any person entering into a regulated transaction;
- Record the:
  - employee who conducted the transaction and the store where it occurred;
  - type and number of ID presented for the transaction along with name, address, phone number, birth date and certain physical characteristics of the person entering into the transaction;
  - complete description of the property underlying the transaction;
  - nature, date, and identifying number for the transaction; and
  - signature of the person entering into the transaction as well as the term of the loan or repurchase period and the date on which the loan is due or the repurchase option expires.
- Provide a receipt to the party identified in the transaction which must include the:
  - place of business;
  - date and time the item was received by the licensee;
  - nature of the transaction;
  - accurate description of the item received;
  - unique identifier of the employee conducting the transaction;
  - amount of money advanced or paid;
  - amount of money needed to redeem the item and the last regular day it can be redeemed without risk of being sold; and
  - signature of the pledger or seller.
- Store all records regulated by this Chapter electronically as well as on paper and transmit those electronic records to the Police Department in the manner approved by the Department by Noon of the next business after the transaction – Note: In the event the licensee is unable to transmit the data electronically by that time, they must deliver printed copies by the same deadline and transmit the data electronically as soon as the problem is resolved;
- Keep records regulated by the Chapter for at least two years, except those pertaining to firearms which shall be kept for 20 years as required by Federal Law.

**Stolen Property (4.18.050)** Licensees under the current provisions must hold property for at least 10 days after the property’s card has been collected by the Police Department and must agree to surrender stolen property to a law enforcement agency after the agency has probable cause to believe the property was stolen and makes such a request. The proposed provisions do much more to protect this property and, in particular, require the licensee to:

- Avoid selling or redeeming property identified by any law enforcement agency as lost or stolen for the periods set forth below, unless the licensee receives a written authorization to release the item from the law enforcement agency:
  - for 10 days after any form of verbal notice from the law enforcement agency;
  - for 45 days after confirmation by the agency within 10 days of the initial notice – Note: during this period the licensee must store the item so that it is safe, separate from other items, and clearly identified as possible lost or stolen property;
  - for an additional 45 days if the law enforcement agency requests it – Note: the licensee is required to remind the agency of the holding of those items no later than 10 days before the first 45 days expire;
- Notify law enforcement by providing the relevant transaction records whenever they have reason to believe the pawnshop has received lost or stolen property and keep the property until authorized by law enforcement to release it – Note: this authorization shall be in writing and made as soon as practicable after the relevant law enforcement department determines the property can be released;
- Transfer the property to the law enforcement department upon request – Note: the law enforcement department shall provide a written receipt describing the confiscated property and retain custody of the property until a court determines its rightful owner;

*Note: The licensee is not responsible for returning the property to its rightful owner.*

**Enforcement (4.18.060)** Licensees under the current provisions may have their licenses revoked if they fail to pay the annual fee, maintain the statutorily-required bond, or comply with any provision of this Chapter, or if there is a change in their circumstances such that they no longer qualify for the license. Licensees are also subject to a maximum fine of \$2,500 for each violation of this Chapter. The new provisions expand upon those provisions and now:

- Enumerate violations which include:
  - Failing to record a regulated transaction;
  - Falsifying, obliterating, destroying, or removing from the place of business such a record;
  - Transmitting a false record to law enforcement;
  - Failing to report the possession of property that may be lost or stolen;
  - Refusing to allow an inspection authorized by this Chapter; and
  - Violating of any other provision of this Chapter not specifically mentioned above.



- Makes the licensee responsible for compliance with this Chapter by his/her employees and agents and subject to denial, suspension or revocation of the license if these persons fail in this regard;
- Makes the furnishing of false information to the licensee pertaining to a record regulated by this Chapter a violation;
- Makes the pledging or selling of any property to the licensee by a person who knows the property was leased under written contract a violation;
- Imposes a fine of \$500 for a person violating any provision of this Chapter which doubles for each violation they commit within 12 months of the first violation up to a maximum of \$7,500 for each violation;
- Provides for the denial, suspension, or revocation of a license if the applicant or licensee has committed fraud or misrepresentation, provided false information in the application, or has violated other provisions of this Chapter, or a State or Federal law which is substantially related to the business license under this Chapter. Note - Licensees may appeal the decision to suspend or revoke the license if they do so in writing to the Board of Public Works within seven days of that decision.

**Item Two – Ord 08-08 – Authorizing Issuance of Economic Development Revenue Bonds for Purchase and Rehabilitation of Henderson Courts Apartments**

**Ord 08-08** authorizes the issuance of \$7.25 million in tax-exempt Economic Development Revenue Bonds for the purchase and renovation of Henderson Courts Apartments at 2475 Henderson Court which currently provides Section 8 housing in all of its 150 units. The attached *Memo* from Susan Failey, Assistant City Attorney, and Danise Alano, Director of Economic Development, indicates that this financing is being done on behalf of SY Henderson Court Investors, L.P., which is an affiliate of Southport-Yarco, LLC. It goes on to say that this company “specializes in affordable housing and has extensive experience in acquiring and rehabilitating apartment properties using tax-exempt bonds and federal tax credits.”

The City adopted an inducement resolution (Res 07-17) last year for this project and the state approved the tax exempt financing earlier this year. The legislation, summary and background material for that resolution can be found in the [12 December 2007 Council Legislative Packet](#).

These bonds are advantageous for developers and investors because the interest rate is lower than conventional bonds and is not considered taxable income for investors. In this instance, the bonds and tax credits will finance a project costing over \$10.7 million that, along with the acquisition of the property, will include an “upgrade and rehabilitation” involving “new HVAC equipment, new kitchen and bath cabinets, floor coverings, windows and patio doors.” Please note that all of the units will be rented to tenants with incomes at or below 60% of area median income (AMI) as a result of a Housing Assistance Payment contract. Past information filed with the Council indicates that the rents range from \$544 for a one-bedroom unit to \$743 for a three-bedroom unit.

Indiana statute (I.C. 36-7-11.9 and 12) allows municipalities to help developers obtain financing for economic development facilities after the Economic Development Commission has held a legally advertised public hearing and adopted a resolution. That hearing will be held on May 14<sup>th</sup> and the signed resolution will be delivered at that time. Please note that a copy of unsigned resolution will be provided next week. The ordinance:

- confirms the findings set forth in the EDC resolution and finds that the financing arrangement and project comply with I.C. 36-7-11.9 and 12;
- finds that the project will be of benefit to the health and welfare of the community and will not have an adverse competitive impact on similar facilities in the community;
- approves the Financing Agreement (which consists of a number of documents that are in 'substantially final form') and incorporates them by reference into the ordinance (with two copies kept in the City Clerk and Council Office for public inspection);
- authorizes the issuance of no more than \$7.25 million in tax exempt bonds with a maturity date that cannot exceed 40 years and an interest rate that cannot exceed 12%;
- authorizes the Mayor and City Clerk to execute the Financing Agreement and other documents on behalf of the City in order to facilitate this transaction;
- declares that this is a contract between the City and bond holders and cannot be repealed;
- finds that the amount of bond does not exceed what is necessary for the feasibility of the project;
- relieves City and its officers and employees of any liability for the issuance; and
- states that the bonds do not constitute a debt of the City.

**NOTICE AND AGENDA  
BLOOMINGTON COMMON COUNCIL REGULAR SESSION  
7:30 P.M., WEDNESDAY, May 7, 2008  
COUNCIL CHAMBERS  
SHOWERS BUILDING, 401 N. MORTON ST.**

**I. ROLL CALL**

**II. AGENDA SUMMATION**

**III. APPROVAL OF MINUTES FOR:** December 19, 2007 (Regular Session)

**IV. REPORTS FROM:**

- 1. Councilmembers**
- 2. The Mayor and City Offices**
- 3. Council Committees**
- 4. Public**

**V. APPOINTMENTS TO BOARDS AND COMMISSIONS**

**VI. LEGISLATION FOR SECOND READING AND RESOLUTIONS**

1. Ordinance 08-05 To Amend Title 2 of the Bloomington Municipal Code Entitled "Administration and Personnel" – Re: Repealing and Deleting section 2.12.040, Entitled "Tree Commission", and Adding Section 2.20.150, Entitled "Tree Commission"

Committee Recommendation:	Do Pass 9 – 0 – 0
Am 01 (Sponsor: Sturbaum)	To be introduced

2. Ordinance 08-06 To Amend Title 12 of the Bloomington Municipal Code Entitled "Streets, Sidewalks, and Storm Sewers – Re: Repealing Chapter 24 Entitled "Trees", and Replacing it with Chapter 24 Entitled "Trees and Flora"

Committee Recommendation:	Do Pass 4 – 2 – 3
Am 01 (Sponsor: Sturbaum)	To be introduced

**VII. LEGISLATION FOR FIRST READING**

1. Ordinance 08-07 To Amend Title 4 of the Bloomington Municipal Code Entitled "Business Licenses and Regulations" (To Repeal and Replace Chapter 4.18 Entitled "Pawnbrokers")

2. Ordinance 08-08 Ordinance Authorizing the City of Bloomington, Indiana to Issue Its "City of Bloomington, Indiana Economic Development Revenue Bonds, Series 2008 (Henderson Court Apartments Project)" and Approving and Authorizing Other Actions in Respect Thereto

**VIII. PRIVILEGE OF THE FLOOR** (This section of the agenda will be limited to 25 minutes maximum, with each speaker limited to 5 minutes)

**IX. ADJOURNMENT**

City of  
Bloomington  
Indiana

City Hall  
401 N. Morton St.  
Post Office Box 100  
Bloomington, Indiana 47402



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To: Council Members  
From: Council Office  
Re: Calendar for the Week of May 5-10, 2008

**Monday, May 5, 2008**

5:30 pm Bicycle and Pedestrian Safety Commission Work Session, Hooker Room

**Tuesday, May 6, 2008**

*City Holiday: Primary Election Day – Offices Closed.*



**Wednesday, May 7, 2008**

10:30 am Safe Routes to School Task Force, McCloskey  
2:00 pm Hearing Officer, Kelly  
4:00 pm Griffy Steering Committee Meeting, McCloskey  
5:30 pm Commission on Hispanic and Latino Affairs, McCloskey  
7:30 pm Common Council Regular Session, Council Chambers

**Thursday, May 8, 2008**

12:00 pm Housing Network, McCloskey  
3:30 pm Bloomington Historic Preservation Commission, McCloskey  
7:00 pm Peak Oil Task Force, Hooker Room

**Friday, May 9, 2008**

1:30 pm Metropolitan Planning Organization Policy Committee, McCloskey  
4:00 pm Common Council Jack Hopkins Funding Committee, Agency Presentations, Council Chambers

**Saturday, May 10, 2008**

8:00 am Bloomington Community Farmers' Market, Showers Common, 401 N. Morton

# **LEGISLATION**

**\*\*\* Amendment Form \*\*\***

**Ordinance #:** 08-05

**Amendment #:** 1

**Submitted By:** Councilmember Sturbaum, District 1

**Date:** May 2, 2008

**Proposed Amendment:** Ordinance 08-06 shall be amended by:

Adding a provision to the Tree Commission's Purpose and Duties which reads as follows and re-lettering the subsequent parts:

“(d) advise the Plan Commission on tree-related matters as necessary; and”

**Synopsis**

This amendment is sponsored by Councilmember Sturbaum and addresses the concern that the Tree Commission be able to advise the Plan Commission on tree-related matters as they arise. This codifies their advisory capacity to the Plan Commission.

**4/23/08 Committee Action:** None

**5/7/08 Regular Session Action:** Pending

May 2, 2008

**\*\*\* Amendment Form \*\*\***

**Ordinance #:** 08-06

**Amendment #:** 1

**Submitted By:** Councilmember Sturbaum, District 1

**Date:** May 2, 2008

**Proposed Amendment:** Ordinance 08-06 shall be amended by:

1. Correcting three scrivener's errors.

First, in 12.24.040(2), removing the comma immediately before the period at the end of the second-to-last sentence.

Second, correcting the citation in 12.24.050(1) in the first line from "12.24.070(4)(b)," which doesn't exist, to "12.24.070(3)(b)," which is the correct cite, so that it reads as follows:

“Except in emergency situations described in section 12.24.070(3)(b)…”

Third, changing “it” to “its” in the first sentence of 12.24.070(2), so that it reads as follows:

“Except for the City and its agents…”

2. Amending all mention of time limits in the ordinance from “calendar” days to “working” days. There are four of these changes, which can be found in 12.24.050(1), 12.24.110(4), and 12.24.130 (which has two that are changed).

3. Adding an appeal provision for the City's removal of trees. A process was made that allows for appeals within seven days of the date the notice of tree removal was posted. The new 12.24.130 reads as follows:

Any person aggrieved by the Department's denial of a Tree Work Permit, the issuance of a Notice of Violation, or the City's notice of tree removal, shall have the right of appeal to the Board. No appeal is allowed for emergency tree removal, described in Bloomington Municipal Code section 12.24.070(3)(b). Appeals shall be made within ten (10) working days after the action complained of, or for notice of tree removal, within seven (7) working days of the posting of notice of tree removal. An appeal is made by filing a written statement with the Board setting forth fully the grounds for the appeal. The Board shall issue written findings. The decision and order of the Board on such appeal shall be final and conclusive.

All appeals from written findings of the Board shall be made to a court of competent jurisdiction within ten (10) working days of the issuance of the findings.

## Synopsis

This amendment fixes three scrivener's errors, amends all required time limits to be timed as working days, rather than calendar days, and adds an appeal process for citizens aggrieved by the City's notice of tree removal. The new appeal process allows an aggrieved citizen to utilize the same appeal process that is in place for tree permit appeals and notice of violation appeals. The only difference is that an appeal of the City's notice of tree removal must be made within seven working days, as opposed to the ten working days allowed for the other two appeals. This time limit is shorter because an appeal made within seven working days of notice of tree removal will definitely be made before the City takes the tree down, as the City's notice must be made at least ten working days before the tree is removed. The placard placed on the tree will include the date of posting, so that when the amendment period begins is clear.

<b>4/23/08 Committee Action:</b>	None
<b>5/7/08 Regular Session Action:</b>	Pending

May 2, 2008



**ORDINANCE 08-07**

**TO AMEND TITLE 4 OF THE BLOOMINGTON MUNICIPAL CODE  
ENTITLED “BUSINESS LICENSES AND REGULATIONS”  
(To Repeal and Replace Chapter 4.18 Entitled “Pawnbrokers”)**

WHEREAS, pawnbrokers provide an opportunity for the commission of crime and the concealment of crime, because pawnshops have the ability to receive and transfer stolen property easily and quickly;

WHEREAS, the pawn industry has outgrown the City’s current ability to effectively and efficiently identify criminal activity related to pawnbrokers and pawnshops so that an automated pawn system is needed to allow law enforcement officials to timely collect and share pawn transaction information more efficiently; and

WHEREAS, consumer protection regulation of pawn transactions is warranted in light of the potential for abuse;

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

SECTION 1. Chapter 4.18 of the Bloomington Municipal Code entitled “Pawnbrokers” shall be repealed and replaced with the following:

Chapter 4.18 Pawnbrokers

Sections:

- 4.18.010 Definitions
- 4.18.020 Licensing Regulations
- 4.18.030 General Regulations
- 4.18.040 Records
- 4.18.050 Stolen Property
- 4.18.060 Enforcement

**4.18.010** Definitions. Whenever in this chapter the following words are used, they shall have the meanings respectively ascribed to them in this section. When not inconsistent with the context, words used in the present tense include the future tense, words in the singular number include the plural number, and words in the plural number include the singular number. The term “shall” is always mandatory and not merely directory. Terms not defined in this section shall have the meanings customarily assigned to them.

“Charitable organization” means a corporation, trust, or community chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

“Deposit” means a delivery of goods or property to be held in trust as security for payment of money and also includes the term “bailment.”

“Money” means United States currency, money orders, certified checks, travelers check and any other circulating medium of exchange.

“Pawnbroker” means a person whose business is to lend money on security of personal property deposited with him or pledged to him and includes a person licensed to conduct such business in the City of Bloomington. However, the term does not include a person when engaging in any transaction:

- (1) At an occasional garage or yard sale, an estate sale, a gun, knife, gem or antique show, or a convention;
- (2) Entered into by a person engaged in the business of salvage/scrap yard as defined in Title 20 of the Bloomington Municipal Code;
- (3) While operating as a charitable organization or conducting a sale, the proceeds of which are donated to a charitable organization; or
- (4) As a purchaser of a secondhand article from a charitable organization if the secondhand article was a gift to the charitable organization.

“Pawnshop” means the room, store or place licensed as the business location for a pawnbroker in the City of Bloomington.

“Person” means any natural person, individual, firm, partnership, joint venture, association, corporation, trust or any other group acting as a unit.

“Personal property” means all property subject to ownership, except choses in action, securities, or printed evidence of indebtedness.

“Pledge” means a promise to deliver goods or property as security for payment of money.

**4.18.020 Licensing Regulations.**

(a) All persons engaged in the business of pawnbroker shall maintain a valid City of Bloomington pawnbroker license.

(b) The following transactions constitute the business of a pawnbroker, and any and all such transactions require a valid City of Bloomington pawnbroker license:

- (1) Loaning or advancing money to any person on the deposit of personal property of any kind as security for such loan or advancement, when the personal property may be repurchased by the party upon paying a sum of money;
- (2) Loaning or advancing money upon a chattel mortgage on personal property, where the said property is taken into the possession of the lender as security for the advancement or loan upon an assignment or pledge of future earnings; and
- (3) Purchasing previously owned or used personal property on the condition that it may be repurchased by the seller within a fixed period of time for a fixed sum of money. For purposes of this Chapter, purchasing shall also include trade.

(c) License Application Procedure.

- (1) An application to conduct pawnbroker business shall be made to the City of Bloomington Controller's Office in the form and manner as prescribed by that office.
- (2) All applicants will be required to provide the following information:
  - (A) The applicant's name, place and date of birth and residence address. If the applicant has ever used or has been known by a name other than the applicant's name, the name or names used and information concerning dates and places where the name(s) were used must be provided.
  - (B) The name and address of the business and of the owner.
  - (C) Whether the applicant is a natural person, corporation, limited liability company, or partnership, and:
    - (i) If the applicant is a corporation, the state where incorporated and the names and addresses of all officers and directors.
    - (ii) If the applicant is a partnership, the names and addresses of all partners.
    - (iii) If the applicant is a limited liability company, the names and addresses of all members.
    - (iv) The name of the manager or proprietor of the business.
  - (D) A copy of a valid and current pawnbroker license issued by the State of Indiana.
- (3) The City of Bloomington Police Department may investigate each applicant and any other person listed in subsection (c)(2)(C) above for a pawnbroker license. If an investigation is conducted, the City of Bloomington Police Department shall furnish the information derived from that investigation in writing to the City Controller.
- (4) If the applicant is determined to be qualified for a pawnbroker license, and the premises are deemed suitable, the City Controller shall tender the license upon payment of the annual licensing fee of one hundred dollars (\$100.00).
- (5) All licenses issued are valid between January 1 and December 31 of the calendar year in which the license was issued unless sooner revoked, suspended or relinquished.
- (6) All applications for a renewal of an already existing license shall be submitted by December 10 of the year proceeding the year in which the renewal license will be issued.
- (7) Licenses shall not be transferable either as to person or place.

(e) License Qualification.

- (1) The applicant and the person who will principally be in charge of the business must be eighteen (18) years of age or older.
- (2) The applicant must not have been convicted of a felony or theft-related offense within the five (5) years prior to the application date.

(f) A violation of the provisions of this Chapter may result in suspension, revocation, or denial of a pawnbroker license.

**4.18.030 General Regulations.**

(a) Display of License. It shall be the duty of every person to whom a pawnbroker license is issued to prominently display such license in a conspicuous manner at all times on the premises to which the license relates.

(b) Inspection of Premises. Upon request of the Chief of Police of the City of Bloomington Police Department or his/her designee, the pawnbroker or anyone acting on behalf of the pawnbroker shall permit the inspection of the licensed pawnshop premises, including all off-site storage facilities, and all property kept or stored therein. Any such inspection shall occur during the pawnshop's regular and usual business hours.

(c) No pawnbroker shall employ a person under the age of eighteen (18) to conduct transactions regulated by this Chapter. In addition, any employee conducting business regulated by this chapter shall not have been convicted of a felony or theft-related offense within the five (5) years prior to his/her application for employment with the pawnbroker.

(d) No pawnbroker or a person acting on behalf of a pawnbroker shall enter into a transaction regulated by this Chapter with a person under the influence of drugs or alcohol.

(e) No pawnbroker or a person acting on behalf of a pawnbroker shall enter into a transaction regulated by this Chapter with a person who is under the age of eighteen (18).

(f) No pawnbroker or a person acting on behalf of a pawnbroker shall enter into any regulated transaction in which the property at interest is such property that is manufactured or produced with a serial or identification number, and said number has been removed, altered or rendered unreadable.

#### **4.18.040 Records.**

(a) Upon request of the Chief of Police of the City of Bloomington Police Department or his/her designee, the pawnbroker or anyone acting on the behalf of the pawnbroker shall produce any record required to be kept pursuant to this Chapter and shall permit the Chief of Police of the City Bloomington Police Department or his/her designee to examine them. Any such inspection shall occur during the pawnshop's regular and usual business hours.

(b) It shall be the duty of every pawnbroker to maintain in his/her place of business a permanent electronic record with the complete description of all transactions and of all parties entering into transactions regulated by this Chapter. All records shall be recorded in the English language. This record shall include all voided and deleted transactions. The pawnbroker or the pawnbroker's designee shall require a person's photo identification issued by a governmental agency before conducting a transaction with that same person. The following information must be included in the required records:

- (1) Name, address, telephone number, and store address in which the transaction took place; and the name of the employee conducting the transaction.
- (2) Full name, complete current residential address, current phone number, date of birth, race, sex, height, weight, hair and eye color of the person or persons with whom the transaction is made.
- (3) Type, including state or governmental agency of issue, and identifying number of the personal photo identification used by the person with whom the transaction is made.
- (4) Nature and date of the transaction and an identification number for the transaction.
- (5) Complete description of the property purchased, pledged, traded or co-signed including as applicable: brand name, make, model, serial number, and owner applied number or other identifying marks.

(c) Every transaction shall be memorialized in writing and signed by the person with whom the transaction is made. This transaction document shall include the date of the transaction, the term of the loan or repurchase period, and the date on which the loan is due and payable or the repurchase option expires.

(d) Every pawnbroker must provide a receipt to the party identified in every transaction. The receipt must include at least the following information:

- (1) The name, address, and telephone number of the licensed business.
- (2) The date and time the item was received by the pawnbroker.
- (3) Whether the item was pawned or sold, or the nature of the transaction.
- (4) An accurate description of each item received, including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark on such an item.
- (5) The signature or unique identifier of the pawnbroker or employee that conducted the transaction.
- (6) The amount advanced or paid.
- (7) The last regular day of business by which the item must be redeemed by the pledger without risk that the item will be sold, and the amount necessary to redeem the pawned item on that date.
- (8) The signature of the pledger or seller.

(e) All records described in this Chapter shall be electronically stored in addition to paper records. These electronic records shall be transmitted by noon the next business day to the City of Bloomington Police Department in a method and fashion approved by the Chief of Police or his/her designee.

(f) If a pawnbroker is unable to successfully transfer the required reports by modem, the pawnbroker must provide the City of Bloomington Police Department with printed copies of all reportable transactions by noon the next business day. Regardless of the cause or origin of the technical problems that prevented the pawnbroker from uploading the reportable transactions, upon correction of the problem, the pawnbroker shall upload every reportable transaction from every business day the problem existed.

(g) All records described in this Chapter shall be retained by the pawnbroker at the licensed pawnshop for a minimum of two (2) years; except that records pertaining to firearms transactions shall be kept for a minimum of twenty years (20) pursuant to federal regulations.

**4.18.050 Stolen Property.**

(a) Upon verbal notification from the Chief of Police of the City of Bloomington Police Department or any law enforcement official that the pawnshop or pawnbroker has received allegedly stolen or lost property, the pawnbroker shall not sell or permit to be redeemed the property in question for a period of ten (10) working days, pending written or verbal notification of the property status. If notification of the same is received within the ten (10) day period, the property shall be held separate from other property, safe from alteration or damage, and with a clearly identifiable marking as to the hold status. It shall remain in this condition, without being sold or redeemed, for a period of forty-five (45) days from the date of notification. The pawnbroker shall notify the relevant law enforcement official of the impending release date no later than ten (10) days prior to the expiration of the hold period to gain approval to release the hold. At such time, the relevant law enforcement official may renew this hold for an additional forty-five (45) day period. The law enforcement official may cancel this hold at any time by issuing written notification to the pawnbroker. The pawnbroker shall not sell or allow to be redeemed any property held in this fashion without written notification by the relevant law enforcement official that the property may be released.

(b) It is the responsibility of every pawnbroker to notify law enforcement whenever they have reason to believe they or the pawnshop are in receipt of property that may have been lost or stolen. This notification shall include the documents on file pertaining to the transaction which resulted in the receipt of said property. The property shall not be sold or allowed to be redeemed until law enforcement have notified the pawnshop that the property may be released.

(c) Law enforcement shall provide written notification to pawnshops when property can be released which is being held pursuant to these provisions. This notification shall be made as soon as practical after a finding that the held property is not stolen or lost, or other circumstances exist that lead law enforcement to allow the release.

(d) Any property determined to be stolen or lost shall be transferred to the custody of the law enforcement agency making the request. Any law enforcement agency that confiscates property in a pawnbroker's possession because the property is believed to be lost or stolen shall provide the pawnbroker with a written receipt describing the property confiscated. Said law enforcement agency shall retain custody of the property pending a court determination of the rightful owner.

(e) A pawnbroker shall not be responsible for returning stolen or lost property directly to a rightful owner.

**4.18.060 Enforcement.**

(a) Unlawful acts. The following acts by a pawnbroker or any person acting on behalf of the pawnbroker, including the employees and agents of a pawnbroker, will constitute a violation of this Chapter:

- (1) Failure to make a record of any transaction as described in this Chapter.
- (2) Falsifying any official record or entry on an official record required to be kept pursuant to this Chapter.
- (3) Obliterating, destroying, or removing from the place of business any records required to be kept pursuant to this Chapter.
- (4) Refusing to allow the Chief of Police of the City of Bloomington Police Department or his/her designee to inspect the business premises, or any books, records or other goods located or required to be located at the place of business, during regular and usual business hours.
- (5) Transmittal of any false record to law enforcement.
- (6) Failure to report the possession of property that may be lost or stolen.
- (7) Any other violation of the specific provisions of this Chapter not specifically enumerated above.

(b) The holder of any pawnbroker's license shall be responsible for the compliance of all the provisions of this Chapter by the agents and employees of the pawnbroker. Any violations by such persons may be used in the suspension, revocation or denial of a pawnbroker's license.

(c) It shall be a violation of this Chapter for any person to furnish false information to a pawnbroker if the provided information is required to be recorded pursuant to this Chapter.

(d) It shall be a violation of this Chapter for any person to pledge or sell any property to a pawnbroker or the pawnbroker's employees or agents, knowing the property is leased or let to him or another by any instrument in writing.

(e) Penalty. Any person violating any provision of this Chapter shall be punished by a fine of five hundred dollars (\$500.00). If a person commits a second or subsequent violation of this chapter within twelve (12) months of the first such violation, the fine for such second or subsequent violation shall be twice the previous fine, subject to a maximum fine of seven thousand five hundred dollars (\$7,500.00) for each violation. (For example, the first violation is subject to a five hundred dollar

(\$500.00) fine, the second violation will be subject to a one thousand dollar (\$1,000.00) fine, and the third violation will be subject to a two thousand dollar (\$2,000.00) fine, and so forth.)

(f) License Denial, Suspension or Revocation. A license issued hereunder may be denied, revoked, or suspended by the City Controller upon determination that the applicant or licensee has committed fraud or misrepresentation, provided a false statement in the application for a license, or has violated this chapter or a state or federal law which is substantially related to the business licensed under this chapter. If the license is suspended or revoked, the licensee may file a written appeal within seven (7) days of such action to the Board of Public Works.

SECTION 2. Severability. If any section, sentence or provision of this ordinance, or the application thereof to any person or circumstance shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 3 . This ordinance shall be in full force and effect from and after its passage by the Common Council of the City of Bloomington, approval of the Mayor, and publication in accordance with law.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
SUSAN SANDBERG, President  
Bloomington Common Council

ATTEST:

\_\_\_\_\_  
REGINA MOORE, Clerk  
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
REGINA MOORE, Clerk  
City of Bloomington

SIGNED and APPROVED by me upon this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
MARK KRUZAN, Mayor  
City of Bloomington

SYNOPSIS

This ordinance extensively amends Chapter 4.18 (Pawnbrokers) of Title 4 (Business Licenses and Regulations). It adds numerous definitions and amends others to reflect current issues. It adds new, more specific standards for the application procedure for a license. It increases the current license fee from twenty-five dollars (\$25.00) to one hundred dollars (\$100.00) to cover the increased cost of issuing a license under the new provisions. It adds numerous regulations and restrictions on recordkeeping, including a new requirement that all data be transferred to the City of Bloomington Police Department via electronic means. It adds language that defines the procedures for law enforcement agencies who wish to confiscate property that is believed to be lost or stolen. It creates a specific penalty provision for violations of the Chapter.

To: Bloomington City Council  
From: Patty Mulvihill, Assistant City Attorney  
Date: April 22, 2008  
Re: Pawnshop Ordinance

### Memorandum

Attached to this Memorandum is an ordinance which will repeal and replace Chapter 4.18 of Title IV; commonly known as the City's Pawnbroker Ordinance. The Administration is recommending a repeal and replacement instead of a simple amendment as the current ordinance is wholly inadequate and in need of more than simple amendments.

Because pawnshops have the ability to receive and transfer stolen property in a quick and easy manner, the City of Bloomington, and in particular the Bloomington Police Department, is interested in ensuring pawnshops are effectively and efficiently regulated. The current pawn industry in the Bloomington community has outgrown local law enforcement's ability to effectively and efficiently identify certain criminal behaviors; the attached ordinance is an attempt to remedy this problem. If this ordinance passes, representatives of the Monroe County government plan on passing a similar ordinance to ensure that all pawnshops in Monroe County, both inside and outside of the City limits, are held to the same standards.

The proposed ordinance does four major things: (1) establishes a thorough application procedure to properly vet each person who wishes to operate a pawnshop; (2) establishes explicit standards on how a pawnshop is to operate; (3) requires all pawnshops to transmit information regarding the receipt of property via an electronic mechanism; and (4) establishes specific penalties for violations of Chapter 4.18.

#### (1) Application Procedure

The first major goal of the proposed ordinance is to establish a thorough application procedure to properly vet each person who wishes to operate a pawnshop. As it stands now with the current ordinance, the only application requirements are to provide written documentation of the name and address of the person applying for a pawnshop license and a written statement swearing that the applicant will surrender any merchandise he/she believes to be stolen to law enforcement officials. No other information is required to be collected.

This lack of information is troublesome. The current ordinance greatly expands what is required for an application to be complete. A person interested in applying for a pawnshop license will now be required to supply his/her name, place and date of birth and current residence; as well as the name of any aliases used. If the applicant is a corporation or similarly situated entity, the entity will be required to provide certain specific details on the application. Additionally, all applicants shall be subject to a criminal background check by the City of Bloomington Police Department.

In addition to the more specific information that will now be collected during the application procedure, certain other minor modifications have been made as well. First, the license application fee has been raised from twenty-five dollars (\$25.00) to one hundred dollars (\$100.00) as a result of the increased expense and time in processing the applications. Second, licenses will now only be valid from January 1 to December 31 of any calendar year. Third, a deadline of December 10 has been established for all renewal licenses. Finally, it is specifically stated that no one under the age of eighteen (18) may operate a pawnshop (pursuant to State law) and that no license shall be issued to anyone who has been convicted of a felony or a theft-related crime within five (5) years of making an application for a license.

## (2) Standards for Operation

The second major goal of the proposed ordinance is to establish specific standards of operation for all pawnshops. The current ordinance is virtually void of any specific standards of conduct.

First, the new ordinance requires that all pawnshops prominently display their license on the premises. Second, the premises may now be inspected by representatives of the City of Bloomington Police Department during regular business hours. Third, the ordinance specifically prohibits the pawnshop from doing the following: (1) employing a person who is under the age of eighteen (18); (2) entering into a transaction with a person who is under the age of eighteen (18); (3) entering into a transaction with a person who is under the influence of alcohol or drugs; (4) and entering into a transaction if the property is manufactured with a serial number and said serial number has been removed.

The final major addition to the standards of conduct is how pawnshops are directed to act, and how law enforcement is directed to respond, in the event stolen property comes into the possession of a pawn shop. Specific timeframes are established for the holding of stolen property, law enforcement is specifically instructed on how to communicate with pawnshops regarding stolen property and how and where stolen property may be stored is explained.

## (3) Electronic Transmission

The third major goal of the proposed ordinance is to require pawnshops to keep electronic records of all transactions and to transmit said records via the internet to law enforcement officials. Currently, pawnshops are required to provide information to the Bloomington Police Department for each article pawned or received in a paper copy format at least once a week. This manner is completely inefficient. If the information is transferred electronically and done so daily, law enforcement agencies will be better able to track stolen property and apprehend criminals.

This proposed ordinance now requires all pawnshops to store information about all transactions in an electronic format. The data must then be transferred by noon the

next business day to the City of Bloomington Police Department in a method and fashion approved by the Chief of Police. It is the plan of the police department to have the electronic data transferred to leadsonline (a law enforcement automated database search). Leadsonline operates and maintains a website that contains confidential information that may be used exclusively by law enforcement agencies for the sole purpose of identifying merchandise and/or persons suspected in crimes against property.

#### (4) Penalties and Enforcement

The final major goal of the proposed ordinance is to establish specific penalties for Chapter 4.18. The current ordinance does not have any specific penalties for violating the pawnshop restrictions; instead, the general penalty provisions found in Title 1 must apply.

Specific unlawful acts are named, such as: (1) a failure to make an appropriate record of a required transaction; (2) falsifying an official record; (3) destroying business records; (4) refusing an inspection of the premises by law enforcement; and (5) failing to report stolen goods. The proposed ordinance also makes it a violation for a person to furnish false information to a pawnshop or sell stolen property to a pawnshop.

The penalty provision states that the first violation of this Chapter results in a five hundred dollar (\$500.00) fine. If a person commits a second or subsequent violation of Chapter 4.18 within a twelve month period, the fine for the second or subsequent violation is twice the previous fine subject to a maximum daily fine of seven thousand five hundred dollars (\$7,500.00). Licenses may now also be denied, suspended or revoked.



## Chapter 4.18

### PAWNBROKERS

#### Sections:

- 4.18.010**      **Definitions.**
- 4.18.020**      **Application for license.**
- 4.18.030**      **License fee.**
- 4.18.040**      **Revocation of license.**
- 4.18.050**      **Books and records.**
- 4.18.060**      **Information for police department.**
- 4.18.070**      **Retention of acquired property.**

#### **4.18.010**      **Definitions.**

(a) "Pawnbroker" means any person, partnership, association or corporation lending money on the deposit or pledge of personal property, other than choses in action, securities, or printed evidence of indebtedness.

(b) "Pledge" means an article or articles deposited with a pawnbroker in the course of his business, as defined in the preceding paragraph.

(c) "Pledger" means the person who delivers a pledge into the possession of a pawnbroker unless such person discloses that he is or was acting for another; and in such event "pledger" means the disclosed principal. (Ord. 85-49 § 1 (part), 1985).

#### **4.18.020**      **Application for license.**

(a) No person, partnership, association or corporation shall engage or continue in business as a pawnbroker except as authorized by this chapter and without first obtaining a license from the City Controller. Application for such license shall be in writing and shall state the full name and place of residence of the applicant, or if the applicant is a partnership, the full name and place of residence of each member thereof, or, if a corporation or association, the full name and place of residence of each officer thereof, together with the place or places where the business is to be conducted.

(b) All applicants shall, as a condition for the granting of a license and on a portion of the application provided by the City Controller, agree that in the event the applicant as licensee receives merchandise of any kind which is stolen, he claims no right, title or interest in and to said merchandise, and that upon request by law enforcement officer having probable cause to believe that the merchandise is stolen, he will voluntarily surrender said merchandise to the possession of that law enforcement agency when given a receipt for same. (Ord. 85-49 § 1 (part), 1985).

#### **4.18.030**      **License fee.**

Such application shall be accompanied by an annual fee of twenty-five dollars for each place of business conducted by the licensee. (Ord. 85-49 § 1 (part), 1985).

#### **4.18.040**      **Revocation of license.**

In accordance with the provisions of Section 4.04.190 contained herein, the Controller's office shall, after notice and hearing by the Board of Public Works, revoke, by written order, any license issued hereunder if the Board finds that:

(a) The licensee has failed to pay the annual license fee or to maintain in effect the bond or bonds required by Indiana Code 28-7-5-7 as amended, or to comply with any ruling or requirements lawfully made pursuant to and within the authority of this chapter; or

(b) The licensee has violated any provision of this chapter or any rule or regulation lawfully made under and within the authority of this chapter; or

(c) Any fact or condition exists which, if it has existed at the time of the original application for such license, clearly would have permitted the Controller's office to refuse originally to issue such license; or

(d) Any person, partnership, association or corporation which violates any provision of this chapter shall also be subject to the penalties imposed by Section 1.01.130. (Ord. 85-49 § 1 (part), 1985).

**4.18.050 Books and records.**

The licensee shall keep and use in his business, books, accounts and records pertaining to all items of merchandise purchased, pledged, or traded, to enable the Police Department to determine whether such licensee is complying with the provisions of this chapter, and with the rules and regulations lawfully made hereunder. Every licensee shall preserve such books, accounts, and records for at least two years after making the final entry on any loan, pledge or purchase recorded therein. Books and records shall be kept in compliance with Indiana Code 28-7-5-19 as amended. (Ord. 85-49 § 1 (part), 1985).

**4.18.060 Information for police department.**

In addition to the record book required by this chapter, all licensees under this chapter shall provide information for each article pawned or received to the police department. Such information shall include a description of the property, along with serial numbers or identifying marks, if any, all pledger identification required by Indiana Code 28-7-5, and date of birth and social security number of pledger. Information shall be collected at least once a week during normal business hours by the police department. (Ord. 85-49 § 1 (part), 1985).

**4.18.070 Retention of acquired property.**

All property received by a licensee under this article shall be held intact by the licensee for at least ten days after the card record required by this chapter is collected by the police department, provided, however, the pledger may redeem pawned property at any time upon presentation of the pawn ticket and full satisfaction of the loan, interest, and storage fees as provided by Indiana Code 28-7-5. (Ord. 85-49 § 1 (part), 1985).

**ORDINANCE 08-08**

**ORDINANCE AUTHORIZING THE CITY OF BLOOMINGTON, INDIANA  
TO ISSUE ITS "CITY OF BLOOMINGTON, INDIANA  
ECONOMIC DEVELOPMENT REVENUE BONDS, SERIES 2008  
(HENDERSON COURT APARTMENTS PROJECT)"  
AND APPROVING AND AUTHORIZING  
OTHER ACTIONS IN RESPECT THERETO**

WHEREAS, the Bloomington Economic Development Commission conducted a public hearing on May 14, 2008, and adopted a resolution on May 14, 2008, which Resolution has been transmitted hereto, finding that the financing of certain economic development facilities of SY Henderson Court Investors, L.P., a Indiana limited partnership, complies with the purposes and provisions of I.C. 36-7-11.9 and -12, as amended, that such financing will be of benefit to the health and welfare of the City of Bloomington and its citizens and, based upon representations made by SY Henderson Court Investors, L.P., that the amount of tax credits to be allocated to the Project (as defined herein) under Section 42 of the Internal Revenue Code of 1986, as amended, does not exceed the amount necessary for the financial feasibility of the project and its viability as a qualified housing project throughout the credit period for the Project and that the Project satisfies the requirements for the allocation of a housing credit dollar amount under the Indiana Housing and Community Development Authority's qualified allocation plan; and

WHEREAS, the Bloomington Economic Development Commission has heretofore approved and recommended the adoption of this form of Ordinance by this Common Council, has considered the issue of adverse competitive effect and has approved the forms of and has transmitted for approval by the Common Council the Financing Agreement, the Indenture of Trust, the Official Statement, the Bond Purchase Agreement, the Land Use Restriction Agreement, the Bond Mortgage Note, and the Intercreditor Agreement; now therefore,

NOW THEREFORE, BE IT HEREBY ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, INDIANA, THAT:

SECTION I. It is hereby found that the financing of the economic development facilities referred to in the Financing Agreement approved by the Bloomington Economic Development Commission and presented to this Common Council, the issuance and sale of its Economic Development Revenue Bonds, Series 2008 (Henderson Court Apartments Project) (the "Bonds"), the loan of the proceeds of the Bonds to SY Henderson Court Investors, L.P., a Indiana limited partnership (the "Borrower"), to pay a portion of the costs of the acquisition, construction, renovation and equipping of such facilities, the payment of debt service on the Bonds from the payments by the Borrower under the Financing Agreement, and the securing of said Bonds under the Indenture of Trust, complies with the purposes and provisions of I.C. 36-7-11.9 and -12, as amended, and will be of benefit to the health and welfare of the City of Bloomington and its citizens.

SECTION II. The proceeds of the Bonds will be used to finance a portion of the costs of the acquisition, construction, renovation and equipping of a 150-unit multifamily housing facility, to be known as Henderson Court Apartments, together with functionally related facilities such as carports, garages and parking areas, located at 2475 S. Winslow Ct., in the City of Bloomington, Indiana (the "Project").

SECTION III. At the public hearing held on May 14, 2008, by the Bloomington Economic Development Commission, the Commission considered whether the economic development facilities would have an adverse competitive effect on any similar facilities located in the City of Bloomington, and subsequently found, based on special findings of fact set forth in the Resolution transmitted hereto, that the facilities would not have an adverse competitive effect. This Common Council hereby confirms the findings set forth in the Commission's Resolution, and concludes that the economic development facilities will not have an adverse competitive effect on any other similar facilities in the City of Bloomington and the facilities will be of benefit to the health and welfare of the citizens of the City of Bloomington.

SECTION IV. The substantially final forms of the Financing Agreement, the Indenture of Trust (including the Form of the Bond), the Official Statement, the Bond Purchase Agreement, the Bond Mortgage Note, the Intercreditor Agreement and the Land Use Restriction Agreement approved by the Bloomington Economic Development Commission are hereby approved (herein collectively referred to as the "Financing Agreement" referred to in I.C. 36-7-11.9 and -12, as amended), and the Financing Agreement shall be incorporated herein by reference and shall be inserted in the minutes of the Common Council and kept on file by the Clerk. In accordance with the provisions of I.C. 36-1-5-4, two (2) copies of the Financing Agreement are on file in the office of the Clerk for public inspection.

SECTION V. The City of Bloomington shall issue its Bonds in an amount not to exceed Seven Million Two Hundred and Fifty Thousand Dollars (\$7,250,000) and maturing no later than 40 years from the date of issuance. Said Bonds are to be issued for the purpose of procuring funds to finance or refinance a portion of the costs of acquisition, construction, renovation and equipping of economic development facilities as more particularly set out in the above-referenced Indenture of Trust and Financing Agreement incorporated herein by reference, which Bonds will be payable as to accreted amount, principal, premium, if any, and interest from payments made by the Borrower under the Financing Agreement or as otherwise provided in the above-referenced Indenture of Trust. The Bonds shall be issued in fully registered form in Authorized Denominations (as defined in the Indenture of Trust), and shall be redeemable as provided in the Indenture of Trust. Payments of principal, interest and accreted amount are payable in lawful money of the United States of America at the principal corporate trust office of the Trustee (as defined in the Indenture of Trust) or its successor in trust or by check mailed or delivered to the registered owners as provided in the Indenture of Trust. The Bonds shall never constitute a general obligation of, an indebtedness of, or a charge against the general credit of the City of Bloomington, Indiana, nor are the Bonds payable in any manner from revenues raised by taxation.

SECTION VI. The Mayor and the Clerk are authorized and directed to sell the Bonds to the original purchasers thereof at the price of no less than 98% of the accreted value of the principal amount thereof. The Bonds shall bear interest and accrete at a rate not to exceed 12%.

SECTION VII. The President of the Common Council and the City Clerk are authorized and directed to execute, attest, affix or imprint by any means the City seal to the documents constituting the Financing Agreement approved herein on behalf of the City and any other document which may be necessary or desirable prior to, on or after the date hereof to consummate or facilitate the transaction, including the Bonds authorized herein. The Mayor and Clerk are hereby expressly authorized to deem the Official Statement relating to issuance of the Bonds as nearly final and the distribution of the nearly final Private Placement Memorandum is hereby approved. The Mayor and the Clerk are hereby expressly authorized to approve any modifications or additions to the documents constituting the Financing Agreement which take place after the date of this Ordinance with the review and advice of counsel to the City; it being the express understanding of this Common Council that said Financing Agreement is in substantially final form as of the date of this Ordinance. The approval of said modifications or additions shall be conclusively evidenced by the execution and attestation thereof and the affixing of the seal thereto or the imprinting of the seal thereon; provided, however, that no such modification or addition shall change the maximum principal amount of, the maximum interest rate on or maximum term of the Bonds as approved by the Common Council by this Ordinance without further consideration by the Common Council. The signatures of the Mayor and the Clerk on the Bonds may be either manual or facsimile signatures. The Clerk is authorized to arrange for delivery of such Bonds to the Trustee named in the Indenture of Trust, and payment for the Bonds will be made to the Trustee named in the Indenture of Trust and after such payment, the Bonds will be delivered by the Trustee to the purchasers thereof. The Bonds shall be originally dated the date of delivery thereof, unless changed by approval of the Mayor and the Clerk.

SECTION VIII. The provisions of this Ordinance and the Indenture of Trust securing the Bonds shall constitute a contract binding between the City of Bloomington, Indiana and the holders of the Bonds, and after the issuance of said Bonds, this Ordinance shall not be repealed or amended, except in accordance with the amendment provisions of the Indenture, in any respect which would adversely affect the rights of such holders so long as any of said Bonds or the interest thereon remains unpaid.

SECTION IX. The City of Bloomington hereby finds and determines that the amount of tax credits to be allocated to the Project under Section 42 of the Internal Revenue Code of 1986, as amended, does not exceed the amount necessary for the financial feasibility of the Project and its viability as a qualified housing project throughout the credit period for the Project. In making the foregoing determination, the City of Bloomington has relied upon representations of the Borrower. The foregoing determinations shall not be construed to be a representation or warranty by the City of Bloomington as to the feasibility or viability of the Project. The City of Bloomington hereby authorizes and directs the Mayor to review and make the foregoing determination again for and on behalf of the City of Bloomington at the request of the Borrower, following receipt of supporting materials submitted by the Borrower to the Indiana Housing and Community Development Authority ("IHCDA") and either written representations of the Borrower or of IHCDA to the effect that (i) the amount of tax credits to be allocated to the Project under Section 42 of the Code does not exceed the amount necessary for the financial feasibility of the Project and its viability as a qualified housing project throughout the credit period for the Project and (ii) the Project satisfies the requirements for the allocation of a housing credit dollar amount under IHCDA's qualified allocation plan. Such determinations shall occur on or about the date of the sale of the Bonds to the Purchasers thereof and on or about the date that each building is placed in service. In reliance upon the representations of the Borrower, it is hereby found and determined that the Project satisfies the requirements for the allocation of a housing credit dollar amount under IHCDA's qualified allocation plan.

SECTION X. No recourse under or upon any obligation, covenant, acceptance or agreement contained in this Bond Ordinance, or in the Bonds, the Financing Agreement, the Indenture, the Bond Purchase Agreement, the Land Use Restriction Agreement, the Bond Mortgage Note, the Intercreditor Agreement or under any judgment obtained against the Issuer or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise, or under any circumstances, under or independent of the Financing Agreement, shall be had against any member, director, or officer or attorney, as such, past, present, or future, of the Issuer, either directly or through the Issuer, or otherwise, for the payment for or to the Issuer or any receiver thereof, or for or to any holder of the Bonds secured thereby, or otherwise, of any sum that may be due and unpaid by the Issuer upon any of such Bonds. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such member, director, or officer or attorney, as such, to respond by reason of any act or omission on his or her part, or otherwise, for, directly or indirectly, the payment for or to the Issuer or any receiver thereof, or for or to any owner or holder of the Bonds, or otherwise, of any sum that may remain due and unpaid upon the Bonds hereby secured or any of them, shall be expressly waived and released as a condition of and consideration for the execution and delivery of the Financing Agreement, the Indenture, the Land Use Restriction Agreement, the Official Statement and the Bond Purchase Agreement, the Bond Mortgage Note, the Intercreditor Agreement and the issuance of the Bonds.

SECTION XI. The Bonds shall not constitute a debt or pledge of the faith and credit of the Issuer, the State or any political subdivision thereof, and the holders or owners thereof shall have no right to have taxes levied by the Issuer, the State or of any political subdivision, for the payment of the principal thereof or interest thereon. Moneys raised by taxation shall not be obligated or pledged for the payment of premium, accreted value or principal of or interest on the Bonds, and the Bonds shall be payable solely from the revenues and security interests pledged for their payment as authorized by the Indenture.

SECTION XII. This Ordinance shall be in full force and effect from and after its passage.

PASSED and ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana upon this \_\_\_\_\_ day of May, 2008.

\_\_\_\_\_  
SUSAN SANDBERG, President  
Bloomington Common Council

ATTEST:

\_\_\_\_\_  
REGINA MOORE, Clerk  
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
REGINA MOORE, Clerk  
City of Bloomington

SIGNED and APPROVED by me upon this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
MARK KRUZAN, Mayor  
City of Bloomington

#### SYNOPSIS

This ordinance approves a request by SY Henderson Court Investors, L.P., for an amount not to exceed \$7,250,000 in multi-family housing revenue bonds for the acquisition and rehabilitation of Henderson Court Apartments, 2475 Winslow Court. Henderson Court will continue to house persons whose income is at or below 60% of the Area Median Income.



**CITY OF BLOOMINGTON  
LEGAL DEPARTMENT  
MEMORANDUM**

**TO: Bloomington Common Council**

**FROM: Susan Failey, Asst. City Attorney  
Danise Alano, Economic Development Director**

**RE: Ordinance 08-08: Issuance of Economic Development Revenue Bonds to finance multi-family affordable housing at Henderson Court Apartments**

**DATE: May 1, 2008**

The City of Bloomington, upon approval by the Economic Development Commission and the Common Council, is authorized to issue tax-exempt Economic Development Revenue Bonds when it finds that a proposed project will be of benefit to the health and welfare of the City of Bloomington and its citizens. The purpose of such financing is to create jobs, increase the tax base and promote economic diversification. The procedure for such financing is primarily controlled by State law, Ind. Code §§36-7-11.9 and 36-7-12, and the Internal Revenue Code.

The bonds are not an obligation of the City of Bloomington, and are not payable with tax revenue; they are payable solely by the borrower.

In late 2007 Southport-Yarco, LLC (“Yarco”) applied for an issuance of Economic Development Bonds in an amount not to exceed \$7,250,000, to finance the acquisition and rehabilitation of Henderson Court Apartments at 2475 Winslow Court. In December 2007 the Economic Development Commission recommended and the Council approved an inducement resolution, Resolution 07-17, indicating its support for the proposal. In early 2008 the State of Indiana awarded Yarco an allocation of bond volume for the project. Yarco’s affiliate, SY Henderson Court Investors L.P., intends to close on the bonds and the purchase of the property on June 2, 2008.

Henderson Court was developed in 1979 with a HUD insured mortgage and a 100% Section 8 housing contract. Yarco will use the bond proceeds to assist in acquiring the property and financing more than \$2.5 million in renovations. The overall project cost will be more than \$10,697,000. The upgrade and rehabilitation would include new HVAC equipment, new kitchen and bath cabinets, floor coverings, windows and patio doors. City of Bloomington Planning has inspected the property and indicated that the site needs additional bicycle parking, which will be added with the renovations.

Yarco will maintain the affordability component of the project. All of the units will be rented to tenants with incomes at or below 60% of the area median income (AMI).

Yarco is a real estate firm based in Kansas City, MO. The company specializes in affordable housing and has extensive experience in acquiring and rehabilitating apartment properties using tax-exempt bonds and federal tax credits. Yarco's management portfolio consists of more than 12,000 apartment units stretching from Ohio to Arizona, 85% of which is project-based Section 8 or low income housing tax credit. In 2002 and again in 2004, Yarco received the Missouri Governor's award for excellence in affordable housing. One of its Missouri properties was designated HUD's best property in Missouri. This project would be Yarco's first property in Bloomington, Indiana.

The Office of the Mayor supports this petition and, upon favorable recommendation by the City of Bloomington Economic Development Commission, recommends approval of the final bond ordinance authorizing issuance of \$7,250,000 in tax-exempt multi-family housing revenue bonds for the acquisition and rehab of Henderson Court Apartments. The Economic Development Commission will hold a public hearing on this request on May 14, 2008 at 4 p.m.



## MEMORANDUM

To: Susan Failey, Assistant City Attorney

From: Thomas Peterson, Bond Counsel

Date: May 1, 2008

Re: City of Bloomington, Indiana Bond Issue for Acquisition and Rehabilitation of Henderson Court Apartments by SY Henderson Court Investors, L.P., pursuant to Indiana Code 36-7-12

The City of Bloomington (the "City") has been asked by SY Henderson Court Investors, L.P. (the "Borrower") to finance its acquisition and rehabilitation of the Henderson Court Apartments (the "Project") by the issuance of bonds pursuant to Indiana Code 36-7-12 (the "Act"). Under the provisions of the Act, the City may participate in the financing of facilities such as the Project by the issuance of bonds. The proposed bond financing will permit approximately \$7,250,000 of renovations to the Project. Furthermore, so long as the bonds are outstanding, the 100% of the Project will be leased to tenants with incomes at or below 60% of the area median income.

These bonds are payable solely from the revenue of the Project and in no way are payable from taxes or any other revenues of the City. Furthermore, the issuance of the bonds will not effect the credit rating of the City or the debt capacity of the City.

The process for the issuance of the bonds will involve the City at two distinct times. The City adopted an inducement resolution on December 19, 2007, indicating its willingness to participate in the financing of the Project. The Bloomington EDC (the "EDC") first considered the Project and, adopted a report concerning the Project and recommended a resolution to the City Council. All of these materials will be prepared by bond counsel, Thomas Peterson of Ice Miller LLP.

The financing has been documented and the City will now consider the Bond Ordinance. The EDC will first conduct a public hearing concerning the financing on May 14, 2008. Notice of the public hearing was already published in the local legal newspapers. The EDC will make a recommendation to the City Council concerning the financing and will propose a form of ordinance authorizing the issuance of the bonds. The City Council will consider the ordinance and, if adopted, the bonds are scheduled to be issued on June 2, 2008. All costs of issuance will be paid by the Borrower. All of these materials will be prepared by bond counsel, Thomas Peterson of Ice Miller LLP.

Bonds for financings like this Project are issued pursuant to a trust indenture with an Indiana financial institution serving as trustee. Bond proceeds are held in a construction fund until used to pay costs of the project. The repayment of the Bonds is fully guaranteed by an agreement with Federal Home Loan Mortgage Corporation, commonly known as "Freddie Mac."

The benefit to the Borrower of financing the Project through this type of financing is that the interest on the bonds is tax-exempt to the holder, thus the interest rate is lower than in a conventional financing. Furthermore, by the issuance of the bonds, the Project will also qualify for federal housing tax credits. The sale of these credits will provide additional financing for the Project. The benefit to the City is the provision of quality rental housing for low and moderate income citizens without the use of tax revenues.

If you have any further questions concerning this matter, do not hesitate to call.

I/2141988.1

**ORDINANCE 08-08**

**ORDINANCE AUTHORIZING THE CITY OF  
BLOOMINGTON, INDIANA  
TO ISSUE ITS "CITY OF BLOOMINGTON, INDIANA  
ECONOMIC DEVELOPMENT REVENUE BONDS,  
SERIES 2008  
(HENDERSON COURT APARTMENTS PROJECT)"  
AND APPROVING AND AUTHORIZING  
OTHER ACTIONS IN RESPECT THERETO**

**Related Materials**

**Section 4 of this Ordinance  
Incorporates the Financing Agreement by Reference  
which includes the:**

**Financing Agreement,  
Indenture of Trust,  
Official Statement,  
Bond Purchase Agreement,  
Bond Mortgage Note,  
Intercreditor Agreement, and  
Land Use Restriction Agreement**

**Pursuant to I.C. 36-1-5-4, Two Copies are Being Held in the  
Following Locations in the Clerk/Council Office**

In the Council Chambers of the Showers City Hall on Wednesday, December 19, 2007 at 7:30 pm with Council President Dave Rollo presiding over a Regular Session of the Common Council.

COMMON COUNCIL  
REGULAR SESSION  
December 19, 2007

Roll Call: Wisler, Diekhoff, Ruff, Sandberg, Rollo, Sturbaum, Volan, Mayer, Sabbagh (arrived at 8:30 pm).

ROLL CALL

Council President Rollo gave the Agenda Summation

AGENDA SUMMATION

The minutes of July 11, 2007, August 1, 2007 and September 12, 2007 were approved by a voice vote.

APPROVAL OF MINUTES

Brad Wisler sent best wishes to outgoing councilmembers Diekhoff and Sabbagh and thanked them for their support for him as he stepped into his seat in the middle of a term.

REPORTS:  
COUNCILMEMBERS

Andy Ruff said he had a packet of hand written notes from Mrs. Schell's third grade class at Binford Elementary School that were written in response to the Herald Times article on the Environmental Commission's Greenspace Report. He said that the children were concerned about the loss of greenspace and projections and implications for the future regarding this loss. He said they would be available in the council office for the public to read.

Ruff shared that he had received a public notice from the Army Corps of Engineers, Louisville District, announcing a proposal to accept and expend state funds contributed by the Indiana Department of Transportation. Ruff said the Corps would be reviewing the environmental permitting with regards to wetlands in the proposed I-69 pathway, and that this measure was being taken to expedite the process. He noted that with prioritizing, more expeditiously reviewing and processing, INDOT projects would reduce the time for public input and involvement in the process.

Ruff produced a HT report that chastised the city administration for not taking advantage of an INDOT community planning grant to deal with the impact of the proposed highway. He said that significant consideration had been given to the issue and that the city had done the responsible thing by refusing money it didn't need. He said that INDOT's money ought to go towards important projects around the state, adding that it was not "free money" and that there was an opportunity cost. He added that, if the council did take the money, as the HT had suggested they should, the money would be best used given to Terre Haute. He said that Terre Haute could use the money to deal with the decline of their economic activity as a result of the I-69 route being chosen over the alternate route through their city.

Tim Mayer acknowledged Diekhoff and Sabbagh for their time served on the council. He praised them for their attention to detail and for acting on what they thought was best for the community. He thanked the men and wished them well.

Mayer added that it was the season to be thinking of others, and encouraged everyone to donate to organizations doing good for community members, including non-profit agencies and the arts. He wished everyone happy holidays.

Rollo thanked Diekhoff for his service on the council and wished him luck for the future. Although Sabbagh had not yet arrived at the meeting, Rollo acknowledged his work as well, and said he would miss working with him on the council. He also noted the recent passing of U.S.

Congresswoman Julia Carson. He said she had served in that position for 10 years and was the second African-American Congresswoman elected in Indiana. Rollo said he had the opportunity to meet Carson and praised her for being progressive. He said her death was a loss for everyone.

Council Administrator Dan Sherman read tributes to Michael Diekhoff and David Sabbagh and presented them with mementos in thanks for their years of service to the council on this, their last council meeting.

The tribute regarding Diekhoff acknowledged his roots in Bloomington, his dedication to the city, and that he had spent 9 years on the council. It congratulated him on his new appointment as Chief of the Bloomington Police Department after 20 years in law enforcement. The tribute was applauded by the council.

Diekhoff said he was glad to be a part of all the interesting endeavors of the council. He joked that he would probably be back, in front of the council, asking for money for the police department at some point in the future. He said he would miss the activities of the council, but would still be very active in the community.

Ruff added that he would miss Diekhoff, saying that the two went to school together growing up, and that he appreciated his style as a council member. Ruff said that because Diekhoff did not speak out often, people paid closer attention when he did have something to say. He also noted that, because of his experience, it was a tremendous benefit to have Diekhoff on the council when it came to issues of public safety.

Volan said he had gained an appreciation for public safety while working with Councilmember Diekhoff and thanked him for his service.

Rollo thanked Diekhoff for being an ally on what he felt were important council votes. He thanked outgoing police chief Hostettler for his service to the community, and congratulated Diekhoff on gaining the position.

Councilmember Sabbagh arrived after his tribute was read by Sherman. It was noted that Sabbagh's initial election to the council came after a recount in 1996, where he won by 20 votes. His regular district updates and efforts as a sincere public servant during his 12 years on the council were also noted. He was thanked and wished well on future endeavors. The council applauded Sabbagh.

Ruff noted that he was sorry Sabbagh wasn't present to hear his tribute, but hailed him as a social progressive who did a fine job on the council.

Wisler said he felt that Sabbagh wasn't on the council for the glory of it. He said he believed that the council and city were better for Sabbagh's service. Wisler said he would miss him and would continue to seek his advice.

Diekhoff commended Sabbagh on his 12 years of service to the council and wished him well.

Volan expressed gratitude for Sabbagh's service, and put on a Christmas hat in his honor.

Rollo said he too would miss Sabbagh, and commended Sabbagh for voting in opposition to the war in Iraq, and for voting to protect transgendered citizens in Bloomington.

Mayor Mark Kruzan expressed condolences to former Mayor Tomi Allison on the recent passing of her daughter.

MAYOR and CITY OFFICES

Kruzan invited all to participate in the swearing-in of newly elected officials on January 1, 2008, as well as the State of the City address on January 24, 2008.

He thanked all the city employees, and said he enjoyed working with them during his first term in office. Kruzan thanked the many folks who retired from the city during 2007, including Diekhoff and Sabbagh. He praised Mike Hostettler, retiring police chief, for modernizing the department. The mayor noted that Jeff Barlow, Jack Davis, Jim Lang, Dave Fox, Art Allen, Allen Pointer, Jim Haverstock, Randy Williamson, Larry Clark, George Hupp, David Oney, Dennis Gowen, and Chuck Welch had also departed from the City, and thanked them for their service. He especially acknowledged his outgoing Deputy Mayor, James McNamara. He said McNamara had been a civil servant in Bloomington for 20 years and there would be a recognition ceremony for him the following month. He presented McNamara with a potted parking meter from the city as well as an oversized parking ticket signed by several city employees, in honor of his successful parking implementations as deputy mayor.

McNamara thanked all the people in the City who helped him attain his career goals. He said it had been a pleasure to work with all the city employees.

Adam Wason, Assistant Director of Economic Development for the City of Bloomington introduced John Hamilton, Chair of the Sustainability Commission who gave a report from the Commission.

Hamilton read the commission's mission statement, saying they focus on the economic, environment and equity of the community. He said that in the two years since the commission was formed, they have educated hundreds of people about sustainability over dozens of meetings. He said he appreciated the dialogue and interest by community members. He noted that the commission had sponsored sustainable projects, and described them. He also added that the commission had a goal of replacing 40,000 light bulbs in the city with more energy efficient light bulbs. He did not go into detail about the commission's annual report, but noted that it was available on the city's website.

Hamilton announced four new openings on the commission and welcomed questions.

Councilmember Volan asked Hamilton if using the light bulbs the commission recommended would cause a different hazard to the environment, because they contain mercury, which is not easily disposed of safely.

Hamilton replied that the commission had looked into that issue, and decided that, overall, the energy efficient light bulbs they recommended were a step in the right direction for the community.

Councilmember Ruff thanked Hamilton and the commission for their service, and asked if there was anything further that the City could do to help the commission with their goals. He said he'd welcome any opinions the commission would have regarding sustainability issues in legislation that was being considered by the council.

Hamilton said, in general, it was important for the commission to work together with the City as well as Indiana University's Commission on Sustainability towards common goals. He said that one thing they were focused on was local food production. Hamilton noted that the commission had listed several indicators to measure sustainability. He said it was important to outline indicators that the community could follow and understand.

Sturbaum suggested that it would be beneficial if the Sustainability Commission reported to the Planning Commission, so they could work together on solving issues within the community.

Rollo commended Hamilton for his hard work on the commission, and noted that he felt the commission already had many accomplishments.

Susan Sandberg read a letter to the Indiana Congressional delegation that she wrote on behalf of the city's elected and newly elected officials in support of House Resolution 808 (establishing a federal Department of Peace and Non-Violence). The letter encouraged citizens to view peace as a realistic goal and envision the United States as a leader in diplomacy.

#### COUNCIL COMMITTEES

- Letter supporting a Department of Peace

Gail Merrill spoke on the Department of Peace and Non-Violence. She asked folks who were with her to stand. About two dozen folks stood with her to thank the council for their involvement in supporting the resolution. She said that a Department of Peace and Non-Violence would assist with reducing violence at the state, county and local levels. She projected benefits locally to internationally that a department such as this could foster. She said it was important, for future generations, to take this matter seriously. Merrill encouraged folks to strive for peace, so that a more peaceful world comes about.

#### PUBLIC INPUT

David Keppel thanked the council for their hard work over the past year. He said he came particularly to thank the council for their letter regarding House Resolution 808. He said he felt that the federal government was failing the people. He expressed hope that other policy makers in Indiana would support this, or similar, legislation.

Tom Tokarski, president of Citizens for Appropriate Rural Roads (CARR), gave the council an update on the fight against the installation of I-69. He said that the agencies attempting to build I-69 aren't held to specific standards as to data they can provide showing they wouldn't be breaking any laws by building the road. Tokarski said that the courts didn't rule in CARR's favor when it challenged the agencies, so the I-69 project was being allowed to continue. He said he believed that decision was wrong, but that not all hope was lost. He said INDOT was planning to use methods that would break environmental laws, and because of this he believed they would be stopped. He said CARR had until early February to decide whether or not to appeal the court's decision. He said that Governor Daniels had not budgeted enough money to build the entire length of highway, and had admitted he didn't know where the rest of the money to finish the highway would come from. Tokarski said that organizations such as his would not be backing down on this issue because too much was at stake. He cited the destruction of farmland and forests as well as global warming as just a few reasons why building I-69 was a bad idea.

Catherine Hessler, Indiana state coordinator for the Department of Peace, said she wanted to thank the council for its efforts in supporting HR 808 and said she hoped this served as an example to other cities.

Rollo thanked folks for coming especially in regards to the letter supporting the department of peace, and noted the website [peacealliance.org](http://peacealliance.org)

There were no appointments to boards or commissions at this meeting.

## BOARD AND COMMISSION APPOINTMENTS

It was moved and seconded that Resolution 07-18 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the Committee Recommendation of Do-Pass recommendation of Do Pass 9-0-0. It was moved and seconded that Resolution 07-18 be adopted.

## LEGISLATION FOR SECOND READING

Resolution 07-18 To Approve Application and Authorize Grant from the Business Investment Incentive Fund (WonderLab Museum of Science, Health and Technology, Petitioner)

Danise Alano said that WonderLab would be using the allotted money on capital improvements for their facility. She explained WonderLab's contributions to the community, including that nearly 73,000 visitors go there each year. She said the Economic Development Commission adopted a resolution recommending the City Council's approval for a WonderLab grant.

Catherine Olmer, Executive Director of WonderLab, showed drawings of what the WonderLab exhibits workshop would look like.

Councilmember Sturbaum asked if Christine Matheu had been the architect of the project. Olmer responded that Matheu had been involved in the design of the inside of building.

Sturbaum referenced the drawings, and inquired about the number of potential windows on the structure. He made suggestions as to what he would like to see improved about the design.

Councilmember Volan said he agreed with Sturbaum's comments. He said he wished the design that was presented was more finalized, but said overall he was supportive of building the new structure and looked forward to voting in favor of the grant money.

Councilmember Wisler asked if the planning department knew of anything UDO or zoning related that the council should be aware of before voting on the resolution. Planning Development Review Manager Patrick Shay said that he wasn't prepared to answer that question.

Sturbaum then asked if there would be any further review of the building, or was the current meeting the only place it was being reviewed. Shay said that he could only speculate as to the answer to that question, and offered to find out the information and report back to the council.

Sturbaum asked if the petitioner would be willing to make modifications as a condition of approval. Olmer asked what type of modifications Sturbaum would be referring to. He said he was referring to the window dimensions, to which she replied that it wouldn't be a problem to modify them.

Councilmember Mayer said he supported the project, but didn't think it was a good idea that Sturbaum asked for modifications of it right before they voted.

Councilmember Diekhoff said he agreed with Mayer's position. He said he hoped that in the future, the council would give petitioners more notice regarding modification ideas they might have.

Sturbaum responded to Mayer and Diekhoff's comments by saying that it was the first time council members had seen the drawings of the project, and he made the suggestions respectfully. He said he felt there would be long term benefits in those simple and inexpensive changes.



Rollo asked Council Attorney Dan Sherman if they legally could ask for changes as a condition of approval.

Sherman responded that they would have to take a vote to make that legally binding, but that the petitioner should just take Sturbaum's suggestion under advisement.

Sturbaum added that he had only meant to have the verbal agreement of the petitioner and didn't need it to be a formal agreement.

Rollo noted that the council had in fact only just been given the drawings of WonderLab's building to review, and he felt Sturbaum's comments took into consideration the look of the building from the City's B-Line Trail and he appreciated the thoughts.

Resolution 07-18 received a roll call vote of Ayes: 9, Nays: 0.

It was moved and seconded that Resolution 07-17 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the Committee Recommendation of Do-Pass recommendation of Do Pass 9-0-0. It was moved and seconded that Resolution 07-17 be adopted.

Resolution 07-17 Supporting the Issuance and Sale of Economic Development Revenue Bonds – Re: Henderson Court Apartments, 2475 Winslow Court (Southport-Yarco, LLC, Petitioner)

It was moved and seconded that Amendment #1 to Resolution 07-17 be adopted. Parliamentarian Mayer read the synopsis of the amendment.

Amendment #1 to Resolution 07-17  
This amendment raises the maximum amount of the economic development revenue bonds from \$7,000,000 to \$7,250,000 to provide some flexibility and to account for possible changes in interest rate.

Wisler noted that the money came from a statewide pool of funds, and wondered if \$250,000 was added, would it still be well within available funds.

A woman in the audience responded that it would.

Amendment #1 to Resolution 07-17 received a roll call vote of Ayes: 9, Nays: 0.

Danise Alano, Director of Economic Development, said that the City had been asked by Southport-Yarco, LLC, to help refinance and acquisition the rehabilitation of the Henderson Court Apartments through the issuance of economic development revenue bonds. She said Southport-Yarco, LLC, had already worked on 12,000 affordable housing units from Ohio to Arizona. She said some repairs to the apartments, 150 units total, would include new roofing and revamping of bathrooms and kitchens. She said the housing would be reserved for people making 60 percent or less of the area's median income.

Final vote on Resolution 07-17 as amended.

She said that the planning staff had been to the property to note what was needed to be in compliance with the UDO. Alano said that Tom Peterson, Partner with Ice Miller Law Office, was on hand if the council had any questions for her or him.

Councilmember Sandberg noted her support of the affordable housing efforts.

Councilmember Mayer thanked the petitioner and said he believed they would be correcting problems within the apartment complex.

Councilmember Sabbagh said that he was proud the improvements were happening in District 5, and he said that he was certain his successor in the district would be pleased as well.

Councilmember Sturbaum said he was happy that the UDO would apply to this complex. He noted it was important that bike racks be in place for those using bicycles as a means of transportation.

Councilmember Rollo said that he also looked forward to the project and believed affordable housing would help advance the community.

Final vote on Resolution 07-17 as amended. (cont'd)

Resolution 07-17 as amended received a roll call vote of Ayes: 9, Nays: 0.

Tom Peterson, Bond Counsel with Ice Miller, LLP, said that the application would be turned into the state and after hearing back from the state, he would let the council know whether they were selected for the program. He said, if selected, he'd be back for final bond approval in the spring.

It was moved and seconded that Ordinance 07-30 and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the Committee Recommendation of Do-Pass recommendation of Do Pass 9-0-0. It was moved and seconded that Ordinance 07-30 be adopted.

Ordinance 07-30 To Amend Title 2 of the Bloomington Municipal Code Entitled "Boards, Commissions and Councils" – Re: Administration of the City's Cemeteries

Assistant City Attorney Patty Mulvihill described the ordinance.

Sturbaum suggested that the Parks department take a more active interest in maintaining the city's cemeteries. He noted the Rose Hill Cemetery as especially needing better maintenance.

Ordinance 07-30 received a roll call vote of Ayes: 9, Nays: 0.

It was moved and seconded that Ordinance 07-28 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the Committee Recommendation of Do-Pass recommendation of Do Pass 8-0-1. It was moved and seconded that Ordinance 07-28 be adopted.

Ordinance 07-28 To Amend Title 10 of the Bloomington Municipal Code Entitled "Wastewater" – Re: Addition of Chapter 10.21 entitled "Constructed Site and Post Construction Stormwater Control"

Assistant City Attorney Patty Mulvihill said the ordinance would bring the city's storm water system into compliance with federal regulations.

Ordinance 07-28 received a roll call vote of Ayes: 8, Nays: 0. (Ruff was out of the room for this vote.)

It was moved and seconded that Ordinance 07-29 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the Committee Recommendation of Do-Pass recommendation of Do Pass 7-0-2.

Ordinance 07-29 To Vacate Public Parcels – Re: Three Alley Rights-of-Way Segments in the 300 Block of South Walnut and South College Including Segments Running: 1) North/South from Third Street South about 257 Feet; 2) East/West from College Avenue East about 145 Feet and Intersecting with the First Segment; and, 3) North/South in Line with the First Segment South about 69 Feet (Downtown Redevelopment Partners, LLC, Petitioner)

It was moved and seconded that Ordinance 07-29 be adopted.

It was moved and seconded to adopt Amendment #1 to Ordinance 07-29.

Amendment #1 to Ordinance 07-29 This amendment ties the effective date of the ordinance to the filing of the ordinance with the Monroe County Recorder and Auditor by the City Clerk. The City Clerk, in turn, is directed to file the ordinance only after she has received a certificate of zoning compliance for the construction of the "Hotel Indigo" project (Site Plan – 35 -- 07) and attached the certificate with the ordinance.

Dan Sherman said that the amendment came about as a result of conversations with people from the Utilities department.

Sabbagh asked Sherman if a site plan approval was routine in this situation. He noted that it had been done with one other project.

Wisler wanted to clarify that council members didn't need to give approval of the site plan, just receive a copy of it. Sherman agreed that no further action would be required by the council, only by the City Clerk.

Sturbaum asked to clarify the intent of the amendment. Sherman stated that one reason was to make sure that the Utilities department got the easements it desired, and the second was to reassure the council that the site plan will go into effect.

Wisler asked if the petitioner modified the site plan, would it start the process over again. Patrick Shay, Development Review Manager in the Planning Department, answered that staff were allowed to make minor revisions but overall the site plan must stay the same as it was approved by the Plan Commission.

Wisler wanted to clarify again, that by agreeing to suggestions made by council members modifying the site plan, the petitioner wouldn't have to start the process over. Shay said they wouldn't have to start over.

Peter Dvorak, representing Downtown Redevelopment Partners, said that they were presented with the amendment and no problems were found with it by them.

Amendment #1 to Ordinance 07-29 received a roll call vote of Ayes: 9, Nays: 0.

Patrick Shay presented the site plan for Hotel Indigo, to be located at 301 S. College Ave. The proposed arts-oriented hotel would house 105 rooms and would have 82 parking spaces. He said one reason they were asking for an alley vacation was to allow placement of necessary monitoring wells on private property. Shay noted that the Plan Commission had approved the site plan, and the Board of Public Works had recommended approval of the vacation request by a unanimous vote.

Vote on Ordinance 07-29 as amended.

He said, in response to a question brought up at a previous meeting, that the value of the alley to the petitioner would be approximately \$189,000. He noted that although the alley would be a gain for the petitioner, the city would not be losing money due to the revenue generated from hotel guests patronizing the city.

A model of the proposed building with surrounding buildings was at the meeting to further help folks visualize the project. Shay went over key numbers related to the site plan, including that the site currently had no greenspace, and 9000 square feet of greenspace would be added with the plan. He said they believed the project would stimulate more development in the area and would help attract more business to the Convention Center. Shay concluded that the business was desirable for the downtown and that the Downtown Redevelopment Partners' staff recommended approval of the project.

Peter Dvorak added that the hotel would be a wonderful addition to the newly developed Bloomington Entertainment and Arts District (BEAD).

Mayer said he anticipated the potential for the owner of the RE/MAX building next to the project to agree to have a pedestrian walkway between the businesses, and thought that would be a positive addition.

Dvorak said that he would be in support of incorporating a pedestrian friendly area within the project.

Volan asked Dvorak how he saw the hotel interacting with College Avenue, a very busy three lane road. He said he envisioned a crosswalk, with the future hope of a skywalk installed over College Avenue.

Sturbaum asked Shay about the curbs surrounding Hotel Indigo, and Shay responded that more talking with Public Works would need to happen before definite plans were made for the curbs.

Ruff asked about salary information for the hotel workers. Dvorak said that full time base salaries would range from \$20,000 to \$65,000 per year, with some jobs receiving benefits. He said base pay for hourly workers would begin around \$8.50. He said that overall payroll would be between \$600,000 and \$800,000 yearly. He added that they would not be hiring folks until spring of 2009.

Ruff expressed concern that the hourly salaries wouldn't meet the city's living wage standards. Dvorak said that he didn't believe they would be subject to the living wage ordinance, but they would strive to be good corporate citizens.

Sabbagh questioned how many alleys the city had sold recently, because he wondered how a value was placed on the land.

Sturbaum asked Shay if the landscaping would look how it did on the current site plan. Shay said it would not, it would be more elaborate.

Rollo said that the lot in question has been contaminated in the past, according to an environmental report, because an auto shop had been there. He asked Dvorak what he intended to do with a tank that was leaking on the property. Dvorak stated that as much cleaning had been done as could have until the old buildings were removed, at which point he said they would remove the tank and the rest of the contamination.

Sturbaum had questions about the location of the parking lot entrance, and Shay said that to move the entrance around, planning would need to make an amendment for the site.

Talisha Coppock, Executive Director of Downtown Bloomington and the Bloomington/Monroe County Convention Center, spoke in support of the alley vacation and of the project. She said that Hotel Indigo's innkeeper's tax would generate \$147,000 annually for the city.

Danise Alano said she wanted to provide more information on the economic impact the hotel would have. She said that the benefit to businesses in town would be around \$1.1 million per year. She noted the number was a conservative estimate based on a 2004 economic impact study. She encouraged the city to support the hotel project.

Sturbaum said he was glad the council could collaborate with the petitioner to make the project stronger and better for Bloomington.

Sabbagh thanked Dvorak and said he hoped phase two of the project went swiftly.

Volan said he didn't want some council members to criticize others for asking too many questions. He said it was their duty to look into matters brought before them thoroughly, even if the Planning Department had already reviewed them. He said he was pleased with the council's collaboration and improvements to the project and to support the proposal.

Wisler noted that he did have a business relationship with one of the petitioners. However, he said it had nothing to do with the project at hand and he had no financial involvement in the project. He said he would deliberate and vote on the matter because he felt he could do so fairly and objectively. He said the hotel would be an asset to the downtown.

Mayer said he wanted to acknowledge Sabbagh's work on the council while he was present at the meeting, and the council applauded him. He added that he liked the positioning of the proposed building and had felt that area has needed revamping for a while.

Ruff also acknowledged Sabbagh's retirement from the council. He commented that it was wrong to determine the value of an alley by how much someone was willing to pay for it. He thanked Dvorak for bringing a good project forward.

Sandberg said she too supported the project.

Vote on Ordinance 07-29 as amended

Rollo said it was important to think about pedestrian access to the hotel, and said he felt the project was impressive and looked forward to its development.

Ordinance 07-29 as amended received a roll call vote of Ayes: 9, Nays: 0.

This being the last meeting of the year, there was no legislation to be introduced.

LEGISLATION FOR FIRST READING

There was no public comment at this point in the meeting.

PUBLIC INPUT

The meeting was adjourned at 11:15 pm.

ADJOURNMENT

APPROVE:

ATTEST:

Dave Rollo, PRESIDENT  
Bloomington Common Council

Regina Moore, CLERK  
City of Bloomington

for approval