



Packet Related Material

Memo

Agenda

Calendar

Notices and Agendas:

None

Legislation for Final Action (Listed in the Order They Appear on the Agenda):

Res 04-24 To Approve and Authorize the Execution of a Collective Bargaining Agreement Between the Bloomington Metropolitan Firefighters, Local 586

Please see the packet for the December 1, 2004 Regular Session for a copy of the legislation, summary, and background material.

Contact: Kevin Robling at 349-3426 or roblink@bloomington.in.gov

Ord 04-39 To Amend Ordinance 04-20 which Fixed the Salaries of Officers of the Police and Fire Departments for the City of Bloomington, Indiana, for the Year 2005 (Reflecting Collective Bargaining Agreement with the Bloomington Metropolitan Firefighters, Local 586)

Please see the packet for the December 1, 2004 Regular Session for a copy of the legislation, summary, and background material.

Contact: Kevin Robling at 349-3426 or roblink@bloomington.in.gov

Res 04-25 A Resolution Expressing Support for the Provision of Salary Increases for Non-Union Employees Effective January 1, 2005

Please see the packet for the December 1, 2004 Regular Session for a copy of the legislation, summary, and background material.

Contact: Susan Clark at 349-3416 or clarks@bloomington.in.gov

Ord 04-36 To Amend Ordinance 04-18 which Fixed the Salaries of All Elected City Officials for the City of Bloomington for the Year 2005

Please see the packet for the December 1, 2004 Regular Session for a copy of the legislation, summary, and background material.

Contact: Daniel Grundmann at 349-3578 or grundmad@bloomington.in.gov

Annexation Ordinances Ready for Final Action at the Regular Session on December 15, 2004:

See Annexation Packet distributed on September 1st, 2004

Hoadley Quarries Area

Ord 04-25 An Ordinance Concerning the Annexation of Adjacent and Contiguous Territory (Hoadley Quarries Area)

Rhorer/Gordon Area

Ord 04-26 An Ordinance Concerning the Annexation of Adjacent and Contiguous Territory (Rhorer/Gordon Area)

St. James/ East Wingfield/ Rolling Hills Area

Ord 04-27 An Ordinance Concerning the Annexation of Adjacent and Contiguous Territory (St. James/ East Wingfield/ Rolling Hills Area)

For Further Information Please contact Susan Clark, Controller, at 349-3416 or clarks@.bloomington.in.gov

Other Legislation Ready for Final Action:

Ord 04-38 To Amend Title 15 of the Bloomington Municipal Code Entitled “Vehicles And Traffic” (Regulations Regarding Stop, Yield, and Signalized Intersections, One Way Streets, Various Parking Zones, and Pedestrian Crossings)

- *Please see the packet for the December 1, 2004 Regular Session for a copy of the legislation, summary, and memo from Justin Wykoff, Manager of Engineering Services.*
- *Please see the Supplement to the December 1, 2004 packet for a copy of the maps.*

Am 02 – Sponsored by Councilmember Sabbagh –

It would remove the proposed restricted right turn on the red light for westbound motorists on Hillside who are approaching Henderson Street.

Am 03 – Sponsored by Councilmember Volan –

It would switch two block faces – East Cottage Grove from North Indiana to North Fess and North Fess from East 10th to East Cottage Grove – from Zone 6 to Zone 7 at the request of residents of Collins Living Learning Center and its Hillcrest Apartment Annex.

Contact: Justin Wykoff at 349-3593 or wykoffj@bloomington.in.gov

Res 04-26 To Recognize the Importance of Democratic, Transparent and Fair Elections

- Memo from Councilmember Rollo; Synopsis of Proposed HR 2239

Contact: Councilmember Rollo at 339-7916 or rollod@bloomington.in.gov

Legislation and Background Material for First Reading:

None

Minutes from Regular Sessions on:

October 20, 2004

November 3, 2004

November 17, 2004

Memo

**Three Annexations, Two New Amendments to the Traffic Ordinance and
a Resolution Calling for Integrity in Our Election Processes
Join Other Items
at the Last Meeting of the Year on Wednesday, December 15, 2004**

The Council legislative business for 2004 is wrapping up next Wednesday with an agenda presenting nine items which can be found in the following packets:

- The Annexation Packet Distributed on August 30th, 2004 for the September 8th, 2004 Special Session;
- The Weekly Packet Distributed on November 24th, 2004 for the December 1st, 2004 Regular Session; and
- The Current Weekly Packet Distributed on December 10th, 2004 for the December 15th, 2004 Regular Session.

These nine items are listed above in the order they appear on the agenda and the following paragraphs highlight those items which are new to the agenda.

Three Annexations

The Council is scheduled to take final action on the annexation of three areas at the Regular Session next week. They include: the Hoadley Quarries, Rhorer/Gordon, and St. James/ East Wingfield/ Rolling Hills areas. Upon adoption and in the absence of successful remonstrance, these areas would enter the City on January 1, 2006. *Please see the September 8th, 2004 Annexation Packet for the legislation, summary, and background material.*

Two Amendments to Ord 04-38 (Amending Title 15 – Vehicles and Traffic)

Council Members Sabbagh and Volan have amendments to **Ord 04-38** for you to consider *which are included in this packet.*

Am 02 – is sponsored by Councilmember Sabbagh and would remove the proposed restricted turn on the red light for westbound motorists on Hillside Drive who are approaching Henderson Street.

Am 03 – is sponsored by Councilmember Volan and would switch two block faces – East Cottage Grove from North Indiana to North Fess and North Fess from East 10th to East Cottage Grove – from Zone 6 to Zone 7 at the request of residents of Collins Living Learning Center and its Hillcrest Apartment Annex.

Please note that Councilmember Volan withdrew Am 01 and does not intend to reintroduce it. Am 01 would have reallocated 20 of the 100 permits for Collins Living Learning Center to the Hillcrest Annex.

Res 04-26 Recognizing the Importance of Democratic, Transparent and Fair Elections

Councilmember Rollo has requested that **Res 04-26** (enclosed) be placed on the agenda for final action next week. In an e-mail message to council members (enclosed), he asks the other members to join him in supporting the resolution and the concept that “our electoral process must be robust, tamper free and honest (in order) to preserve the legitimacy of government.”

In the whereas clauses, the resolution embraces the fundamental right to vote and have one’s vote count, notes various problems in election procedures, and calls for fair, democratic and transparent elections.

Toward that end, the resolution:

- urges the implementation of the following: standardized voting equipment, a verified paper record suitable for audit, uniform polling and reporting practices, and public access to all source codes used in voting machines;
- calls for every vote to be accurately recorded and endorses the principles articulated in H.R. 2239 (a summary of which is enclosed with this material);
- implores election officials to guarantee that recounts and investigations of irregularities proceed to ensure that the vote tally is accurate;
- calls upon county officials to safeguard the integrity of local elections; and,
- directs the City Clerk to send a copy of the resolution to State and county officials, the Indiana Congressional delegation and the President of the United States.

**NOTICE AND AGENDA
BLOOMINGTON COMMON COUNCIL REGULAR SESSION
7:30 P.M., WEDNESDAY, DECEMBER 15, 2004
COUNCIL CHAMBERS
SHOWERS BUILDING, 401 N. MORTON**

I. ROLL CALL

II. AGENDA SUMMATION

**III. APPROVAL OF MINUTES FOR: Regular Sessions for:
October 20, 2004
November 3, 2004
November 17, 2004**

**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. Resolution 04-24 To Approve and Authorize the Execution of a Collective Bargaining Agreement Between the City of Bloomington and the Bloomington Metropolitan Firefighters, Local 586

Committee Recommendation: Do Pass: 9 – 0

2. Ordinance 04-39 To Amend Ordinance 04-20 which Fixed the Salaries of Officers of the Police and Fire Departments for the City of Bloomington, Indiana, for the Year 2005 (Reflecting the Collective Bargaining Agreement with Bloomington Metropolitan Firefighters, Local 586)

Committee Recommendation: Do Pass: 9 – 0

3. Resolution 04-25 A Resolution Expressing Support for the Provision of Salary Increases for Non-Union Employees Effective January 1, 2005

Committee Recommendation: Do Pass: 9 – 0

4. Ordinance 04-36 To Amend Ordinance 04-18 which Fixed the Salaries of all Elected City Officials for the City of Bloomington for the Year 2005

Committee Recommendation: Do Pass: 9 – 0

* 5. Ordinance 04-25 An Ordinance Concerning the Annexation of Adjacent and Contiguous Territory (Hoadley Quarries Area)

Recommendation: Motion to forward to December 15, 2004 Regular Session 7 – 1

* 6. Ordinance 04-26 An Ordinance Concerning the Annexation of Adjacent and Contiguous Territory (Rhorer/Gordon Area)

Recommendation: Motion to forward to December 15, 2004 Regular Session 6–0–2

* 7. Ordinance 04-27 An Ordinance Concerning the Annexation of Adjacent and Contiguous Territory (St. James/ East Wingfield/ Rolling Hills Area)

Recommendation: Motion to forward to December 15, 2004 Regular Session 7–0–1

** Note: These pieces of annexation legislation were introduced on September 8, 2004, considered at a Public Hearing on November 10, 2004, and are scheduled for final action this evening.*

8. Ordinance 04-38 To Amend Title 15 of the Bloomington Municipal Code Entitled “Vehicles and Traffic” (Regulations Regarding Stop, Yield, and Signalized Intersections, One Way Streets, Various Parking Zones, and Pedestrian Crossings)

Committee Recommendation:	Do Pass:	5-0-4
Amendment 1	Withdrawn	
Amendment 2	None	
Amendment 3	None	

9. Resolution 04-26 To Recognize the Importance of Democratic, Transparent and Fair Elections

Committee Recommendation: None

VII. LEGISLATION FOR FIRST READING

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

* *The Common Council will enter its Winter Recess after this evening’s meeting and will reconvene on January 3, 2005.*

City of
Bloomington
Indiana

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



Office of the Common Council
(812) 349-3409
Fax: (812) 349-3570
e-mail: council@bloomington.in.gov

To: Council Members
From: Council Office
**Re: Calendar for the Week of
December 13, 2004 – December 18, 2004**
Date: December 10, 2004

Monday, December 13, 2004

10:00 am CARES Annual Meeting Planning Committee, Hooker Room
3:00 pm Smokefree Policy Committee, Hooker Room
4:00 pm Community and Family Resources Commission, Dunlap
4:00 pm Commission on the Status of Black Males, McCloskey
5:00 pm Utilities Service Board – 501 N. Morton, Conference Room 100B

Tuesday, December 14, 2004

12:00 pm St. Charles Choir Performance, Council Chambers
4:00 pm Board of Park Commissioners, Council Chambers
4:00 pm Board of Public Safety – Police, 220 E. Third Street
5:30 pm Bloomington Community Arts Commission, Kelly
5:30 pm Board of Public Works, Council Chambers
5:30 pm Public Transportation Corporation Board, Transportation Center – 130 W. Grimes

Wednesday, December 15, 2004

9:30 am Tree Commission, Rose Hill Office – 930 W. Fourth St.
7:00 pm Council of Neighborhood Associations, McCloskey
7:30 pm Common Council – Regular Session, Council Chambers
Common Council Winter Recess begins

Thursday, December 16, 2004

7:30 am Domestic Violence Taskforce, Hooker Room
8:00 am Housing Authority, HA Office – 1007 N. Summit Dr.
12:00 pm Martin Luther King Jr. Birthday Commission, McCloskey
3:30 pm Bloomington Municipal Facilities Corporation, Hooker Room
5:30 pm Board of Zoning Appeals, Council Chambers
7:15 pm Environmental Commission, McCloskey

Friday, December 17, 2004

12:00 pm Economic Development Commission, Hooker Room

Saturday, December 18, 2004

There are no meetings scheduled for today.

**Annexation Ordinances –
Ready for Statutorily Required Public Hearing
at the Regular Session on December 15, 2004**

Hoadley Quarries Area

Ord 04-25 An Ordinance Concerning the Annexation of Adjacent and Contiguous Territory (Hoadley Quarries Area)

Rhorer/Gordon Area

Ord 04-26 An Ordinance Concerning the Annexation of Adjacent and Contiguous Territory (Rhorer/Gordon Area)

St. James/ East Wingfield/ Rolling Hills Area

Ord 04-27 An Ordinance Concerning the Annexation of Adjacent and Contiguous Territory (St. James/ East Wingfield/ Rolling Hills Area)

Note

These ordinances and the accompanying resolutions approving the fiscal plans for providing services to these areas are all contained in the annexation packet distributed on September 1st, 2004. This annexation packet may also be found online at:

http://bloomington.in.gov/egov/docs/1094079635_438691.pdf

In accordance with a statutorily established time-frame, the Common Council:

- approved resolutions adopting the fiscal plans for these annexations at a Special Session on September 8th, 2004;*
- held a public hearing on the annexation ordinances at the Special Session on November 10th, 2004; and*
- is scheduled to take final action on them at its Regular Session on December 15th, 2004.*

***** Amendment Form *****

Ordinance #: 04-38

Amendment #: 02

Submitted By: Councilmember Sabbagh, District 5

Date: December 10, 2004

Proposed Amendment:

1. **Ordinance 04-38** shall be amended by striking Section V, regarding BMC Section 15.20.020 Schedule H (Restricted Turns on Red at Signalized Intersections), and renumbering the subsequent sections accordingly.

Synopsis

This amendment would delete the proposed restricted turn on a red light for traffic approaching Henderson Street from the east on Hillside Drive.

12/08/04 Committee Action: None

12/15/04 Regular Session Action: Pending

December 10, 2004

***** Amendment Form *****

Ordinance #: 04-38

Amendment #: 03

Submitted By: Councilmember Volan, District 6

Date: December 10, 2004

Proposed Amendment: **Ordinance 04-38** shall be amended in the following manner:

1. A new Section XV shall be inserted into the ordinance and shall read as follows:

SECTION XV. Section 15.37.020 entitled "Applicability" shall be amended to delete the following areas to the Old Northeast Downtown University Proximate Residential Neighborhood Permit Parking Zone (Zone 6):

Street	From	To	Side of Street
East Cottage Grove	North Dunn	North Woodlawn	North/South
North Fess	East 10 th	East 12 th	East/West

2. The former Section XV shall be renumbered as XVI and remaining sections of the ordinance shall be renumbered as Section XIX, Section XX, and Section XXI.

3. The previously renumbered Section XVI shall be amended to read as follows:

SECTION XVI. Section 15.37.020 entitled "Applicability" shall be amended to add the following areas to the Old Northeast Downtown University Proximate Residential Neighborhood Permit Parking Zone (Zone 6):

Street	From	To	Side of Street
East Cottage Grove	North Dunn	North Indiana	North/South
East Cottage Grove	North Fess	North Woodlawn	North/South
North Dunn	East 10 th	Railroad Tracks North of 12 th	East

North Fess	East Cottage Grove	East 12th	East/West
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4. A new Section XVII shall be inserted into the ordinance and shall read as follows:

SECTION XVII. Section 15.37.020 entitled “Applicability” shall be amended to delete the following areas to the Old Northeast Downtown University Proximate Residential Neighborhood Permit Parking Zone (Zone 7):

Street	From	To	Side of Street
North Fess	East 7 th	East 10 th	East/West

5. A new Section XVIII shall be inserted into the ordinance and shall read as follows:

SECTION XVIII. Section 15.37.020 entitled “Applicability” shall be amended to add the following areas to the Old Northeast Downtown University Proximate Residential Neighborhood Permit Parking Zone (Zone 7):

Street	From	To	Side of Street
North Fess	East 7 th	Cottage Grove	East/West

Synopsis

This amendment would switch the north and south side of East Cottage Grove from North Indiana to North Fess and the east and west side of North Fess from East 10th Street to Cottage Grove from Zone 6 to Zone 7 at the request of residents of the Collins Living Learning Center and its Hillcrest Annex. It would allow residents of these Collins facilities to park on these blocks.

12/08/04 Committee Action: None
12/15/04 Regular Session Action: Pending

December 10, 2004

RESOLUTION 04-26

TO RECOGNIZE THE IMPORTANCE OF DEMOCRATIC, TRANSPARENT AND FAIR ELECTIONS

- WHEREAS, the right to vote and have one's vote counted is a fundamental right and the lifeblood of our democracy; and
- WHEREAS, a democratic, transparent and fair election protects this right by ensuring the integrity of the electoral process; and
- WHEREAS, instances of electronic and mechanical voting machine errors have caused many Americans to question both the integrity of such machines and the ability of these machines to guarantee that every vote cast is counted; and
- WHEREAS, electronic voting machines have produced tally errors in at least four Indiana counties in the November 2004 election, and
- WHEREAS, a voting system without a verifiable audit trail gives no assurance to voters that every vote cast is counted and has no utility for verification by means of a recount; and
- WHEREAS, electoral boards and commissions who do not make their procedures transparent to the public cast doubt on the validity of the electoral process; and
- WHEREAS, proprietary codes used by electronic voting machines to record vote tallies undermine electoral transparency, offer no guarantee that such machines are immune from infiltration and manipulation and should be disallowed; and

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

SECTION I. It is incumbent upon those who administer elections to ensure that the electoral process is democratic, fair, and transparent.

SECTION II. Each citizen has the right to confirm that her/his vote is counted.

SECTION III. An auditable voting trail must be generated in order for a meaningful recount to occur, if necessary.

SECTION IV. We endorse the principles articulated in the U.S. House of Representatives' proposed H.R. 2239, "The Voter Confidence and Increased Accessibility Act of 2003."

SECTION V. We call for a nationwide voting system that includes: standardized voting machines, source codes made available for public inspection, both electronic and paper records, uniform polling practices and uniform vote tallying/reporting procedures.

SECTION VI. We call upon electoral officials to ensure that recounts proceed and investigations of irregularities are undertaken to ensure that the vote tally is accurate and true.

SECTION VII. We call upon all jurisdictions to ensure that all votes are counted in the November 2004 election and in all future elections.

SECTION VIII. We call on the Monroe County Clerk, Election Board, County Commissioners and the County Council to ensure that all election equipment used in any election in Monroe County employ a verifiable audit trail, and use voting machines with software codes that can be examined by the public, or their representatives.

SECTION IX. We direct the City Clerk to send a copy of this resolution, duly adopted, to our State and county officials, Congressional delegation and to the President of the United States.

PASSED and ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2004.

MICHAEL DIEKHOF, 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 _____, 2004.

REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2004.

MARK KRUZAN, Mayor
City of Bloomington

SYNOPSIS

This resolution is sponsored by Councilmember Rollo and calls for fair, democratic and transparent election procedures. Toward that end, it urges the implementation of the following: standardized voting equipment, a verified paper record suitable for audit, uniform polling and reporting practices, and public access to all source codes used in voting machines. It calls for every vote to be accurately recorded and endorses the principles articulated in H.R. 2239. The resolution implores election officials to guarantee that recounts and investigations of irregularities proceed to ensure that the vote tally is accurate. The resolution calls upon county officials to safeguard the integrity of local elections and directs the City Clerk to send a copy of the resolution to State and county officials, the Indiana Congressional delegation and the President of the United States.

-----Original Message-----

From: Dave Rollo [mailto:drollo@bio.indiana.edu]

Sent: Wednesday, December 08, 2004 3:02 PM

To: Rhoads, Stacy

Cc: Mayer, Tim; gaalc@bloomington.in.gov; Diekhoff, Michael; volans@bloomington.in.gov;

banachj@bloomington.in.gov; ruffa@bloomington.in.gov; sturbauc@bloomington.in.gov;

Timmayer@bloomington.in.us; Sabbagh, David; rollod@bloomington.in.gov; Sherman, Dan

Subject: Re: Proposed Resolution 04-26, "To Recognize the Importance of Democratic, Transparent and Fair Elections"

Dear Councilmembers,

As you have received a draft resolution on affirming voting and electoral process integrity, I wanted to send you a brief e-mail explaining the intent.

As you may know, there have been numerous questions surrounding the past few elections. 2004 was no exception.

The resolution addresses the following:

- It calls for transparency in the voting process, and the assurance that all votes will be counted.
- It calls for investigation of irregularities. Events throughout the nation, including long lines, insufficient voting machines, breakdown or malfunction of voting machines, vote tallies that are a numerically impossible (e.g., votes exceeding the number of voters) suggest that irregularities were not few in number, or isolated events. The mass of data call for an impartial investigation and evaluation of the information to determine exactly why these failures occurred.
- It calls for an end to unverifiable software, and an unaudit trail. Some 80% of the votes cast in the last election were done on electronic machines. Because the machines are not required to provide a paper receipt, and because the software is proprietary (and thus a trade secret) voters have little, or no assurance that their vote was tallied. This lack of transparency is an enormous problem, and needs to be remedied.

Please send questions and offer suggestions.

As our electoral process must be robust, tamper free and honest to preserve the legitimacy of government I hope that you will join me in supporting Resolution 04-26.

Best Regards,

Dave

108TH CONGRESS
1ST SESSION

H. R. 2239

To amend the Help America Vote Act of 2002 to require a voter-verified permanent record or hardcopy under title III of such Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 22, 2003

Mr. HOLT introduced the following bill; which was referred to the Committee on House Administration

A BILL

To amend the Help America Vote Act of 2002 to require a voter-verified permanent record or hardcopy under title III of such Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Voter Confidence and
5 Increased Accessibility Act of 2003”.

6 **SEC. 2. EXTENSION OF TIME PROVIDED FOR STATES TO RE-**
7 **QUEST PAYMENTS UNDER TITLE I.**

8 (a) PAYMENTS FOR ACTIVITIES TO IMPROVE ADMIN-
9 ISTRATION OF ELECTIONS.—Section 101(a) of the Help

1 America Vote Act of 2002 (42 U.S.C. 15301(a)) is amend-
2 ed by striking “not later than 6 months after the date
3 of the enactment of this Act” and inserting “not later than
4 the Tuesday next after the first Monday in November
5 2003”.

6 (b) PAYMENTS FOR REPLACEMENT OF PUNCH CARD
7 OR LEVER VOTING MACHINES.—Section 102(b)(1) of
8 such Act (42 U.S.C. 15301(b)(1)) is amended by striking
9 “not later than the date that is 6 months after the date
10 of the enactment of this Act” and inserting “not later than
11 the Tuesday next after the first Monday in November
12 2003”.

13 (c) EXTENSION OF PERIOD OF AUTHORIZATION OF
14 APPROPRIATIONS.—

15 (1) IN GENERAL.—Section 104(a) of such Act
16 (42 U.S.C. 15304(a)) is amended by striking
17 “\$650,000,000” and inserting “an aggregate
18 amount of \$650,000,000 for fiscal years 2003 and
19 2004”.

20 (2) DATE FOR TRANSFER TO ELECTION ASSIST-
21 ANCE COMMISSION OF UNOBLIGATED FUNDS.—Sec-
22 tion 104(c)(2)(B) of such Act (42 U.S.C.
23 15304(c)(2)(B)) is amended by striking “September
24 1, 2003” and inserting “January 1, 2004”.

1 (d) REQUIREMENT TO DEPLOY INTERIM MEASURE
2 IF WAIVER REQUESTED.—Section 102(a)(3)(B) of such
3 Act (42 U.S.C. 15301(a)(3)(B)) is amended by striking
4 the period at the end and inserting the following: “, except
5 that any State requesting any such waiver shall accept and
6 implement a paper system for use on an interim basis as
7 provided in section 5(b) of the Voter Confidence and In-
8 creased Accessibility Act of 2003 in time for use in the
9 November 2004 general election.”.

10 **SEC. 3. REPEAL OF EXEMPTION OF ELECTION ASSISTANCE**

11 **COMMISSION FROM CERTAIN GOVERNMENT**

12 **CONTRACTING REQUIREMENTS.**

13 (a) IN GENERAL.—Section 205 of the Help America
14 Vote Act of 2002 (42 U.S.C. 15325) is amended by strik-
15 ing subsection (e).

16 (b) EFFECTIVE DATE.—The amendment made by
17 subsection (a) shall apply with respect to contracts entered
18 into by the Election Assistance Commission on or after
19 the date of the enactment of this Act.

20 **SEC. 4. PROMOTING ACCURACY, INTEGRITY, AND SECUR-**

21 **RITY THROUGH VOTER-VERIFIED PERMA-**

22 **NENT RECORD OR HARD COPY.**

23 (a) IN GENERAL.—Section 301(a)(2) of the Help
24 America Vote Act of 2002 (42 U.S.C. 15481(a)(2)) is
25 amended to read as follows:

1 “(2) VOTER-VERIFICATION AND AUDIT CAPAC-
2 ITY.—

3 “(A) VOTER-VERIFICATION IN GENERAL.—

4 The voting system shall produce a voter-verified
5 paper record suitable for a manual audit equiv-
6 alent or superior to that of a paper ballot box
7 system, as further specified in subparagraph
8 (B).

9 “(B) MANUAL AUDIT CAPACITY.—

10 “(i) The voting system shall produce a
11 permanent paper record, each individual
12 paper record of which shall be made avail-
13 able for inspection and verification by the
14 voter at the time the vote is cast, and pre-
15 served within the polling place in the man-
16 ner in which all other paper ballots are
17 preserved within the polling place on Elec-
18 tion Day for later use in any manual audit.

19 “(ii) The voting system shall provide
20 the voter with an opportunity to correct
21 any error made by the system before the
22 permanent record is preserved for use in
23 any manual audit.

24 “(iii) The voter verified paper record
25 produced under subparagraph (A) and this

1 subparagraph shall be available as an offi-
2 cial record and shall be the official record
3 used for any recount conducted with re-
4 spect to any election in which the system
5 is used.

6 “(C) SOFTWARE AND MODEMS.—

7 “(i) No voting system shall at any
8 time contain or use undisclosed software.
9 Any voting system containing or using
10 software shall disclose the source code of
11 that software to the Commission, and the
12 Commission shall make that source code
13 available for inspection upon request to
14 any citizen.

15 “(ii) No voting system shall contain
16 any wireless communication device at all.

17 “(iii) All software and hardware used
18 in any electronic voting system shall be
19 certified by laboratories accredited by the
20 Commission as meeting the requirements
21 of clauses (i) and (ii).”.

22 (b) VOTER VERIFICATION OF RESULTS FOR INDIVID-
23 UALS WITH DISABILITIES.—Section 301(a)(3) of such
24 Act (42 U.S.C. 15481(a)(3) is amended—

1 (1) in the heading, by inserting “AND VOTER-
2 VERIFICATION OF RESULTS” after “ACCESSIBILITY”;

3 (2) in subparagraph (B), by striking “; and”
4 and inserting the following: “, and such voting sys-
5 tem shall provide a mechanism for voter-verification
6 of results which separates the function of vote gen-
7 eration from the function of vote casting in a man-
8 ner analogous to that described in section 4 with re-
9 spect to the separation of paper ballot generation
10 and paper ballot verification and preservation, but
11 does not require the use of paper.”;

12 (3) by amending subparagraph (C) to read as
13 follows:

14 “(C) The equipment deployed in accord-
15 ance with subparagraph (B) shall meet the vot-
16 ing system standards for disability access and
17 voter-verification of results as outlined in this
18 paragraph in accordance with the deadline set
19 forth in section 5(a), provided that if it does
20 not and an interim paper system is deployed in
21 accordance with section 5(b), disabled voters
22 shall have the option of using the interim paper
23 system with the assistance of an aide of the vot-
24 er’s personal selection or using the voting sys-
25 tem otherwise put in place for use by disabled

1 voters at the time in question in accordance
2 with the Help America Vote Act of 2002, as in
3 effect prior to the enactment of this Act, except
4 that the deadline set forth in section
5 301(a)(3)(C) of such Act (42 U.S.C.
6 15481(a)(3)(C)) is moved forward from Janu-
7 ary 1, 2007, to January 1, 2006.”; and

8 (4) by adding at the end the following new sub-
9 paragraph:

10 “(D) Election officials shall be instructed
11 in the rights of the disabled to vote with the as-
12 sistance of an aide of their selection under the
13 Voting Rights Act of 1965.”.

14 (c) SPECIFIC, DELINEATED REQUIREMENT OF
15 STUDY, TESTING, AND DEVELOPMENT OF BEST PRAC-
16 TICES.—In addition to any other requirements under the
17 Help America Vote Act of 2002, the Election Assistance
18 Commission shall study, test, and develop best practices
19 to enhance accessibility and voter-verification mechanisms
20 for disabled voters.

21 **SEC. 5. CHANGE IN DEADLINE FOR COMPLIANCE WITH**
22 **STANDARDS.**

23 (a) IN GENERAL.—Section 301(d) of the Help Amer-
24 ica Vote Act of 2002 (42 U.S.C. 15481(d)) is amended
25 by striking “on and after January 1, 2006” and inserting

1 “in time for elections for Federal office beginning with the
2 regularly scheduled general election to be held in Novem-
3 ber 2004”.

4 (b) INTERIM PAPER SYSTEM.—Each State and juris-
5 diction that certifies in the manner described in section
6 102(a)(3)(B) that it shall be unable to comply with the
7 requirements of section 301 in time for the regularly
8 scheduled general election for Federal office to be held in
9 November 2004 shall receive a paper voting system, based
10 on paper systems in use in the jurisdiction, if any, at the
11 expense of the Commission that shall be deemed compliant
12 with section 301 by the Commission for use in the Novem-
13 ber 2004 general elections.

14 **SEC. 6. REQUIREMENT FOR FEDERAL CERTIFICATION OF**
15 **TECHNOLOGICAL SECURITY OF VOTER REG-**
16 **ISTRATION LISTS.**

17 Section 303(a)(3) of the Help America Vote Act of
18 2002 (42 U.S.C. 15483(a)(3)) is amended by striking the
19 period at the end and inserting the following: “, as cer-
20 tified by the Commission.”.

21 **SEC. 7. REQUIREMENT FOR MANDATORY RECOUNTS.**

22 The Election Assistance Commission shall conduct
23 manual mandatory surprise recounts of the voter-verified
24 records of each election for Federal office (and, at the op-
25 tion of the State or jurisdiction involved, of elections for

1 State and local office) in .5 percent of the jurisdictions
2 in each State and .5 percent of the overseas jurisdictions
3 in which voter-verified records are preserved in accordance
4 with this section immediately following each general elec-
5 tion for Federal office, and shall promptly publish the re-
6 sults of those recounts. The treatment of the results of
7 the recount shall be governed by applicable Federal, State,
8 or local law, except that any individual who is a citizen
9 of the jurisdiction involved may file an appeal with the
10 Commission if the individual believes that such law does
11 not provide a fair remedy.

12 **SEC. 8. EFFECTIVE DATE.**

13 Except as provided in section 3(b), the amendments
14 made by this Act shall take effect as if included in the
15 enactment of the Help America Vote Act of 2002.

○

In the Council Chambers of the Showers City Hall on Wednesday, October 20, 2004 at 7:30 pm with Council President Diekhoff presiding over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
October 20, 2004

Roll Call: Banach, Diekhoff, Ruff, Gaal, Rollo, Sturbaum, Volan, Sabbagh, Mayer

ROLL CALL

Council President Diekhoff gave the Agenda Summation

AGENDA SUMMATION

There were no minutes to be approved.

APPROVAL OF MINUTES

Jason Banach reported that he attended a real estate auction for three houses on North College recently. He said he was surprised that there were only one or two bids on the properties and that these bids were a fraction of the appraised value. He said it demonstrated a disconnect between the business community and the historic preservationists, as these properties were perceived as being under the 'threat' of historic designation. Banach noted that he would like it if the council had an opportunity to address this issue in a constructive fashion.

MESSAGES FROM
COUNCILMEMBERS

Chris Sturbaum said he wanted to put the auction, mentioned by Banach, in a larger perspective. He told of the beginnings of Bloomington and said that in the 1890s the core city and core neighborhoods were built to much of what we see now. He summarized the chronology of the 'City Beautiful' movement that created the Monroe County Courthouse and urban core, the building of the suburban areas with the abandonment of the downtown and the current downtown revitalization movement. He said the remnants of past town building need to be saved, adding that current planners are replicating this pedestrian friendly model. He said when historic preservationists consider saving pieces of the old town model, this remnant of the past is valuable. He said the community has an interest in buildings and that we should not succumb to random acts of capitalism, but should build the town together. He warned of the same shortsightedness that threatened to demolish the courthouse.

Andy Ruff announced a rally at 11 am on Friday, October 22, 2004, at the east entrance to the Indiana Statehouse to oppose the construction of a new terrain I-69 highway route 3C. He encouraged attendance of local citizens.

Stephen Volan read a letter he had written to a citizen that complained about Volan's wearing of a hat in the council chambers. Volan said he meant no disrespect to the council body, but wore the hat as he is extremely sensitive to the glare of the bright overhead lights. He said this discomfort made it difficult for him to see and concentrate on the business of the council. He welcomed suggestions to his problem.

David Sabbagh said he was in Bloomfield last week for a report on Crane. He said Lt. Governor Kathy Davis and former U.S. Senator Birch Bayh were present and were working with Southern Indiana Business Alliance (SIBA) to keep Crane open. He said they were surprised about the resolution opposing the routing of I-69 through the city of Bloomington. Sabbagh said we should all work together to insure that Crane stays open.

Dave Rollo said that Crane is an economic resource for our community but took exception to Sabbagh's evaluation of the impact of the I-69 highway. He said that the highway was insignificant for the viability of Crane in the BRAC considerations. He said that they have the accessibility needed for the base, and that for security reasons and future

expansion, it would be best if sprawl did not develop around the base. He said he wanted the record to indicate that I-69 was not an issue in the viability of Crane Naval Base. Rollo also reported that a recent Bioneers Conference was a success, and was gaining national recognition. He related the topics of well received and nationally known speakers, acknowledged Mayor Kruzan's keynote speech, and thanked the organizers and sponsors for allowing our community to be recognized for its concern and efforts on environmental protection and sustainability.

Tim Mayer said he had just received word that his son and daughter-in-law were preparing for the delivery of new twin babies and wished them well.

President Diekhoff welcomed Stacy Jane Rhodes to the council office as the new Assistant Administrator.

Maren McGrane, Council Liaison with the Mayor's Office, introduced Greg Volan, Manager of Information Technology Services, who gave a report on the Bloomington Digital Underground Advisory.

Volan reviewed the creation and direction of the BDU advisory committee, adding that his report would serve as the promised annual progress report to the council. Volan named last year's committee members and commended the council and board of public works for gathering an impressive group to tackle the mission of providing advice and recommendations on the usage, pricing and management of the City of Bloomington's fiber optic assets. Volan recited the two recommendations suggested by the committee 1) allow the Center for Behavioral Health to use two strands of the city's fiber for free, and 2) have the city hire a consultant to prepare a telecommunications strategic development plan. Volan added that the committee's current and ongoing assessment of the demand for fiber optic service in the city, of the ability of current providers to meet that demand and the city's role in response to any failure in the market fall within the purview of the committee. He added that the answers to these questions help determine how best to use the fiber optic assets to serve the public good.

Chris Gaal, council representative on the Environmental Resources Advisory Committee (ERAC), reported on recent activities. He stated that the function of the committee was to advise the Parks Board and department regarding natural resources. In the interest of keeping an important issue before the public, he read a letter which the committee recently sent to the Monroe County Plan Commission regarding the property North of the Griffy Lake preserve. Gaal reviewed the plan that would divide an area into twenty-nine parcels for development, said that the county Plan Commission unanimously voted against it and thanked them for making a decision that reflects the best interest of the community. He added that the Monroe County Commissioners will now take up the issue.

David R. Grubb, who called himself a country boy from Salt Creek township, said he was ashamed of how the city was being run. He warned of sludge and poisons in the community that were seeping into the water table and criticized those who have allowed septic systems around Lake Monroe. He said they were bound to fail and would poison the water supply even more. He called for county government control over the city, and said that government should be protecting children from poisons.

Jim Murphy, Vice President of CFC, noted that he sent a letter to the council regarding a section in the recently amended property

MESSAGES FROM COUNCILMEMBERS (cont'd)

MESSAGE FROM THE MAYOR

COMMITTEE REPORTS

PUBLIC INPUT

maintenance code. He referred to a code update that increased the minimum size of bedroom windows for egress. He said that one of their properties built in 1968 had 166 windows that were now noted by the city to be out of compliance with this code, even though they met the code requirements when the building was built. He said his choices were to change the windows for a cost of \$92,000 or to ask for a variance to the code which would probably require the installation of hard wired smoke detectors for a cost of \$39,000. He said neither option was acceptable and said it was costly to have the properties inspected more frequently. He asked for a change in the code, and said he hoped the council took this matter seriously.

PUBLIC INPUT (cont'd)

There were no appointments to boards or commissions from the council.

BOARD AND COMMISSION APPOINTMENTS

It was moved and seconded that Resolution 04-20 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, stating that there was no committee recommendation. It was moved and seconded that Resolution 04-20 be adopted.

LEGISLATION FOR SECOND READING
Resolution 04-20 In Support of the Downtown Bloomington Commission's Application for the 2005 Great American Main Street Award

President Diekhoff said he was asked to sponsor this resolution in support of the application for the award. He asked Talisha Coppock, President of the Downtown Bloomington Commission, to further explain its purpose. She said the last twenty five years of historic preservation, promotion of the arts and downtown businesses, and residential and governmental involvement in downtown was a wonderful story to celebrate and tell to the Main Street Program. She said the resolution was part of the application along with the history of the downtown revitalization and a documentation of five major achievements in downtown.

Resolution 04-20 received a roll call vote of Ayes: 9, Nays: 0.

It was moved and seconded that the following legislation be introduced and read by title and synopsis only. Clerk Moore read the legislation by title and synopsis.

LEGISLATION FOR FIRST READING

Appropriation Ordinance 04-07 To Specially Appropriate from the General Fund, Sanitation Fund and Telecommunications Non-Reverting Fund Expenditures Not Otherwise Appropriated (Appropriating Funds from the General Fund – Animal Care and Control Department for Medical Supplies; Appropriating Funds from the Sanitation Fund for Landfill Fees; and Appropriating Funds from the Telecommunications Non-Reverting Fund for a Grant, to Hire a Consultant, to Install Fiber Optic Cable between the Animal Shelter and the Sanitation Building, and to Transfer Funds to the General Fund).

Appropriation Ordinance 04-07

Ordinance 04-30 To Vacate a Public Parcel - Re: A 12-Foot Wide Right-of-Way Between Dunn Street and Indiana Avenue Running North of Thirteenth Street for 132 Feet (PSI Energy, Inc, and a Wholly Owned Subsidiary Known as South Construction Company, Petitioners).

Ordinance 04-30

Ordinance 04-31 To Vacate a Public Parcel - Re: A 12-Foot Wide Improved Alley Running Between 307 and 317 East 2nd Street from East Second Street to the First Alley North of the Street (The Trustees of Indiana University, Petitioner).

Ordinance 04-31

Ordinance 04-32 To Amend the Bloomington Zoning Maps from PUD and RM7 to PUD and to Amend the Preliminary Plan for the Century

Ordinance 04-32

Village 2 Planned Unit Development (PUD) - Re: 300 S. State Road 446 (Bill C. Brown, Petitioner).

LEGISLATION FOR FIRST READING (cont'd)

Ordinance 04-33 To Amend Title 8 of the Bloomington Municipal Code, Entitled "Historic Preservation and Protection " to Establish a Historic District - Re: Hitching Posts at 416 East Fourth Street and 615 West Sixth Street (Bloomington Historic Preservation Commission, Petitioner).

Ordinance 04-33

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

PUBLIC INPUT

The meeting was adjourned at 8:30 pm.

ADJOURNMENT

APPROVE:

ATTEST:

Michael Diekhoff, President
Bloomington Common Council

Regina Moore, CLERK
City of Bloomington

UNAPPROVED

In the Council Chambers of the Showers City Hall on Wednesday, November 3, 2004 at 7:30 pm with Council President Diekhoff presiding over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
November 3, 2004

Roll Call: Banach, Diekhoff, Ruff, Rollo, Sturbaum, Volan, Sabbagh, Mayer
Absent: Gaal

ROLL CALL

Council President Diekhoff gave the Agenda Summation

AGENDA SUMMATION

There were no minutes to be approved.

APPROVAL OF MINUTES

Jason Banach thanked all candidates who ran for election (held November 2, 2004) and said it was a time consuming process with rewards. He congratulated all on good turnout.

MESSAGES FROM
COUNCILMEMBERS

Chris Sturbaum, said he saw new graffiti today that said "Voting Didn't Change Much." He said that locally things did change and hoped that young people would understand that both winning and losing are parts of the process, and not be discouraged from voting.

Andy Ruff said it should give us confidence and faith in democracy that the election came off without widespread disenfranchisements and legal problems. He said this gives us hope in the integrity of the system. He said, however it was a concern, that though the process worked, the outcome may have been based on voters making decisions on false information. He cited that a survey showed that some voters had specific false factual information they believed was true. He added that injecting this into a good electoral process confounded the results, and we need to address this as a community and a nation.

Steve Volan briefly noted to citizens that he wore a hat in the council chambers because his eyes were greatly affected by the strong fluorescent overhead lights. He thanked those who ran for the election. Volan noted his brother, Gregory, was leaving his position as Director of Information Technology for the City of Bloomington. Using their native Greek language, he wished him well.

David Sabbagh noted this election was won by the process and not in the courts, and congratulated winners. He said there were now community problems that city and county elected officials should work together on and that he was confident we would approach these problems together.

Dave Rollo said he did not have such positive feelings about the electoral process when there was such a corrupting influence of money in the process. He noted that over \$80 per voter was spent on a senate race in Montana for a total expense of \$30 million dollars. He recalled working in a Springfield, Ohio working class neighborhood where people indicated that their needs and voices were not being heard above the din of campaign attack ads and negative campaigning. He added that journalism had hit an all time low; correct and accurate information was hard to come by, and quoted Thomas Jefferson by stating "Democracy depends on a well informed electorate." He said democracy is at risk with media taking on the role of stenographers, offering a pundit class with little information, and being concerned about the 'entertainment value' of its news broadcasts. He said the outcome of this election was nothing to be optimistic about, adding that it is now incumbent on citizens to take ownership of government and airwaves and demand higher standards for the information we receive.

Tim Mayer said that while he could speak volumes about the election, he chose not to as most people are weary of the topic and anxious to move on. He reported that his brand new twin grandchildren, Reagan Camille and Timothy Joseph were doing well.

There was no message from the mayor.

There were no committee reports.

There was no public input at this time.

It was moved and seconded to appoint Alex B. Cartwright to the Public Transit Board. The appointment was approved by a voice vote.

It was moved and seconded that Appropriation Ordinance 04-07 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the Committee Do-Pass Recommendation of 9-0-0. It was moved and seconded that Appropriation Ordinance 04-07 be adopted.

Susan Clark, Controller, reviewed the three main components for appropriations covered in this ordinance, noting that there had been a discussion of these items in committee.

Volan asked how much money was needed to purchase equipment to archive public meetings, to which Clark said the total for that section was \$15,000 for both hardware and software.

Sturbaum asked what the consultant would be producing. Greg Volan, Director of ITS, said that a strategic plan for dealing with the city's fiber optic resources for the next five years would be produced. Sturbaum said that sounded sensible.

No member of the public offered comment on the ordinance.

Appropriation Ordinance 04-07 received a roll call vote of Ayes: 8, Nays: 0.

It was moved and seconded that Ordinance 04-33 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the Committee Do-Pass Recommendation of 9-0-0. It was moved and seconded that Ordinance 04-33 be adopted.

Nancy Hiestand, staff member with the Historic Preservation Commission, showed pictures of hitching posts and explained that by designating them historic they would be protected and hopefully any repair of future damage to them would be eligible for funding. She noted one other historic project in the public right of way, an original fieldstone sidewalk located in front of 209 South Dunn.

Volan said he had seen several stone street markers in his neighborhood and wondered if they would fall under this type of historic designation. Hiestand said the two hitching posts were specifically noted in this ordinance, but that there might be cause for designating other milestones and survey markers around town in a future ordinance.

There was no public comment offered on this ordinance.

Ordinance 04-33 received a roll call vote of Ayes: 8, Nays: 0.

MESSAGES FROM
COUNCILMEMBERS (cont'd)

MESSAGE FROM THE
MAYOR
COMMITTEE REPORTS

PUBLIC INPUT

BOARD AND COMMISSION
APPOINTMENTS

LEGISLATION FOR SECOND
READING

Appropriation Ordinance 04-07
To Specially Appropriate from the General Fund, Sanitation Fund and Telecommunications Non-Reverting Fund Expenditures Not Otherwise Appropriated (Appropriating Funds from the General Fund – Animal Care and Control Department for Medical Supplies; Appropriating Funds from the Sanitation Fund for Landfill Fees; and Appropriating Funds from the Telecommunications Non-Reverting Fund for a Grant, to Hire a Consultant, to Install Fiber Optic Cable between the Animal Shelter and the Sanitation Building, and to Transfer Funds to the General Fund).

Ordinance 04-33 To Amend Title 8 of the Bloomington Municipal Code, Entitled "Historic Preservation and Protection" to Establish a Historic District - Re: Hitching Posts at 416 East Fourth Street and 615 West Sixth Street (Bloomington Historic Preservation Commission, Petitioner).

It was moved and seconded that Ordinance 04-30 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the Committee Do-Pass Recommendation of 7-0-1. She also noted that the public comment portion of this deliberation would serve as the legally advertise meeting for public input. It was moved and seconded that Ordinance 04-30 be adopted.

Lynn Friedmeyer, Zoning and Enforcement Manager in the Planning Department, said this property was the south quarter of the block near an existing substation. She added the purpose for the vacation of right-of-way was that utility needed the area for additional power to the city and university. She briefly outlined sidewalk improvements that the petitioner would make to the property.

Sturbaum asked about the sidewalk provision. Friedmeyer said that according to the Growth Policies Plan, when utilities are upgraded and land use changes, properties should be brought into compliance and one way to do that is by putting in sidewalks and landscaping. She said that sidewalks are in the area, but the Dunn Street and 13th Street sides of these properties do not presently have sidewalks. Sturbaum asked Friedmeyer to speak about the public good related to this vacation of land. She stated that pedestrian traffic is very heavy in this area and the sidewalks are important for safety as pedestrians are currently walking in the roadway.

There were no comments from the public at this time.

Mayer pointed out an old limestone sidewalk exists in the vicinity of Indiana and 13th Streets.

Ordinance 04-30 received a roll call vote of Ayes: 8, Nays: 0

Jason Banach asked the council to accept a conflict of interest statement. He stated that while he would derive no financial benefit from the passage of Ordinance 04-31, he was an employee of Indiana University, who is the petitioner in the case, and he wished to avoid the appearance of impropriety. The acceptance of the Conflict of Interest Statement received a roll call vote of Ayes: 7, Nays: 0 (Banach, while present, did not vote on this action).

ACCEPTANCE OF A
CONFLICT OF INTEREST
FORM FROM JASON BANACH

It was moved and seconded that Ordinance 04-31 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the Committee Do-Pass Recommendation of 6-1-1. She also noted that the public comment portion of this deliberation would serve as the legally advertise meeting for public input. It was moved and seconded that Ordinance 04-31 be adopted.

Ordinance 04-31 To Vacate a
Public Parcel - Re: A 12-Foot
Wide Improved Alley Running
Between 307 and 317 East Second
Street from East Second Street to
the First Alley North of the Street
(The Trustees of Indiana
University, Petitioner).

Lynn Friedmeyer, Zoning and Enforcement Manager in the Planning Department, reviewed the location of the alley in question. She said the vacation of this land would allow the university to create a learning center in the back of the property. She said the Annex to the Wylie House Museum would probably be demolished to restore the area's landscaping and outbuildings to their 1800's forms. She said the university was amenable to moving utilities if needed. She said that one person who owns property adjacent to this vacation had been in contact with the Museum staff and are supportive of the vacation of the alley right of way.

Sturbaum said that some issue of public good would be that the Wylie House Museum would be a benefit to school children, and this was a good way for the city and university to work together on an important

project.

Ordinance 04-31 (cont'd)

Mayer thanked and commended the university for taking this step, and said he looked forward to this action starting general redevelopment in the area.

Volan said that an issue that arose during a committee meeting was deemed not relevant by a couple of council members. His statement:

The petitioner is Indiana University who is asking to have an alley right-of-way vacated to improve a property. This petitioner, to my knowledge alone among those who come before this council, actually exercises authority over rights of way, over portions of named and numbered streets, which are otherwise governed by the city. I believe that to question the petitioner's vacation of the right of way on 7th Street is a legitimate question and legitimate link to the petition at hand. Comes now this petitioner asking for a vacation of a right of way of an area that is not overseen by their jurisdiction directly.

What will be next?

The petitioner, over a period of decades, can be demonstrated as having slowly changed the fabric of the city, piece by piece, by taking away a right of way here, an alley there, to build the building that it sees fit to build.

Let me be clear about this. There is no question about the quality of this project. There is no question about the quality of the petitioner. There is a question for me about the unintended consequences of this petitioner's habitual erosion of the city grid.

That is my only intent in bringing up this matter. I have no opposition to this project. While I voted no last week in recommendation, I will be voting yes this week. But I believe that it is high time for Indiana University and the City of Bloomington to begin an extended conversation about the nature of what it is to be a city, the nature of what it is to be a municipality. I know the university has a master plan for expansion, the city is working on its own set of plans and these things need to be harmonized. This may be a minor thing now, but I firmly believe that this is a reasonable objection to make, to bring in the behavior over time of this petitioner. Once again, I plan to vote for it.

Diekhoff said this was an excellent project for the area, and applauded the university. He said he would vote for the project.

Ordinance 04-31 received a roll call vote of Ayes: 7, Nays: 0 (Banach did not deliberate on this item).

It was moved and seconded that Ordinance 04-32 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the Committee Do-Pass Recommendation of 7-0-1. It was moved and seconded that Ordinance 04-32 be adopted.

Jim Roach, Senior Zoning Planner with the Planning Department, reviewed the location and present uses of this PUD. He said that three property units were being brought together to unify future development and that the Growth Policies Plan (GPP) indicates that the planned use is correctly categorized as 'community activity center'. He said that rezoning of the land from residential to PUD was not exactly what was called for in the GPP but that the combining of these three parcels did achieve a goal of encouraging the land to be developed in a unified manner.

He showed plans for the overall area and highlighted connections to surrounding roads, properties, uses, environmental issues and access issues on the south portion of the property. He added that there would be more open greenspace than the law requires, and that the petitioner would landscape accordingly.

Roach reported a Plan Commission unanimous approval for this project with several conditions of approval.

Ordinance 04-32 To Amend the Bloomington Zoning Maps from PUD and RM7 to PUD and to Amend the Preliminary Plan for the Century Village 2 Planned Unit Development (PUD) - Re: 300 S. State Road 446 (Bill C. Brown, Petitioner).

Ordinance 04-32 (cont'd)

Dan Neubecker spoke for the petitioner. He reviewed some concerns from the committee hearing saying that lighting would not overpower the area, but would be pedestrian in scale, more amber and muted with visors for down lighting. He showed pictures he had taken of both Day Mortuary and Century Village at night to show the difference in lights.

He related Volan's concerns about a sense of place and announced a sculpture at the entrance to the location and also naming the entrance way "Century Village Boulevard."

Sturbaum asked Neubecker to review what buildings would be built, where on the property they would be placed, and what the uses of each building would be. Neubecker showed preliminary plans and said that each building would come before the Plan Commission for approval. Sturbaum noted that a sense of history might be better served by naming the street something other than Century Village Boulevard and noted local citizens who might be so honored.

In projecting uses of the new buildings, Neubecker said uses might include a brew pub, sit down restaurant, small service shops that would serve the local neighborhoods, with office space and second story residential units with townhouses on the second and third stories. He said these would be integrated into the new hotel and operated by the current management.

Sabbagh asked Neubecker about the buffer between this development and the Knightridge Apartments. Neubecker said the buffer would be heavily landscaped with native trees to reestablish a tree canopy.

Sturbaum asked about landscaping to screen the current parking lot. Neubecker said the area immediately adjacent to the property was a water basin to filter storm water.

There was no public comment on this ordinance.

Ruff thanked the petitioner for addressing the lighting issue and for photos that were shown.

Sturbaum said this was an example of the Plan Commission doing its job well, and would support the project.

Banach said the Century Suites, often used by his family, was a very nice place and was supportive of the project.

Volan, said he suggested naming the road, and public artwork in the common green area. He suggested a companion piece of art closer to 446. He suggested Father Time and Baby New Year as the concepts relate to 'Century Suites'.

Rollo reiterated his comments from the committee meeting saying that this project was preferable to more student apartments in the area. He added that the design elements work into the existing scheme and applauds the use of native vegetation and lighting elements.

Mayer thanked Rollo for working with the petitioner and suggesting native species, and the petitioner for agreeing to this. He said when streets are named for people the designation "Way" is used instead of Boulevard or Street. He gave a bit of history for that tradition.

Ordinance 04-32 received a roll call vote of Ayes: 8, Nays: 0

It was moved and seconded that the following legislation be introduced and read by title and synopsis only. Clerk Moore read the legislation by title and synopsis.

LEGISLATION FOR FIRST READING

Ordinance 04-34 To Amend Title 7 of the Bloomington Municipal Code Entitled "Animals" (Amending Chapter 7.48 Entitled "Adopted Animals" in Order to Codify Adoption Fees and Increase Fees Related to a New Spay/Neuter Service Conducted by the Animal Shelter)

Ordinance 04-34

Ordinance 04-35 To Amend Title 12 of the Bloomington Municipal Code Entitled "Streets, Sidewalks And Storm Sewers" and To Amend Title 2 Entitled "Administration And Personnel" (Modifying the Duties, Fines, and Citation and Collection Procedures Related to the Shoveling of Snow from Sidewalks within the City's Right-of-Way)

Ordinance 04-35

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

PUBLIC INPUT

The meeting was adjourned at 8:48 pm.

ADJOURNMENT

APPROVE:

ATTEST:

Michael Diekhoff, President
Bloomington Common Council

Regina Moore, CLERK
City of Bloomington

UNAPPROVED

In the Council Chambers of the Showers City Hall on Wednesday, November 17, 2004 at 7:30 pm with Council President Diekhoff presiding over a Regular Session of the Common Council.

COMMON COUNCIL
REGULAR SESSION
November 17, 2004

Roll Call: Banach, Diekhoff, Ruff, Gaal, Rollo, Sturbaum, Volan, Sabbagh, Mayer

ROLL CALL

Council President Diekhoff gave the Agenda Summation.

AGENDA SUMMATION

There were no minutes to be approved.

APPROVAL OF MINUTES

Jason Banach reported attending the Monroe County Educator of the Year Award program sponsored by the Franklin Initiative and the Bloomington Area Chamber of Commerce. He thanked community teachers for their dedication.

MESSAGES FROM
COUNCILMEMBERS

Chris Sturbaum talked about a new not-for-profit organization, Stepping Stones, which will focus on transitional housing issues for individuals 18 to 24 years of age. Sturbaum briefly discussed the reality and risks of young people who become homeless. He noted that an adult supervisor will live within the transitional housing unit. For more information, Sturbaum recommended contacting Sherri Benham at 336-7196.

Andy Ruff reported attending the annual Oxfam banquet at Indiana University. He described an 'eye opening' event related to hunger issues. Ruff recommended that others attend future Oxfam events.

David Sabbagh wished his wife Linda a Happy Anniversary.

Dave Rollo reported that he continues to follow many of the voting anomalies that occurred around the country on November 2nd. He emphasized that disenfranchisement, whether intentional or due to machine error, should be unacceptable to United States citizens. Rollo noted that electronic voting machines with no audit or recount ability are unacceptable. He urged the city council and citizens of Bloomington to have a dialogue on this subject.

Tim Mayer thanked the city street department for leaf collection efforts. He encouraged citizens to move their leaves toward the curb to help the city with removal and noted that the city supports a very environmentally-friendly policy where collected leaves are composted. Mayer also criticized Target stores for banning Salvation Army bellringers this holiday season. He suggested that citizens support downtown shops that do welcome the Salvation Army fundraisers.

Dan Sherman, Council Attorney, read a statement for Chris Gaal which consisted of the obituary of Leah Garlotte:

Leah Woods Garlotte, 47
Nov. 1, 1957-Nov. 15, 2004

Leah Woods Garlotte, 47, of Bloomington, died Monday, Nov. 15th, at Bloomington Hospital.

Born on November 1st, 1957, in Fort Wayne, IN, Leah was the daughter of Melvin Wesley and Helen (Woods) Garlotte.

She was the Director of the Hilltop Garden and Nature Center at Indiana University where she ran programs in gardening for children and the community. Leah taught classes at I.U. in green space management and ecological landscaping, gardening with youth at risk, and other horticultural and environmental topics. While at Hilltop Leah co-founded the Grow Organic Educator Series and helped to establish the Plant a Row for the Hungry campaign.

Leah originally came to Bloomington from Indianapolis to study art

and journalism at Indiana University. After earning the Bachelor of Arts in Fine Arts degree she combined her graphic art and writing talents with her lifelong love of nature to creatively advocate for animals and the forest.

During her 28 years in the area, she worked as Education and Volunteer Coordinator at the Monroe County Humane Association and City of Bloomington Animal Shelter, and was a wildlife rehabilitator. She was instrumental in protecting the forests of the central hardwood region as a participant in ForestWatch, a founding member of Heartwood, and an organizer of the Indiana Forest Alliance. Leah also was active in the Bioregional Movement, where she explored ways to meld peace and justice for people with her concern for the earth.

As part of her environmental advocacy Leah was on the board of directors of Protect Our Woods, Native Forest Network, and other groups. She also edited and published the ForestWatch Journal, Heartwood Annual, and the Bloodroot Journal.

She loved to watch birds, keep bees, kayak, hike, hunt mushrooms, garden, care for her cats and dogs, and attend to her friends and loved ones.

Survivors include life-partner Christopher Gaal; parents Melvin and Helen Garlotte of Sun Lakes, Arizona; and two brothers, Barton Melvin Garlotte of Phoenix, Arizona and Bryan Steven Garlotte of Comstock Park, Michigan.

There will be a celebration of Leah's life at the Unitarian Universalist Church, 2120 N. Fee Lane, Bloomington, on Sunday Dec. 5th at 3:30 in the afternoon.

Memorial contributions may be made to the Sycamore Land Trust, P.O. Box 7801, Bloomington, IN 47407, and the Monroe County Humane Association, P.O. Box 1334, Bloomington, IN 47402.

There was no message from the mayor.

There were no committee reports.

There was no public input at this time.

There were no appointments.

It was moved and seconded that Resolution 04-21 be introduced and read by title and synopsis. Deputy Clerk Matt Weber read the legislation and synopsis giving the Committee Do-Pass Recommendation of 8-0-0. It was moved and seconded that Resolution 04-21 be adopted.

Ron Walker, Director of Economic Development, reported that the city and State of Indiana have been working together for several months to help keep Schulte Corporation in the community and assist them with their expansion. He gave a synopsis of the company's expansion plans and noted that Schulte plans to increase their workforce from 168 to 223 employees. Walker emphasized the importance of the city lending assistance to Schulte as it is a valued basic employer in the community.

Company President John Kokenge gave a brief history of the Schulte Corporation and noted that the planned expansion is a significant undertaking for the company. He said they are very excited about their relocation site, which will allow for a higher quality work environment for employees. In addition, Kokenge reported that the relocation and expansion will allow Schulte to house its manufacturing and distribution centers at one location.

Sabbagh asked Walker to reiterate the starting and average salary at Schulte. Walker said general operators start at \$7.54/hour and earn \$10.24/hour at the end of their first year, not including benefits. Kokenge provided additional information on employee benefits, including a matching 401K plan that Sabbagh inquired about.

MESSAGES FROM COUNCILMEMBERS (cont).

MESSAGE FROM THE MAYOR

COMMITTEE REPORTS

PUBLIC INPUT

BOARD AND COMMISSION
APPOINTMENTS

LEGISLATION FOR SECOND
READING

Resolution 04-21 To Designate an Economic Revitalization Area, Approve a Statement of Benefits, Authorize a Period of Tax Abatement, and Waive Certain Statutory Requirements –
Re: 1500 S. Patterson Drive
(Schulte Corporation, Petitioner)

Resolution 04-21 (cont).

Ruff asked what the total incentive package was. Kokenge reported that the economic impact of the incentive package from the State of Indiana is \$650,000. Ruff asked for more information regarding how a successful company with double digit growth requires assistance for this type of investment. Walker responded that it is not atypical for a company in rapid growth mode who is landlocked and limited in size to need some public assistance. He added that it is common for the community to assist valuable employers who are in transition and in a position to increase benefits to the community. In this case, Walker said the City of Bloomington and the State of Indiana were able to offer the corporation, who is taking a big risk, what they needed to not only stay, but expand within the community.

Kokenge added that it is common for communities to forge public/private partnerships in order to compete with other communities who are doing the same. He described the incentive package and relationship as a win-win situation for the company and community.

Ruff asked if Schulte would have been able to relocate and expand without an incentive offer from local government. Kokenge said that this expansion would have been too large for the company to undertake without a partnership with local government.

Ruff asked Walker what additional companies are located at the Indiana Enterprise Center (IEC). He referred to a marketing campaign implemented by the Bloomington Economic Development Corporation that was geared toward attracting out of town companies. Ruff added that it appears there are only local, existing companies taking advantage of the IEC site.

Walker noted that the site was branded as the IEC and a national marketing campaign followed. He added that one start-up tenant, Cook Pharmica relocated to the IEC site. Walker highlighted that the community could have been at risk of losing Schulte and noted the same could be said for Best Beers, who also relocated to the IEC.

Dave Rollo asked about the products manufactured and the clientele of Schulte. Kokenge said the company makes ventilated wiring shelving and wood storage systems. He pointed out that they distribute throughout the world and sell to high-end retail establishments, builders and professional installers. Kokenge added that Schulte does not sell to "big box" stores.

Rollo inquired about the educational attainment of employees. Kokenge said Schulte employees range from lead operators, who are required to have at least a GED, to engineers. He suggested that as the company continues to grow, they will hire additional employees at all ranks.

Chris Sturbaum commented that this is exactly what tax abatements are to be used for. He said Schulte's continued investments are a win for the community and a win for the company. He thanked the company for staying in Bloomington.

Sabbagh said this is precisely what tax abatements are for. He highlighted the importance of supporting the manufacturing sector and described the expansion as a good project.

Ruff thanked the Schulte Corporation for their community involvement and noted that he would like to see more tax abatement applications like this. He also thanked the applicant for efforts made to hire local architects and builders. In the future, Ruff said he would like to see better articulation of the ways companies can demonstrate their

commitment to the community. Ruff emphasized that Bloomington is a business-friendly community. He requested that Schulte pass this sentiment along to fellow Bloomington Area Chamber of Commerce members. In closing, Ruff predicted that the Schulte Corporation is not banking on the expansion of I-69 and does not need the highway to remain competitive.

Resolution 04-21 (cont.)

Rollo thanked Schulte for their community investment and noted that the company has formed an excellent partnership with the city.

Gaal said this is a good economic development partnership for the community. He spoke briefly about the negative economic impact of "big box" stores such as Wal-mart and said he was pleased that Schulte does not supply these retailers with their products. He pointed out that stores such as Wal-Mart are pressuring their suppliers to move productions overseas to take advantage of inexpensive labor, which in turn, makes products more affordable. Gaal noted that this is a flawed strategy and that good-paying manufacturing jobs are leaving America because of it. He said it is not easy to keep manufacturing jobs in our country, but hopes that Schulte's strategy and partnership is a success.

Mayer thanked Schulte and Walker for reaching this partnership. He added that the community is entering a bargain with Schulte, where the corporation is investing in the community and citizens should purchase Schulte products and talk with friends and neighbors about the company and products.

Resolution 04-21 received a roll call vote of Ayes: 9, Nays: 0.

It was moved and seconded that Ordinance 04-34 be introduced and read by title and synopsis. Deputy Clerk Weber read the legislation and synopsis giving the Committee Do-Pass Recommendation of 8-0-0. It was moved and seconded that Ordinance 04-34 be adopted.

Ordinance 04-34 To Amend Title 7 of the Bloomington Municipal Code Entitled "Animals" (Amending Chapter 7.48 Entitled "Adopted Animals" in Order to Codify Adoption Fees and Increase Fees Related to a New Spay/Neuter Service Conducted by the Animal Shelter)

Julio Alonso, Director of Public Works, gave a synopsis of Ordinance 04-34, which he noted would ensure that every animal adopted at the animal shelter would be spayed or neutered before leaving the facility. In addition, the increase in adoption fees would provide additional services, including vaccinations and an identification microchip. Both the Animal Control Commission and Board of Public Works unanimously support the proposed ordinance. Alonso reported that an appropriation ordinance will be presented in early 2005 to incorporate new fees into the animal control budget.

Rollo asked if an animal with a microchip could be identified outside of the community. Alonso described the microchip and noted that an increasing number of animal shelters and clinics across the country possess the equipment necessary to scan the microchip. In addition, all animals with the microchips are recorded in a national registry.

Volan asked for clarification regarding the cost of the described procedures at private veterinary clinics versus the cost at the animal shelter. Alonso noted that while private veterinary clinics charge more for the previously described procedures, several are working with the shelter to provide the services at a significantly reduced rate.

Rollo commented that in addition to real savings for the adopters, this ordinance is an investment for the community.

Mayer thanked the administration for supporting a humane policy that will benefit the community.

Ordinance 04-34 received a roll call vote of Ayes: 9, Nays: 0.

It was moved and seconded that Ordinance 04-35 be introduced and read by title and synopsis. Deputy Clerk Weber read the legislation and synopsis giving the Committee Do-Pass Recommendation of 6-1-1. It was moved and seconded that Ordinance 04-35 be adopted.

Susie Johnson, Director of Housing and Neighborhood Development, asked the council to amend Title 12 of the Bloomington Municipal Code to improve the safety of city sidewalks for citizens. She explained that the ordinance would reduce the amount of sidewalk space that must be cleared, which will help assist property owners who are responsible for clearing sidewalks. In addition, Johnson said this ordinance would flatten the fine schedule to \$50.00, as opposed to the current \$25.00, \$100.00 and \$1000.00 fine schedule. Lastly, Johnson said this ordinance will continue to give city staff the authority to enforce the law by writing citations. Johnson pointed out that the Community Council on Accessibility is in full support of this ordinance and this change will help the City of Bloomington live up to the pledge of being a pedestrian friendly community.

It was moved and seconded to introduce an amendment to Ordinance 04-35. Diekhoff read the synopsis of the amendment giving the Committee Do-Pass Recommendation of 4-0-4.

Diekhoff identified the downtown areas that are heavily-traveled and explained that this amendment would require property owners to clear snow to the lesser width of 54 inches or the full paved width of the sidewalk, as opposed to the current 36 inches that is required.

Rollo asked what the average width was of downtown sidewalks. Johnson identified the average sidewalk width downtown as ten feet.

Volan asked how businesses and residences in the downtown zone would be notified of this ordinance. In addition to coverage in the newspaper, Johnson said that the city will issue press releases and work with the Bloomington Downtown Commission to notify the individuals affected by this change.

Banach asked whether a property owner or lease holder would be responsible for paying a citation. Johnson said that the property owner would be responsible.

Volan asked if it would be legal for a property owner to write in to a lease that the tenant would be responsible for clearing snow from the sidewalk.

Banach suggested that it would be very likely a landlord would put the duty of clearing snow from the sidewalk in a lease.

Mayer asked if the downtown district that was identified as pedestrian heavy could be described as the downtown shopping district. Johnson said that would be an accurate assumption and that it makes sense for businesses to clear their sidewalks.

Amendment #1 to Ordinance 04-35 received a roll call vote of Ayes: 9, Nays: 0.

Ordinance 04-35 To Amend Title 12 of the Bloomington Municipal Code Entitled "Streets, Sidewalks And Storm Sewers" and To Amend Title 2 Entitled "Administration And Personnel" (Modifying the Duties, Fines, and Citation and Collection Procedures Related to the Shoveling of Snow from Sidewalks within the City's Right-of-Way)

Amendment #1 to Ordinance 04-35: Property owners are required to clear snow from the full paved width of their sidewalks under the existing code and would be required to clear snow for a minimum width of 36 inches under the proposed ordinance. This amendment would require property owners in the downtown area to clear snow to the lesser width of 54 inches or the full paved width of the sidewalk. This change is intended to provide more room to walk in heavily-traveled portions of the city while still leaving places for owners to place the shoveled snow.

It was moved and seconded to introduce an amendment to Ordinance 04-35. Chris Sturbaum read the synopsis of the amendment.

Sturbaum noted that he fully supports the intent of the original ordinance and that this amendment was not intended to weaken the ordinance but to allow some flexibility in enforcement.

Ruff asked how the city will interpret exactly when receipt of a citation is given. He asked if the 10 business day period for payment would start on the date the citation is written. If that is not the case, Ruff suggested that there would be no way to establish exactly when a violator receives the citation.

Sturbaum noted that the citation would be stamped with a date establishing when it was issued by the city.

Ruff suggested changing the language in the amendment to avoid any debate regarding when the 10 day period of payment begins.

Dan Sherman, Council Attorney and Administrator, suggested that the council offer an amendment changing the language to "10 business days from the issuance of the notice" as opposed to "within 10 business days of receiving the citation". Sturbaum noted that he would accept this change to the amendment. Banach said he would offer a friendly amendment.

As no council member opposed the change to the amendment, Amendment 2 was amended so that the 10 day period for payment of a citation would begin on the day the citation was issued by the city.

Volan inquired about how parking citation appeals were handled by the city. Deputy City Clerk Weber stated that the recipient of a parking citation has seven days to either pay or appeal the citation. If the citation is upheld, the recipient is notified and then has two weeks to pay the original fine.

Volan asked if this amendment would include a similar structure. Sherman noted that the Board of Public Works will make decisions regarding the appeals process and that codification was not necessary.

Ange Cahoon, Executive Director of the Council of Neighborhood Associations (CONA), reported that their organization is 100 percent in support of the amendment. She noted that an appeal process is necessary to provide fairness to the ordinance.

Mayer thanked Sturbaum for bringing forward an amendment to make the ordinance more equitable and provide the city with more enforcement power.

Banach also thanked Sturbaum for bringing forward the amendment. Banach noted that several council members, including him, voiced concern over the original ordinance and would not have supported it as originally written.

Ruff reported that he would not have felt comfortable supporting the original ordinance without an appeal process in place.

Rollo reiterated Ruff and Banach's comments regarding the need for an appeals process. He thanked Sturbaum for offering a good solution.

Volan echoed several council members' comments and thanked Sturbaum for bringing the amendment forward. He also said he was pleased with how the appeals process was developed.

Amendment #2 to Ordinance 04-35
This amendment makes three changes to the ordinance. First, it changes the word "shall" to "may" both in regard to the power to issue a citation and levy a fine for violation of the snow removal provisions. Second, it extends the time to pay the fine from seven days to ten business days. This will give property owners the same amount of time in order to either pay the fine or file an appeal. And third, it establishes an administrative procedure through the Board of Public Works to hear appeals of snow removal citations. Under this procedure, the property owner must file the appeal in writing with the Board of Public Works within 10 business days of receiving the citation. The Board would then hear the appeal at its next regularly scheduled meeting and may reduce or waive the fines for good cause.

Mayer thanked Johnson for recommending the need for an appeals process, as well.

(cont.)

Amendment #2 to Ordinance 04-35 received a roll call vote of Ayes: 9, Nays: 0.

Sabbagh asked if this ordinance would apply to side paths as well as sidewalks. Johnson noted that the city maintains side paths and added that the city recently purchased equipment to help clear side paths of snow and ice. Sabbagh also inquired about the clearing of sidewalks around Bryan Park. Johnson said the parks department will keep those sidewalks clear. She added that it is important for government to lead by example. Sabbagh asked if enforcement will be complaint-based or proactive. Johnson said the city would respond to complaints but that the city will focus enforcement in areas with high pedestrian traffic, including downtown and around schools.

Deliberation of Ordinance 04-35 as amended

Mayer asked if the enforcement officers will take into consideration scenarios such as when a cleared sidewalk is covered by snow from a street plow versus sidewalks that are just neglected and not cleared by the property owner. Johnson reported that the enforcement officers will use good judgment and take special circumstances under consideration.

Rollo asked for clarification regarding whose responsibility it is if a snow plow blocks a crosswalk. Johnson said it is ultimately the responsibility of the owner of the adjacent property. Regarding the fine increase from \$25.00 to \$50.00, Rollo asked if HAND found the lower fine ineffective. Johnson described this ordinance as flattening the fee structure. Johnson pointed out that the previous fee structure allowed for up to a \$1,000.00 fine. Rollo asked if multiple \$50.00 fines could be issued if the property owners neglect to clear their sidewalk. Johnson said to her knowledge, it has been the city's policy to not issue tickets. In response, Rollo asked how the city settled on the \$50.00 fine when the \$25.00 fine has been untested. He relayed concern from several constituents, primarily senior citizens, that \$50.00 seemed excessive. Johnson noted that through amendment number two, the appeals process will allow the city to address special circumstances. Rollo asked for confirmation that an appeal will need to be made in writing. Johnson said that is correct, that it will not be required to appeal in person. Rollo acknowledged that CONA will be offering services to assist senior citizens, but noted that many residents are not represented by neighborhood associations. Johnson confirmed that CONA is a county-wide organization. In addition, the Bloomington Volunteer Network and Indiana University are committed to helping recruit and target volunteers.

Banach asked if the city already has an ordinance that requires the removal of snow within 24 hours. Johnson confirmed that the city currently has such an ordinance. Banach pointed out that the city is making the ordinance more citizen-friendly and lenient by flattening the fee structure.

Sturbaum asked if a citizen has special needs and knows that they will have difficulty clearing their own walk, if there is a central telephone number that they may call for help. Johnson recommended that citizens call CONA at 331-3979. Sturbaum asked how often a violator may be fined. Johnson noted that a \$50.00 fine may be given per day per violation. Sturbaum also relayed several constituent concerns regarding the speed at which the snow plows operate. Alonso said they have supervisors that monitor the performance of snow plows and that they can communicate with the operators regarding their speed. He reiterated that the primary responsibility is to remove snow from the streets to increase safety and make the streets navigable for emergency vehicles.

Ordinance 04-35 (cont.)

Ruff asked for clarification on who is responsible for clearing areas such as the stairs that lead from the street up to the sidewalk on the North side of the square. Johnson said it is ultimately the adjacent property owner's responsibility to clear those areas. Johnson reiterated that it will be in everyone's best interest for citizens and businesses to be good neighbors and clear sidewalks, stairs and handicap ramps.

Volan asked what type of equipment the city utilizes to clear side paths. Johnson responded that small Bobcat machines are used to clear the side paths. Volan asked if a Bobcat could be used to clear a sidewalk as well. Johnson said the Bobcat vehicle would probably be too large to use on sidewalks. Volan asked how many \$1,000.00 fines have been levied. Johnson said it is her experience that there have been no tickets issued for noncompliance of snow removal. Volan asked if roads in town are wide enough for snow plows to push snow to the side of the road without infringing on sidewalks. Johnson noted that while that may be possible, it is the goal of the city to keep parking spaces cleared as well. Volan asked if the City of Bloomington has ever considered snow zones. Johnson said snow zones have been discussed and were not considered feasible. Alonso said that Public Works does have the authority to post no parking signs with twelve hours notice and will continue to discuss the helpfulness of that tool in clearing snow from parking places. Volan asked if it was more cost effective for a snow plow to remove snow than a person pushing a snow blower. Alonso responded that he would assume so given the width of a snow plow compared the swath a snow blower could clear.

Rollo asked what fine level other communities assess for failure to remove snow. He said he was concerned about the effectiveness of a \$50.00 fine versus a \$25.00 considering that the \$25.00 has never been tested. Rollo said that the higher fine would certainly be noticed more than the lesser one, but was curious about the factors taken into consideration when establishing the fine level. Johnson responded that other factors were not taken into consideration.

President Diekhoff called for public comment on the ordinance as amended.

Larry Williams commented that up to 8 feet of snow is plowed from the street on to his sidewalk. He believes the city is at fault in those circumstances and is concerned about the number of appeals he will be submitting.

Craig Harvey suggested that snow can be moved to the middle of the street instead of the side. In addition, he said he noticed downtown merchants last year who used small tractors to clear their walks, but, pushed the snow in front of crosswalks which makes pedestrian travel difficult.

Mayor Mark Kruzan said that the City of Bloomington will have the goal of leading by example and being in compliance, but will not necessarily fine itself. Kruzan also expressed some concern over increasing the lowest fine of \$25.00 to \$50.00. The tradeoff, he explained, is eliminating the \$1,000.00 fine and implementing an appeal process. Kruzan reiterated that the goal of this ordinance is compliance, not revenue generation. In addition, he pointed out that a strict interpretation of the current and proposed ordinances might only require one clearing of snow and ice within 24 hours. He anticipates rational enforcement of the new ordinance and the possibility of revisiting the law after it is implemented and public comment occurs.

Ordinance 04-35 cont.

Steve Matson voiced concern over the number of appeals that might overwhelm the board of public works. He noted the lack of discussion regarding a late penalty for non-payment of a fine. In addition, Matson spoke about the possibility of calling attention to downtown businesses that do not shovel their sidewalk and comply with the ordinance.

Jim Craig made a comment that he owns a home on rented property that is owned by a land trust. He asked who is responsible for clearing the sidewalk. Diekhoff recommended that Craig speak with HAND.

Mack Molden commented that he did not support the ordinance as proposed and suggested that the city reconsider a \$25.00 fine instead of \$50.00. He estimated that 99 percent of people drive when it snows and that the city should not pass an ordinance for the 1 percent that walk.

Sabbagh noted that a pedestrian-friendly city needs clean and clear sidewalks and that he will support the ordinance.

Mayer commented that this ordinance is good public policy. He raised the issue of property owners who are out of town and unable to clear their sidewalks. He described that as not an excuse. He noted that many property owners live out of town and will need to be responsible for clearing their sidewalks. In addition, he noted that when people go on vacation, he hopes they make the appropriate arrangements to keep their sidewalks clear. He believes that homeowners will be able to maintain their sidewalks and if not, receive help from within their neighborhood.

Rollo said he agrees that clear sidewalks will make Bloomington a more pedestrian-friendly community. He pointed out that his only concern was the number of elderly constituents that contacted him and also the new fine of \$50.00 when the \$25.00 is untested. He thanked CONA for offering assistance to those who will require volunteer help and said that he will hesitantly support the ordinance. He hopes that the ordinance will be revisited if need be.

Sturbaum pointed out that he hopes not a single fine is issued and that the citizens in need of assistance receive the help they need.

Gaal emphasized that the appeal is not the rule, but the exception. He said he does not anticipate city staff to be issuing unfair citations. He noted that mistakes do happen and people do experience hardships and that the appeals process will be in place for them. He said his primary concern is the city taking two big steps at once: enforcement and increasing the fine. He considers the amended ordinance fair and said that he will now support the ordinance.

Volan said the amendments improved the ordinance and that he appreciates the presentation made by HAND. Volan noted that when he ran for office, his platform was to create a pedestrian-centered city that is still automobile-friendly. He read a portion of a Herald Times article that highlighted the potential lack of volunteers to help people shovel their sidewalks. He expressed concern for property owners, especially business owners, who will have to go out of their way to appeal a citation when the city may be at fault by transplanting snow from the street to the sidewalk. Volan posed the question, "Why are streets considered public property but sidewalks not? Why is it that we (the city) plow streets but not sidewalks?" Volan noted that he will support the proposed ordinance as amended, but that he sees a larger problem, namely the inequity of street versus pedestrian travel. He said he hopes those issues can be addressed at a later date.

Ordinance 04-35 cont.

Diekhoff reported that when originally writing his amendment, he inquired about the possibility of having the city clear sidewalks downtown. He said he understands the concerns of property owners who may not always be able to promptly clear their sidewalk, but made clear that this ordinance is for the greater good of the city and will improve public safety. Regarding the speed of snow plows, Diekhoff said he believes plows are operated with common sense and that the citation process will proceed with common sense.

Ordinance 04-35 as amended by received a roll call vote of Ayes: 9, Nays: 0.

Sherman asked the council to reconsider their vote on the second amendment. He said amendment two provided the property owner ten days from receipt of the citation in order to pay the fine. That was done in order for the due date to pay or appeal to be the same. Sherman suggested that the council reconsider the second amendment so that citizens would have the same number of days to either pay or appeal.

Reconsideration of Amendment #2 to Ordinance 04-35

Mayer made the motion to reconsider amendment number two. Sherman noted that the language would be amended from "All appeals must be filed in writing within ten business days of receiving a citation" to "All appeals must be filed in writing within ten business days of the issuance of the citation."

It was moved and seconded to reconsider Amendment #2 with respect to parallel wording regarding issuance and receipt of a citation.

The Motion received a roll call vote or Ayes: 9, Nays: 0.

It was moved and seconded that the following legislation be introduced and read by title and synopsis only. Deputy Clerk Weber read the legislation by title and synopsis.

LEGISLATION FOR FIRST READING

Appropriation Ordinance 04-08 To Specially Appropriate From the General Fund, Parking Enforcement Fund and Cumulative Capital Improvement – Rate Fund Expenditures Not Otherwise Appropriated (Appropriating a Transfer of Funds within the General Fund – Clerk’s Office; Appropriating Funds from the General Fund – Fire Department for Overtime; Appropriating a Grant in the General Fund – Police Department; Appropriating Funds from the Parking Enforcement Fund for Security Equipment; and Appropriating Funds from the Cumulative Capital Improvement – Rate Fund to Repay an Inter-Fund Loan)

Appropriation Ordinance 04-08

Ordinance 04-37 To Amend Ordinances Which Fixed the Salaries of Appointed Officers and Employees of the Civil City for the Year 2005 (Ordinance 04-19) and of the Utilities Department for the Year 2005 (Ordinance 04-21) and 2004 (Ordinance 03-21) -- Re: Positions in the Sanitation, Information and Technology Services, Police and Utilities Departments.

Ordinance 04-21

There was no public input at this time.

PUBLIC INPUT

The meeting was adjourned at 10:11 pm.

ADJOURNMENT

APPROVE:

ATTEST:

Michael Diekhoff, President
Bloomington Common Council

Regina Moore, CLERK
City of Bloomington