



## Packet Related Material

Memo  
Agenda  
Calendar

### Notices and Agendas:

*None*

### 2005 Budget-Related Packet of Legislation which will be Introduced at the Regular Session and Discussed at the Committee of the Whole on September 1<sup>st</sup>:

*Please see the separate 2005 Budget Packet for the two appropriation ordinances, the four salary ordinances, and transit ordinance, and some background material*

Contact: Susan Clark, Interim Controller, at 349-3416 or

[clarks@bloomington.in.gov](mailto:clarks@bloomington.in.gov)

*(or reach the appropriate program or departmental director)*

### Legislation and Background Material for First Reading and Discussion at Regular Session and Committee of the Whole on September 1<sup>st</sup>:

**Ord 04-23** To Amend Title 6 of the Bloomington Municipal Code Regarding "Health And Sanitation" (Changing User Fees, Establishing Uniform Fines for Certain Violations, Affording Non-Resident Owners an Opportunity to Cure Violations, and Making Other Minor Amendments)

- Memo from Julio Alonso, Director of Public Works; Charts Indicating 10-Year History of Services and Revenues; Memo from Toni McClure, Deputy Director of Public Works; Chapters 6.04 and 6.06 of the BMC Indicating Proposed Changes

Contact: Julio Alonso, Director of Public Works at 349-3516 or

[alonsoj@bloomington.in.gov](mailto:alonsoj@bloomington.in.gov)

**Ord 04-24** To Codify the Provisions of Ordinance 79-74, and Ordinance 87-31, Each as Amended, Establishing and Authorizing Expenditures from the Special Non-Reverting Improvement Fund, To Codify the Provisions of Ordinance 96-31 as Amended Establishing and Authorizing Expenditures from the Telecommunications Fund, and To Authorize Expenditures from the Mayor's Promotion of Business Line in the Mayor's Office Budget

- Memo from Susan Clark, Interim Controller; Memo from Tricia Bernens, City Attorney; Documents Comparing Current and Proposed Language of Special Non-Reverting Improvement Fund (Westside) and Telecommunications Fund; Balance Sheets for Westside and Telecommunications Funds; Excerpt from IACT Bulletin Regarding “Promotion of City Business”

Contact: Susan Clark at 349-3416 or [clarks@bloomington.in.gov](mailto:clarks@bloomington.in.gov)

**Legislation for Discussion at the Committee of the Whole on September 1<sup>st</sup> (Without being Introduced at the Regular Session on that Date):**

**Res 04-15** Petition to Appeal for an Increase to the Maximum Levy

- Memo from Susan Clark, Interim Controller

Contact: Susan Clark at 349-3416 or [clarks@bloomington.in.gov](mailto:clarks@bloomington.in.gov)

**Minutes from Regular Session:**

March 3, 2004

April 7, 2004

**Memo**

**Chair of Meeting: Sturbaum**

**Ten Item Agendas for Regular Session and Committee of the Whole on September 1<sup>st</sup> and Special Session on September 8<sup>th</sup>**

As has been our typical practice over the last few years, there will be two meetings on the evening you return from the August Recess (Wednesday, September 1<sup>st</sup>) and two meetings on the following week (Wednesday, September 8<sup>th</sup>) as well. This schedule allows the Council to take action on the budget well before the September 30<sup>th</sup> deadline and also handle the other items that are ready for action during the first legislative cycle in September.

Please note that this legislative cycle will conclude with a Regular Session on the fourth Wednesday (September 22<sup>nd</sup>) rather than the third Wednesday (September 15<sup>th</sup>) of the month, because the third Wednesday is Rosh Hashana (the Jewish New Year). There are five Wednesdays in September this year, and that enabled the Council to skip one evening and shift the meetings back one week.

The meetings next week will include a Regular Session and a Committee of the Whole. They will begin the consideration of the seven-ordinance package of budget legislation for 2005, an ordinance and resolution that are directly related to the budget, and ordinance that is indirectly related to the budget, which are noted below and included in one or the other of the two packets that went out on Friday, August

27<sup>th</sup>. The Special Session the following Wednesday will be used to wrap-up these pieces of legislation and begin the process of annexing three parcels. That will be followed by a Committee of the Whole to consider the normal items for this legislative cycle. The next portion of this memo highlights the items on those upcoming agendas.

## **Items for First Readings and Discussion on Wednesday, September 1st**

### **Budget Package**

The budget packet has been enclosed with, but is separate from the weekly packet. It contains an index of all budget-related materials you should receive in September, seven ordinances setting forth the 2005 budget, and a few pieces of background material. The background material includes a memo from Susan Clark, Interim Controller, (which appears after **App Ord 04-05**) indicating the changes in the budget from July to September, a memo from Daniel Grundmann, Director of Employee Services, (which appears after **Ord 04-19**) explaining the salary ordinances, and the transit budget (which appears after **Ord 04-22**).

According to the spreadsheet following **App Ord 04-05**, you will see the following changes in the budget:

- **Council Office** – reduction of \$1,500 from the Travel and Instruction lines;
- **Fire Department** – increase of \$29,500 for Travel and Instruction lines (after other reductions, the net increase would be \$26,518);
- **HAND Department** – net increase of \$8,115 as a result of converting an enforcement officer from part-time to full-time and shifting some salary funding to grants;
- **Parking Enforcement** – increase of \$39,676 for new enforcement officer;
- **Parks Department** – increase of \$68,580 as a result of corrections in the Temporary Employment, Water and Sewer, and Electrical Services lines;
- **Police Department** – net reduction of \$25,006 as a result of paying for vehicle out of the Cumulative Capital Development Fund and other adjustments;

<b>Total Increase:</b>	<b>General Fund</b>	<b>\$8,127</b>
	<b>Other Funds</b>	<b>\$108,255</b>

The Controller's Office will provide the Council Office entirely new September Budget materials early next week, which you will need to insert in your binders in place of the July materials.

### **Two Pieces of Budget-Related Legislation**

There are two pieces of legislation being considered during the next two weeks that are directly related to the budget. You will find them in this packet and summarized further in this memo. One item is **Ord 04-23** which raises the price for trash and yard waste tags in an effort to lower the General Fund subsidy of our sanitation service. It also makes other changes to Chapter 6.04 (Refuse and Yard Waste Collection by the City) and Chapter 6.06 (Refuse and Weeds), which "flatten" the fine schedule, address a few enforcement issues, and make some other minor amendments. The second item is **Res 04-15**, which appeals the City's maximum tax levy in order to recover monies lost due to an inaccurate estimate of the assessed valuation of properties within the City.

### **One Piece of Legislation Indirectly Related to the Budget**

There is also one item which will be considered along with the budget items even though it is only indirectly related to them. That item is **Ord 04-24** which codifies and broadens the purposes of the Special Non-Reverting Improvement (Westside Fund) and Telecommunications Fund and authorizes expenditures from the Mayor's Promotion of Business line. I use the phrase "indirectly related" to the budget because, although these items affect funds and lines, they are not reflected in the 2005 budget. In particular, any effort to use these two funds for the broader purposes would require the adoption of a future appropriation ordinance.

### **First Readings**

#### **Ord 04-24 – Codifying the Special Non-Reverting Improvement Fund (Westside Fund), Codifying the Telecommunications Fund, and Authorizing Expenditures from the Mayor's Promotion of Business Line**

**Ord 04-24** broadens the purpose of and places the enabling legislation for two of the City's funds into the Bloomington Municipal Code (in the Controller's Office) and authorizes the Mayor to expend funds from the Promotion of Business line.

The two funds being incorporated into the code are the Special Non-Reverting Improvement Fund (otherwise known as the Westside Fund and now to be known as

the Special Non-Reverting Fund [SNRF]) and the Telecommunications Fund. They both were created and subsequently amended by a series of ordinances and, as a result of this codification, will now have the entire language regarding these funds in one place.

### **Special Non-Reverting (Westside) Fund**

The Westside Fund was established in 1979 (Ord 79-74) with monies received from the west side industries under a payment-in-lieu-of-taxation (Pilot) agreement. The agreement was renegotiated in 1987 and 1997, and now extends through 2012. It includes 12 industries which will pay a total of \$200,000 per year through May of 2009, and then pay \$250,000 through 2012.

Aside from a provision in the 1987 agreement, which established a separate “Road and Traffic Improvement Account” within the fund, the agreements do not restrict the use of these monies and allow the City to use them for any legal purpose. According Susan Clark the Fund currently has a balance of \$721,994.

### The Evolving Purpose of the Westside Fund

The history of the Westside Fund provides a good illustration of how the purpose of a fund changes to meet the changing needs of a community. The enabling ordinance (Ord 79-74) originally limited the use of the Westside Fund to providing services that were either directly or indirectly necessary for the annexation of the west side industries. In the following years the fund was broadened to:

- allow payment of professional services, salaries, and equipment related to investigating and preparing for future annexations throughout the City as well as to allow the advancing of funds for a parking facility with the proviso that it be repaid from bond proceeds (Ord 85-39);
- set aside \$400,000 to establish the Industrial Incentive Loan Fund (now known as the Bloomington Investment Incentive Loan Fund) (Ord 86-04);
- cover services (including city utility and roadway improvements) to areas in the vicinity of the named west side industries (Ord 87-25);
- provide advances for capital projects that would be repaid out of bond proceeds (Ord 89-11) as well as tax revenues (Ord 92-08);
- allow purchase of emergency equipment (sirens) for the benefit of the industrial parties to the west side agreement (Ord 00-09); and lastly,

- include the costs associated with the acquisition and improvement of land, and the pursuit of funds for the benefit of the City or the industrial parties to the Westside Agreement (Ord 01-40).

### Highlights of Changes – Codification, Purpose, and Authorizing of Expenditures

The ordinance proposes three major changes for the fund. First, as a matter of convenience and recordkeeping, it inserts the enabling language for this fund into BMC 2.26 (Office of the Controller).

Second, it opens the fund to be used for “any legal purpose” and then elaborates on some of the intended uses which, in some provisions, expand upon the existing purposes. Before touching on those proposed uses, please note that the ordinance continues to dedicate monies received from the west side industries for this fund and to keep a separate “Road and Traffic Improvement Account” as provided for in the westside agreements.

Perhaps the best indication of the new direction of this fund is in Part (a), which allows these monies to be used for “the provision of police and fire protection service and other services related to health and safety, including animal care and control ...” The memo from Susan Clark suggests that, in future years, this could help offset General Fund obligations for the safety and animal control services (which will take up about 62% of the 2005 General Fund budget). Otherwise the ordinance continues to specify that the funds may be used for:

- Road and traffic improvements on the west side in order to facilitate annexation of the west side industries (Part [b]);
- costs relating to initiating the annexation of land throughout the City and the pursuit of funds for the benefit of the City or the west side industries that are parties to the west side agreement(s) (Part[c]); and
- the advancement of monies for capital projects that will be repaid from bond proceeds or tax revenues (Part [d]).

Third, it requires that the expenditures be authorized by appropriation ordinance either during the annual budget process or over the course of the year. Please note that currently, expenditures are authorized through the adoption of a resolution.

### **Telecommunications Fund**

The City created the Telecommunications Fund in 1996 with revenues it received from cable franchise fees (Ord 96-31). Sixty percent of these revenues were set aside

for telecommunications services, which fund the cable casting of our meetings and improvements to the audio-visual equipment in the Council Chambers. The other forty percent of the cable revenues and up to 125% of the money generated by the telecommunications infrastructure (see Ord 00-45 – note: there have been no revenues to date) were set aside for planning, design, development and construction of telecommunications infrastructure. In 2003, the uses of the telecommunications infrastructure portion of the fund were expanded to cover the costs of maintaining and repairing the newly installed conduit and fiber around the City known as the BDU.

This ordinance brings the enabling language of this fund into the local code just after the text regarding the Westside Fund. It also adds “audio-video and information technology” as an allowed use for both accounts in this fund. The memo from Susan Clark indicates that this is consistent with prior expenditures (i.e. plasma screens in the Council Chambers and digital equipment in the control room). This would allow the City to dip into either account to pay for items relating to “audio-visual and information technology.”

The ordinance also continues the requirement that expenditures be authorized by an appropriation ordinance.

### **Authorizing Expenditures from the Mayor’s Promotion of Business Line**

Lastly, the ordinance authorizes the Mayor’s expenditures from his Promotion of Business line at the recommendation of the State Board of Accounts. As Tricia Bernens notes in her memo, the City has appropriated funds for this purpose for “as long as anyone can remember,” but the SBA has issued new guidelines advising cities to adopt an ordinance authorizing these expenditures. (See Packet for excerpt from Cities and Towns Bulletin addressing this matter.) These expenditures appear in Line 397 and cover activities “promoting the best interest of the City” and:

include but shall not be limited to expenses incurred in promoting industrial, commercial, or residential development; expenses incurred in developing relations with other units of government; and any other expense of a civic or governmental nature deemed by the Mayor or the Common Council to be in the best interest of the City of Bloomington.

Please note that in 2005 this line will cover grants to businesses (e.g. BEDC) that were formerly located in Line 396 (Grants).

## **Ord 04-23 Amending Title 6 (Health and Sanitation) – Increasing Fees, Eliminating Correction Periods and Flattening Fines, Affording Landlords an Opportunity to Cure Violations, and Making Other Minor Amendments**

**Ord 04-23** is coming forward as part of the 2005 budget and proposes an increase in the price of trash tags and yard waste stickers. It also makes other changes in Chapter 6.04 (Refuse and Yard Waste Collection by the City) and Chapter 6.06 (Refuse and Weeds) which eliminate the correction period and, thereby, flatten fines, give landlords an opportunity to cure violations by tenants and others, and clarify or rearrange some provisions, which will be mentioned later in this memo.

### **Increase in Trash Tags and Yard Waste Stickers**

The ordinance increases the price of trash tags from \$1.00 to \$2.00 (see Section IV of the ordinance) and increases the price of yard waste stickers from \$0.25 to \$1.00 (see Section VI of the ordinance). Please note that the increase in trash tags will also result in an increase in the fee for the collection of large items and appliances from \$2.00 to \$4.00 (see Section VIII of the ordinance).

A comprehensive memo from Julio Alonso, Director of Public Works, summarizes the proposal, provides the rationale, discusses the alternatives, sets forth additional measures to mitigate its potential negative effects, reviews the recommendations of the Sanitation Revenue Committee, and mentions programs and fees in other communities before asking for your support. The following bullet points briefly highlight the memo.

**Rationale** – The memo explains why the proposal is coming forward, which can be reduced to the following points:

- Since the program began in 1994, the subsidy from the General Fund has increased so that another \$600,000 would be needed to cover costs in 2005 if the fees are not increased;
- This is largely because the tonnage of trash, yard waste, and recyclables have gone up over the years as well as the costs for the program (despite long and short-term efforts to economize), but the fees have remained the same;
- As a matter of fairness to the 40% of the City's residents who are not eligible for curbside sanitation service, the users of this service should pay more for it.



**Consideration of Alternatives** - The members of the Council asked about the following alternatives, which Julio's memo addresses in the following manner:

- Increase Cost of Large Item Collection – the City only picked up 450 appliances last year and even by doubling the fee for this service and making other generous assumptions, this approach would probably not generate more than \$5,400;
- Reduce Abuse of the Program – while the City will strive to reduce the number of over-weight and under-tagged items, this approach would probably generate about \$24,000;
- Impose a Flat Fee – this approach would be unfair for the many residents who are ineligible for sanitation services;
- Implement a Bag Program – while not practical to implement this approach immediately, the Administration is willing to actively consider it.

**Mitigation of Negative Effects of the Increase in Fees** - Council members also were concerned about the negative effects of raising the sanitation fees, and Julio's memo explains the steps the Administration intends to take in order to address them, which are noted below:

- The crews and supervisors will continue to leave reminders for the non-compliant residents and reserve the pursuit of fines for the repeat or egregious offenders;
- A neighborhood compliance officer will be increased from part-time to full-time in order to concentrate on most problematic routes (typically occurring early in the week);
- The maximum volume of containers will increase from 32-35 gallons (See Section III and V of the ordinance) and the 40-pound limit on these containers will be better enforced; and
- Public education efforts will be expanded; and
- An IDEM grant for second recycling bin for each household will be pursued.

*\* and, elsewhere in his memo, Julio mentions that the number of free trash tags distributed to low-income households will increase from 10,000 to 12,000.*

**Sanitation Revenue Committee Recommendations** – Council members also asked about the recommendations of the Sanitation Revenue Committee, which included council members Banach, Mayer, and Ruff along with many others, and wrapped up its work in 2001. Julio's memo summarizes the recommendations and their implementation, which are noted below:

- Increase revenue either by raising fees or by raising the subsidy from the General Fund;
- Raise the fee for large items from \$2.00 to \$5.00 (which this ordinance raises to \$4.00) and introduce a \$10.00 fee for picking up electronic gear (which is not addressed by this ordinance);
- Increase trash tags from \$1.00 to \$1.50 (which this ordinance raises to \$2.00) and increase yard waste stickers from \$0.25 to \$1.00 (which this ordinance implements);
- Increase the maximum size can from 32 to 40 gallons (which this ordinance increases to 35 gallons because it is the closest sized container available on the market); and
- Launch an extensive campaign and increased enforcement effort (see mitigation plan above).

**Information on Other Communities and Haulers** – Council members asked about the experience of other communities which Julio’s memo addresses in the following manner:

- A review of four college towns in other states indicates a doubling of sanitation fees from 1994 to 2004 in three of those communities;
- A 2001 survey of Indiana Association of Solid Waste Management Districts indicated that 42 communities had “pay as you throw” programs with a little under half paying for their programs entirely by fees and slightly more than half paying for their programs by a combination of fees and tax revenues. Most used a bag or charge-per-bag program with prices ranging from \$0.50 to \$2.00 per bag;
- Monroe County offers orange trash bags at a \$1.00 per bag. These bags and recycling materials may be dropped at several rural disposal sites which are open two days a week. The recycling materials may be dropped-off without charge, but must be extensively sorted. There are no opportunities to dispose of yard waste, and only two times a year when large items will be hauled away;
- Major private trash haulers charge between \$13 and \$19 per month; some included yard waste in that price; all charged more for large items; and none offered recycling services.

### Eliminating the Correction Period and Flattening the Fines for Violations

The ordinance eliminates the correction period for violations. These periods were established in order to give violators a smaller fine for a short period of time after

the notice of violation (NOV) has been issued in order to encourage them to act quickly to address the problem. The HAND department, however, has found the correction period to be burdensome to administer and without encouraging a greater rate of compliance.

Here the fine for leaving trash at the curbside will be \$15.00 per day, rather than \$10.00 for the first day after notice has been given and \$15.00 from then on. At the same time, the fine for other violations of Chapter 6.04 (i.e. not tagging trash, putting too much trash in container, using the wrong container, etc) would be \$50.00 per day, rather than \$25.00 for each of the first 7 days, and \$50.00 thereafter.

Lastly, the fines for all violations of Chapter 6.06 (Refuse and Weeds) would be a flat \$50.00 per day. Currently the fine for accumulating trash or littering is \$25.00 per day for the first 7 days and \$50.00 for each day thereafter. And, currently the fine for having excessive vegetation is \$25.00 a day for the first seven days, and \$50.00 thereafter. Please note that this change in fines for excessive vegetation is not intended to change the enforcement policies of the department, which now tolerate tall, but groomed, 'natural' gardens. (see Section XI & XVI of the ordinance for the change in fines)

#### Giving Landlords 7 Days to Cure Violations of Tenants and Others

The ordinance also gives landlords 7 days after being issued a Notice of Violation (NOV) before being liable for violations of Chapter 6.04 (Sanitation) or Chapter 6.06 (Weeds and Trash) that occur on their property. Please note these violations may be the result of actions of the tenants or others. During these 7 days the landlords will not be liable for those acts if the violations are cured or the landlord provides a copy of the current lease. Even after providing a copy of the current lease, the landlord can be still held responsible, if the violation continues beyond those 7 days. This change was recommended by Michael Flory, Assistant City Attorney, as result of a recent case in Monroe County and his research of cases elsewhere. It, in essence, gives landlords an opportunity to cure violations of tenants and others before imposing a fine on them. (see Sections IX, XI, XIII & XVI of the ordinance)

## Other Minor Amendments

Finally, the ordinance makes other minor amendments which:

- Move the definition of “Appliances” and “Large items” from the body of the Chapter 6.04 to the Definition section (see Sections I & VIII);
- Require that “Appliances” be placed at curbside no more than 24 hours before collection and give the Director of Public Works flexibility in setting the day for the collection of appliances (Section I & VIII);
- Clarify that there are two forms of recyclables, which are divided into “paper products” and “metal cans (and) glass containers,” and adds “plastic bottles” to the latter category (Section II);
- Remove the list of recyclable materials from the code and commit to promulgating the list of recyclable items annually (Please note the City already distributes a list to residents every year)(see Section VII).

### **Res 04-15 Seeking Appeal of Maximum Tax Levy**

**Res 04-15** petitions for the appeal of the City’s maximum tax levy in order to restore monies lost as a result of Senate Enrolled Act 464 in 2002, which reduced the collection of inventory taxes. As Susan Clark told the Council last spring, the City lost about \$476,619 this year because the assessed valuation used to calculate our tax rate included personal property that was no longer subject to a property tax due to the change in state law. Neither the Department of Local Government Finance (DGLF) nor the County Auditor advised the City of the decrease in assessed values and, therefore, the tax rate was applied to smaller assessed values and led to the shortfall.

The City would base its appeal upon the “correction of advertising, mathematical or data error” (I.C. 6-1.1-18.5-14) as recommended by the DGLF. If successful, this course of action would allow the City to recoup the \$424,427 lost to our levy control funds this year and build-in that amount times a growth factor of 1.044% for next year (\$443,102), for a total revenue of \$867,529.

Susan Clark estimates this would add about \$25 of property tax on a the owner of a home with a net assessed value of \$100,000.

Upon adoption of this resolution, Susan Clark would forward the resolution along with formal appeal to the DLGF, which would make its decision by the end of the year. If the decision is favorable, the City would receive this revenue next year with its other property taxes.

It is my understanding that the first priority for these revenues would be to provide raises to those city employees whose compensation has been frozen next year because of the shortfall.

**NOTICE AND AGENDA  
BLOOMINGTON COMMON COUNCIL  
REGULAR SESSION AND COMMITTEE OF THE WHOLE  
7:30 P.M., WEDNESDAY, SEPTEMBER 1, 2004  
COUNCIL CHAMBERS  
SHOWERS BUILDING, 401 N. MORTON**

**I. ROLL CALL**

**II. AGENDA SUMMATION**

**III. APPROVAL OF MINUTES FOR: Regular Sessions on:  
March 3, 2004  
April 7, 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 RESOLUTION**

None

**VII. LEGISLATION FOR FIRST READING**

1. Appropriation Ordinance 04-05 An Ordinance for Appropriations and Tax Rates (2005 Civil City Budget for the City of Bloomington)
2. Appropriation Ordinance 04-06 An Ordinance Adopting a Budget for the Operation, Maintenance, Debt Service and Capital Improvements for the Water and Wastewater Utility Departments of the City of Bloomington, Indiana for the Year 2005
3. Ordinance 04-18 To Fix the Salaries of All Elected City Officials for the City of Bloomington for the Year 2005
4. Ordinance 04-19 An Ordinance Fixing the Salaries of Appointed Officers and Employees of the City of Bloomington, Monroe County, Indiana, for the Year 2005
5. Ordinance 04-20 An Ordinance Fixing the Salaries of Officers of the Police and Fire Departments for the City of Bloomington, Indiana, for the Year 2005
6. Ordinance 04-21 An Ordinance Fixing the Salaries of Appointed Officers and Employees of the Utilities Department for the City of Bloomington, Monroe County, Indiana, for the Year 2005
7. Ordinance 04-22 An Ordinance Reviewing and Modifying the Budget of the Bloomington Public Transportation Corporation for the Year 2005
8. Ordinance 04-23 To Amend Title 6 of the Bloomington Municipal Code Regarding "Health And Sanitation" (Changing User Fees, Establishing Uniform Fines for Certain Violations, Affording Non-Resident Owners an Opportunity to Cure Violations, and Making Other Minor Amendments)
9. Ordinance 04-24 To Codify the Provisions of Ordinance 79-74, and Ordinance 87-31, Each as Amended, Establishing and Authorizing Expenditures from the Special Non-Reverting Improvement Fund, To Codify the Provisions of Ordinance 96-31 as Amended Establishing and Authorizing Expenditures from the Telecommunications Fund, and To Authorize Expenditures from the Mayor's Promotion of Business Line in the Mayor's Office Budget

**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. ADJOURN (and immediately reconvene for the following meeting)**

**(over)**

## COMMITTEE OF THE WHOLE

**Chair: Chris Sturbaum**

1. Ordinance 04-18 To Fix the Salaries of All Elected City Officials for the City of Bloomington for the Year 2005

Asked to Attend: James McNamara, Deputy Mayor

2. Ordinance 04-19 An Ordinance Fixing the Salaries of Appointed Officers and Employees of the City of Bloomington, Monroe County, Indiana, for the Year 2005

Asked to Attend: Daniel Grundmann, Director of Employee Services

3. Ordinance 04-20 An Ordinance Fixing the Salaries of Officers of the Police and Fire Departments for the City of Bloomington, Indiana, for the Year 2005

Asked to attend: Daniel Grundmann, Director of Employee Services

4. Ordinance 04-23 To Amend Title 6 of the Bloomington Municipal Code Regarding “Health And Sanitation” (Changing User Fees, Establishing Uniform Fines for Certain Violations, Affording Non-Resident Owners an Opportunity to Cure Violations, and Making Other Minor Amendments)

Asked to Attend: Julio Alonso, Director of Public Works

5. Resolution 04-15 Petition to Appeal for an Increase to the Maximum Levy

Asked to Attend: Susan Clark, Interim Controller

6. Appropriation Ordinance 04-05 An Ordinance for Appropriations and Tax Rates (2005 Civil City Budget for the City of Bloomington)

Asked to Attend: Susan Clark, Interim Controller

7. Ordinance 04-21 An Ordinance Fixing the Salaries of Appointed Officers and Employees of the Utilities Department for the City of Bloomington, Monroe County, Indiana, for the Year 2005

Asked to Attend: Daniel Grundmann, Director of Employee Services

8. Appropriation Ordinance 04-06 An Ordinance Adopting a Budget for the Operation, Maintenance, Debt Service and Capital Improvements for the Water and Wastewater Utility Departments of the City of Bloomington, Indiana for the Year 2005

Asked to Attend: Pat Murphy, Director of Utilities

9. Ordinance 04-22 An Ordinance Reviewing and Modifying the Budget of the Bloomington Public Transportation Corporation for the Year 2005

Asked to Attend: Lew May, Director of Transit

10. Ordinance 04-24 To Codify the Provisions of Ordinance 79-74, and Ordinance 87-31, Each as Amended, Establishing and Authorizing Expenditures from the Special Non-Reverting Improvement Fund, To Codify the Provisions of Ordinance 96-31 as Amended Establishing and Authorizing Expenditures from the Telecommunications Fund, and To Authorize Expenditures from the Mayor’s Promotion of Business Line in the Mayor’s Office Budget

Asked to Attend: Susan Clark, Interim Controller

City of  
Bloomington  
Indiana

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**To: Council Members**  
**From: Council Office**  
**Re: Calendar for the Week of**  
**August 30, 2004 – September 4, 2004**  
**Date: August 27, 2004**

Monday, August 30, 2004

5:30 pm Indiana Utility Regulatory Commission Public Field Hearing, Council Chambers

Tuesday, August 31, 2004

3:00 pm Bloomington Community Farmers' Market, Showers Plaza  
3:00 pm Parks Board Meeting, Council Chambers  
5:30 pm Public Transportation Corporation Board – 130 W. Grimes Lane

Wednesday, September 1, 2004

12:00 pm Bloomington Urban Enterprise Association, McCloskey  
2:00 pm Hearing Officer, Kelly  
2:00 pm Earned Income Tax Credit Meeting, McCloskey  
7:30 pm Common Council – Regular Session, Council Chambers  
*immediately followed by*  
Common Council – Committee of the Whole, Council Chambers

Thursday, September 2, 2004

4:00 pm Bloomington Digital Underground Advisory Committee, McCloskey  
5:30 pm Commission on the Status of Women, McCloskey  
5:30 pm Abilities Unlimited, Kelly

Friday, September 3, 2004

*There are no meetings scheduled for today.*

Saturday, September 4, 2004

7:00 am Bloomington Community Farmers' Market, Showers Common



**ORDINANCE 04-23**

**TO AMEND TITLE 6 OF THE  
BLOOMINGTON MUNICIPAL CODE REGARDING  
“HEALTH AND SANITATION”**

**(Changing User Fees, Establishing Uniform Fines for Certain Violations, Affording  
Non-Resident Owners an Opportunity to Cure Violations, and Making Other Minor  
Amendments)**

WHEREAS, the City of Bloomington wishes to encourage recycling of those items which are recyclable; and

WHEREAS, the City of Bloomington wishes to more equitably place the costs of trash collection on the users of the service; and

WHEREAS, the City of Bloomington wishes to afford non-possessory property owners a reasonable opportunity to remedy - or to encourage others with a possessory interest to remedy - violations of ordinances concerning weeds and refuse, prior to having fines attach to non-possessory owners; and

WHEREAS, the Common Council wishes to encourage timely remediation of ordinance violations;

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

Note: The Following Sections Amend Chapter 6.04 of the Bloomington Municipal Code, Entitled “Refuse and Yard Waste Collection by the City”

SECTION I. Section 6.04.010 regarding “Definitions” shall be amended by adding the following definitions in alphabetical order:

“Appliances” includes refrigerators, stoves, washers and dryers and similar items. Construction materials, tires, automobile parts, and electronics such as televisions, home entertainment equipment and computer equipment are not included and will not be collected.

“Large items” includes sofas, chairs, tables, and similar items. Construction materials, tires, automobile parts, and electronics such as televisions and computer equipment are not included and will not be collected.

SECTION II. Section 6.04.030 regarding “Pre-collection Practices” shall be amended by deleting Subsection (d) of that provision and replacing it with the following:

(d) Recycling. Recyclable items must be sorted into the following two categories and each category must be placed into a separate paper sack or bin.

(1) Paper Products. All staples, wood and styrofoam must be removed from cardboard and paper products. All paper products must be dry.

(2) Metal Cans, Glass Containers and Plastic Bottles. All containers, bottles and cans must be clean, rinsed out and with the lids removed.

SECTION III. Section 6.04.040 regarding “Refuse Containers” shall be amended by deleting Subsection (b) of that provision and replacing it with the following:

(b) All garbage and rubbish shall be put in watertight metal, plastic, or other approved container with a tight-fitting cover, or in a securely sealed bag. Refuse containers shall be of a size not to exceed thirty-five (35) gallons in capacity. A single container or bag, when filled, shall not weigh more than forty (40) pounds. Approval of containers and bags shall be by the Director of the Sanitation Department.

SECTION IV. Section 6.04.040 regarding “Refuse Containers” shall be further amended by deleting Subsection (e) of that provision and replacing it with the following:

(e) A city sanitation trash pick up tag must be placed on every refuse container or suitable article every week before collection. The city shall provide trash pick up tags, for a charge of two dollars (\$2.00) each, through retailers in Bloomington. No items of refuse shall be collected by the sanitation department without the approved sanitation trash pick up tag affixed thereto.

SECTION V. Section 6.04.045 regarding “Yard Waste Receptacles” shall be amended by deleting Subsections (b)(1) and (b)(2) of that section and replacing them with the following:

(1) A watertight metal, hard plastic or other approved container with a tight-fitting cover, which shall be of a size not to exceed thirty-five (35) gallons in capacity. A single container, when filled, shall not weigh more than forty (40) pounds. Approval of containers shall be by the Director of the Sanitation Department.

(2) A two-ply wet strength paper bag to be securely sealed with a yard waste pick up tag described in subsection (c) below. Bags shall be of a size not to exceed thirty-five (35) gallons in capacity. A single bag, when filled, shall not weigh more than forty (40) pounds. Approval of containers shall be by the Director of the Sanitation Department.

SECTION VI. Section 6.04.045 regarding “Yard Waste Receptacles” shall be further amended by deleting Subsection (c) of that provision and replacing it with the following:

(c) The city shall provide yard waste pick up tags for a charge of one dollar (\$1.00) each through retailers in Bloomington, one of which must be placed on every container, bag or bundle containing yard waste. During the free leaf collection period in the fall of each year, residents may obtain two-ply wet strength paper bags from the city at no charge. Those bags may be filled with leaves and placed out for collection without the required yard waste pick up tag. The bags may not contain trash or other refuse.

SECTION VII. Section 6.04.046 regarding “Recycling” shall be added to read as follows:

#### 6.04.046 Recycling

(a) Recycling collection is provided free of charge to recipients of city trash and refuse collection. Collection occurs every other week on the customer’s regular trash day. Recyclable items must be sorted into the following two categories and each category must be placed into a separate container.

(1) Paper products.

(2) Metal Cans, Glass Containers and Plastic Bottles.

(b) Sorted recyclables shall be placed in a plastic bin, cardboard box, paper bag or other approved container. Recyclables may not be placed in plastic bags. Recyclable containers shall be of a size not to exceed thirty-five (35) gallons in capacity. A single container, when filled, shall not weigh more than forty (40) pounds.

(c) The Department of Public Works shall prepare and promulgate annually a list of what types of paper products, metal cans, glass containers and plastic bottles are recyclable. The list may change from time to time as the recycling market adjusts to shifting demands and technologies.

SECTION VIII. Section 6.04.047 regarding “Large items and appliances” shall be amended by deleting the entire section and replacing it with the following:

#### 6.04.047 Large Items and Appliances.

(a) Large items. Two (2) city sanitation trash pick up tags must be placed on every large item placed out for collection. Large items may be placed at the curb on the customer’s regular refuse/trash day. Items such as clothesline poles and swing sets must be broken down before being placed at the curb. The city shall provide trash pick up tags, for a charge of two dollars (\$2.00) each, through retailers in Bloomington. These trash pick up tags are the same as those that are used for refuse containers. No large items shall be collected by the sanitation department without the approved sanitation trash pick up tags affixed thereto.

(b) Large Appliances. Two (2) city sanitation trash pick up tags must be placed on every appliance placed out for collection. Appliances may be placed at the curb no more than 24 hours before the day of pickup. Appliance pickup shall occur on the last Friday of each month of the year, or as may be approved otherwise by the Director of Public Works. Customers must call the sanitation department by 5:00 p.m. on Thursday and inform them that they are setting the

appliances out for collection. The city shall provide trash pick up tags, for a charge of two dollars (\$2.00) each, through retailers in Bloomington. These trash pick up tags are the same as those that are used for refuse containers. No appliances shall be collected by the sanitation department without the approved sanitation trash pick up tags affixed thereto.

SECTION IX. Section 6.04.060 regarding “Enforcement procedures” shall be amended by adding the following at the end of Section 6.04.060(a):

Liability for fines shall not attach to non-possessory property owner(s) for a period of seven (7) days following issuance of the NOV, provided that the violation is remedied, or that the non-possessory property owner(s) presents to HAND, within seven days after issuance of the NOV, a true and exact copy of any and all leases in effect during the time period covered by the NOV.

SECTION X. Section 6.04.060 regarding “Enforcement procedures” shall be amended by deleting the phrase “during the correction period” from 6.04.060(b)(4) and by deleting 6.04.060(b)(5) and renumbering:

6.04.060(b)(6) as 6.04.060(b)(5)

6.04.060(b)(7) as 6.04.060(b)(6)

6.04.060(b)(8) as 6.04.060(b)(7)

SECTION XI. Section 6.04.060 regarding “Schedule of Fines” shall be amended by deleting the entire Part (c) and replacing it with the following:

(c) Schedule of Fines. The fine for any violation of Chapter 6.04.070 shall be fifteen (\$15.00) dollars. The fine for all other violations of Chapter 6.04 shall be fifty (\$50.00) dollars. Non-possessory property owners shall not be subject to fines for the seven day period after issuance of the NOV, provided that the provisions outlined in 6.04.060 (a) are met. Each day that a violation continues shall constitute a separate violation.

SECTION XII. Part (d) of Section 6.04.060 shall be amended by deleting the phrase “during the correction period” following the acronym “NOV” in the first sentence of that provision.

Note: The Next Four Sections Amend Chapter 6.06 of the Bloomington Municipal Code Entitled “Refuse and Weeds”

SECTION XIII. Section 6.06.050 shall be amended by adding the following at the end of Part (a):

Liability for fines shall not attach to non-possessory property owner(s) for a period of seven (7) days following issuance of the NOV, provided that the violation is remedied, or that the non-possessory property owner(s) presents to HAND, within seven days after issuance of the NOV, a true and exact copy of any and all leases in effect during the time period covered by the NOV.

SECTION XIV. Section 6.06.050 shall be amended by deleting the phrase “during the correction period” from Part (b)(4).

SECTION XV. Section 6.06.050 shall be amended by deleting 6.06.050(b)(5) and renumbering:

6.06.050(b)(6) as 6.06.050(b)(5)

6.06.050(b)(7) as 6.06.050(b)(6)

6.06.050(b)(8) as 6.06.050(b)(7)

SECTION XVI. Section 6.06.050 regarding Schedule of Fines shall be amended by deleting the entire Part (c) and replacing it with the following:

(c) Schedule of Fines. The fine for any violation of Chapter 6.06 shall be fifty (\$50.00) dollars. Non-possessory property owners shall not be subject to fines for the seven day period after issuance of the NOV, provided that the provisions outlined in 6.06.05(a) are met. Each day that a violation continues shall constitute a separate violation.

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

SECTION XVIII. This ordinance shall be in full force and effect upon adoption and publication in accordance with the provisions of I.C. 36-4-6-14, except the fees mentioned in Sections IV, VI, and VIII which, assuming adoption and publication have occurred, shall go into effect as of January 1, 2005.

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 ordinance amends Chapter 6.04 (Refuse and Yard Waste Collection By the City) and Chapter 6.06 (Refuse and Weeds) of the Bloomington Municipal Code. It increases the price of trash stickers from \$1.00 to \$2.00 each and the price of yard waste stickers from \$0.25 to \$1.00 each. It also increases the maximum container size from 32 to 35 gallons. The ordinance also makes several changes to these chapters to improve the enforcement and remedy of certain ordinance violations. In that regard, it eliminates the correction period and, thereby, flattens fines for violations of Chapter 6.04 and Chapter 6.06. The ordinance also exempts non-possessory property owners from attachment of fines provided certain conditions are met. Lastly, the ordinance makes several housekeeping changes including moving the definitions of large item and appliance to the definition section and adding a section specifically about recycling.

**To: Members of the Common Council**  
**From: Julio Alonso, Director of Public Works**  
**Date: August 23, 2004**  
**Re: Ordinance & Budget Information for Sanitation**

The following is provided for your information as you consider the proposed ordinance changes and budget for Sanitation. As always, please do not hesitate to contact me if you need additional information or have questions prior to the council meeting.

**Background**

The administration is proposing changes to Title 6 of the BMC that impact the proposed 2005 city budget. The requested changes are based largely on the following information:

- The balance of the Sanitation fund is declining and is projected at less than \$60,000 at the end of 2004.
- If no changes are made, the fund will require a General Fund subsidy of approximately \$1.1 million in 2005, rather than the \$430,000 proposed. The status quo will require an additional \$600,000 in cuts to general fund budgets.
- The proposed 2005 sanitation budget includes a cut of \$185,000 for equipment purchases. This reduction is a one-time cut that will need to be restored in order to ensure that trucks are replaced as necessary. As a result, the 2006 general fund subsidy would need to increase to more than \$1.3 million if no action is taken.
- There has been no increase in the cost of trash and yard waste stickers in more than 10 years, since the program's inception.
- The cost of providing services has increased, however. Salaries for both union and management personnel, supplies, capital expenditures and other expenses have continued to rise. Prominent examples include health insurance per person (up 98% over 10 years); fuel costs (up 23% over 10 years); and landfill fees, which will increase substantially with the closure of the Monroe County landfill. The 2005 budget also proposes changing the status of three temporary positions to full-time in order to adequately staff the department and be fair to our employees.
- Service demand has also increased substantially over 10 years. Sanitation crews collect 25% more trash; 85% more recycling; and 133% more yard waste.
- Since 1994, sticker revenue has increased only 15% while the general fund subsidy has increased 26%. If no action were taken, the subsidy would have increased by 55% over 10 years in 2005.
- 40% of city property taxpayers do not have access to city sanitation services. An increased reliance on user fees and decreased reliance on general fund revenue is a more fair approach that ties the cost of this service to the amount of trash generated by each household and creates an incentive to recycle.
- We have already worked to ensure that the sanitation budget has been minimized without compromising our ability to provide quality services. The position of assistant director has been eliminated along with outside cleaning services for the sanitation garage and we have held the line on or reduced other costs wherever possible.

## **Proposal**

The proposed changes can be summarized as follows:

- Increase the cost of trash stickers to \$2.00 (from \$1.00)
- Increase the cost of yard waste stickers to \$1.00 (from \$0.25)
- Increase the allowable can size to 35 gallons (from 32)
- Make the new HAND neighborhood compliance officer full-time instead of half-time as originally proposed to assist with enforcement issues.
- Increase the number of free trash stickers distributed to low-income households from 10,000 to 12,000 (this is not part of the ordinance – it is handled through an agreement between the Board of Public Works and South Central Community Action Program)

These proposed changes shift the majority of sanitation collection costs to service users, while general fund revenues will continue to subsidize the recycling program.

## **Consideration of Alternatives**

Other options were suggested by council members at the initial budget hearings. While some of these options can be implemented or considered either now or in the future, we do not believe they will adequately address our revenue needs and some are not feasible at the current time:

- *Increase the cost of large item collection instead of stickers.* An increase in costs for large items was part of the original proposal because the cost of the required two stickers would increase from \$2.00 to \$4.00. The volume of large items collected simply does not allow for generating the level of revenue necessary to sustain the solid waste programs. Only 450 appliances were collected last year. Even if we assume no free pick up during spring clean up and that we pick up twice as many large items as appliances, it will still generate only \$5,400 in revenue. This is not a significant amount compared to the \$600,000 we need.
- *Increase enforcement of those who may be abusing the sticker system.* We intend to do this, and in fact, already have been. In 2003, our crews “wrote up” 1473 households in instances where they had not stickered their trash, exceeded the weight limit or improperly sorted. Through August 9, 2004, we have “written up” 1493 households in an attempt to increase compliance. However, we remain confident that increased compliance will not solve the revenue problem. If we assume that 10% of our citizens over weight their cans by 20 lbs; increased compliance would only net us around \$24,000. Assuming that a similar percentage of citizens re-use stickers or don’t sticker (something our crews can and do attempt to control) brings in similar revenue. While we do intend to continue to increase compliance, we do not believe that this problem is anything approaching widespread enough to generate enough additional revenue. We will continue to review different options for the type of stickers used, however initial contacts with printers have shown that changing the adhesive portions of the sticker would be a custom order that would double the printing costs. We believe that improved enforcement efforts are a better option to eliminate any abuse.
- *Impose a flat fee on utility bills.* We continue to believe that a flat fee is inherently unfair and does not provide an incentive for recycling.

- *Implement a bag system.* There are advantages to a system like this, and we are willing to actively consider it. It could address some compliance issues and improve the collection process for our crews. It is not feasible to implement such a plan immediately. There are many issues that need to be reviewed and we welcome Council participation in the study committee.

### **Increased Enforcement and Mitigation of Negative Impacts on Neighborhoods**

The increase in fees would be accompanied by multiple efforts to increase compliance and educate the public about their ability to decrease their trash disposal costs by recycling more:

- Crews and supervisor will continue to leave notices for non-compliant residents. As mentioned, we have already increased these efforts and will continue to do so as necessary. Repeat or egregious offenders are referred to HAND.
- Increase allowable can size to 35 gallons, a more standard available size.
- Enforce the 40lb. weight limit. This is essential for the safety of our crews and to ensure that we're receiving the correct amount of revenue.
- Increase new neighborhood compliance officer from half-time to full-time.
- On Mondays and Tuesdays (most problematic and transient sanitation routes), new compliance officer will focus exclusively on Title 6 enforcement, following sanitation crews after their routes. There will be no reduced enforcement on Wednesdays, Thursdays, and Fridays.
- Continue to improve public education efforts. Our annual magnet and information mailings will continue for all routes in December and for Monday/Tuesday routes in August. All information will be reviewed for content and effectiveness.
- Some paid advertising will be available to announce the program changes and encourage recycling.
- Increase education efforts through public service announcements.
- Seek an IDEM grant and administration and council approval to provide a second recycling bin (and additional education opportunity) to all served households.

### **Sanitation Revenue Committee Recommendations**

Several council members requested information on the conclusions of the committee which met in 2001. This committee included seven city staff members (representing public works, sanitation, legal and controller); three council members (Banach, Mayer, Ruff); and two neighborhood citizens (Bill Sturbaum, Tyler Ferguson). The committee did not reach a unanimous decision on recommendations, but a majority supported the following conclusions and recommendations in August 2001:

- Additional revenue was necessary to support the sanitation fund either through a sticker increase or an increase in the general fund subsidy.
- A \$5.00 large item sticker and \$10.00 electronics sticker should be introduced. (The ordinance that was passed requires two stickers for large items and appliances and provides for year round collection.)
- Increase trash stickers to \$1.50 and yard waste stickers to \$1.00 (this was in 2001).

- Increase allowable can size to 40 gallons and enforce it. (40 gallons is not an available size...we have opted to increase it to 35 gallons and strictly enforce the weight limit)
- Launch an extensive education campaign and increased enforcement effort.
- In a February 2002 memo, former public works director John Freeman warned that the “sanitation fund balance could easily reach \$0 by the end of 2004 unless revenues are increased.”

**Information On Other Communities and Other Haulers**

Council members requested some information on how other communities handle this issue. In the available time, we were able to compile comparison information from four other college towns similar to Bloomington:

	<u>1994</u>	<u>2004</u>
Bozeman, MT	\$1 sticker	\$2 sticker
Charlottesville, VA	\$1 bag	\$2 bag
Hays, KS	\$7.50/month	\$12/month
Iowa City, IA	\$5.50/month	\$12.10 month

A 2001 survey conducted by the Indiana Association of Solid Waste Management Districts showed that 42 Indiana communities have implemented “pay as you throw” programs. Slightly under half used user fees exclusively and slightly more than half used a combination of fees and tax support. Comparisons were difficult because of disparities in community type and size, but most used a bag system or per bag charge and prices ranged from \$0.50 to \$2.00 per bag.

Monroe County residents (or city residents who choose to) may purchase orange trash bags for \$1.00 and haul them and their recycling to one of several rural disposal sites which are open two days per week. There is no yard waste option and large items can be hauled twice each year. Recycling must be sorted extensively, but can be dropped off for free.

Major private trash haulers in Monroe County charged between \$13 and \$19 per month for trash collection (usually in a 95 gallon toter); some allowed for yard waste collection as part of that price; none offered recycling collection services; all charged special fees for collection of large items.

**Conclusion**

Under the proposed changes, citizens will pay for services at the level they use them and the community will continue to subsidize our recycling efforts through a much smaller general fund transfer to the sanitation fund, leaving funds available for other important city services. Three temporary positions will be elevated to full-time status as a measure of fairness that more accurately reflects necessary staffing levels; and the department will be budgeted to absorb a substantial increase in tipping fees related to the closure of the landfill. With increased education and enforcement efforts, we believe that a quality

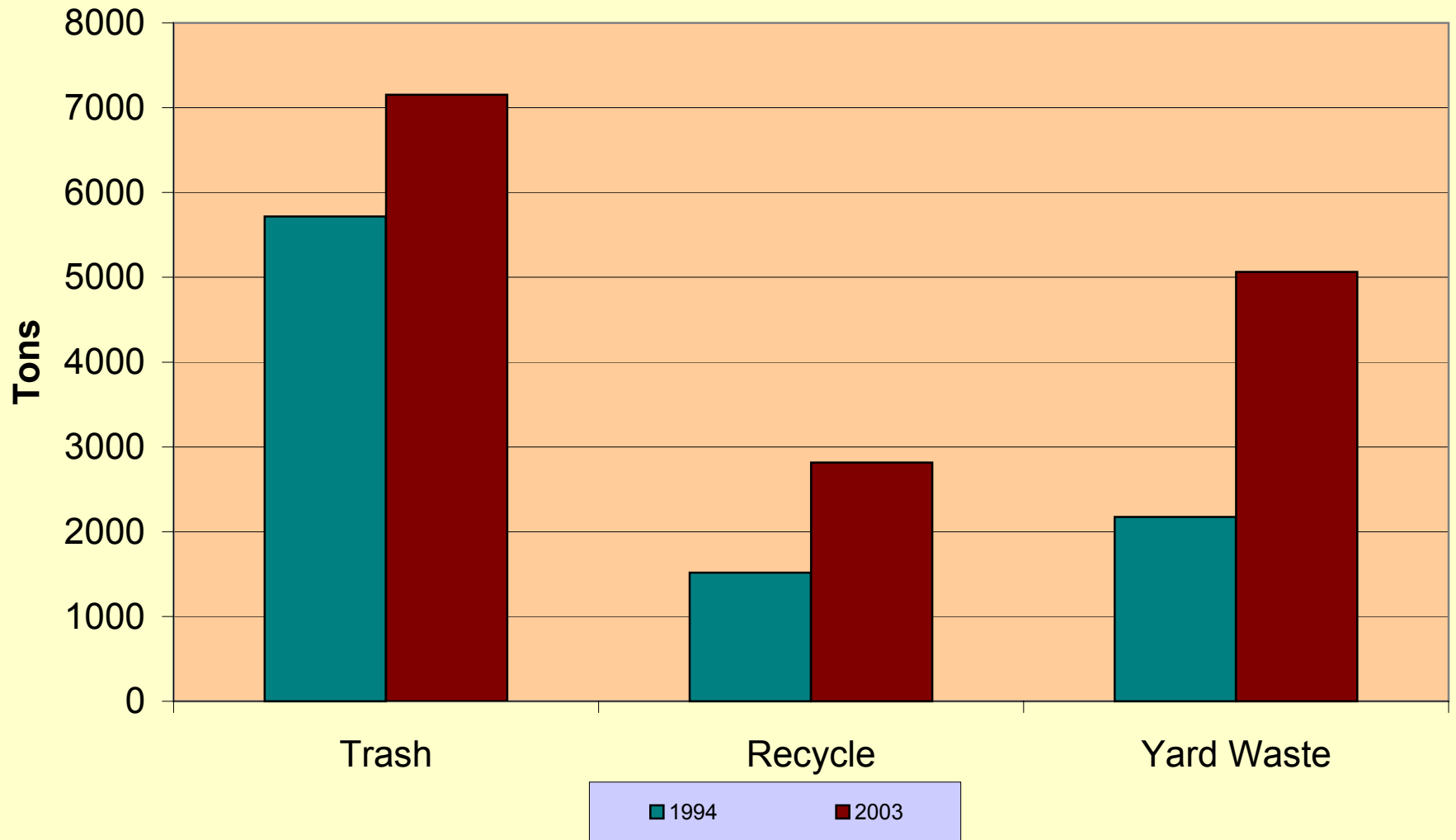


public service will continue to be provided for a reasonable cost and that the proposed changes are in the community's best interests.

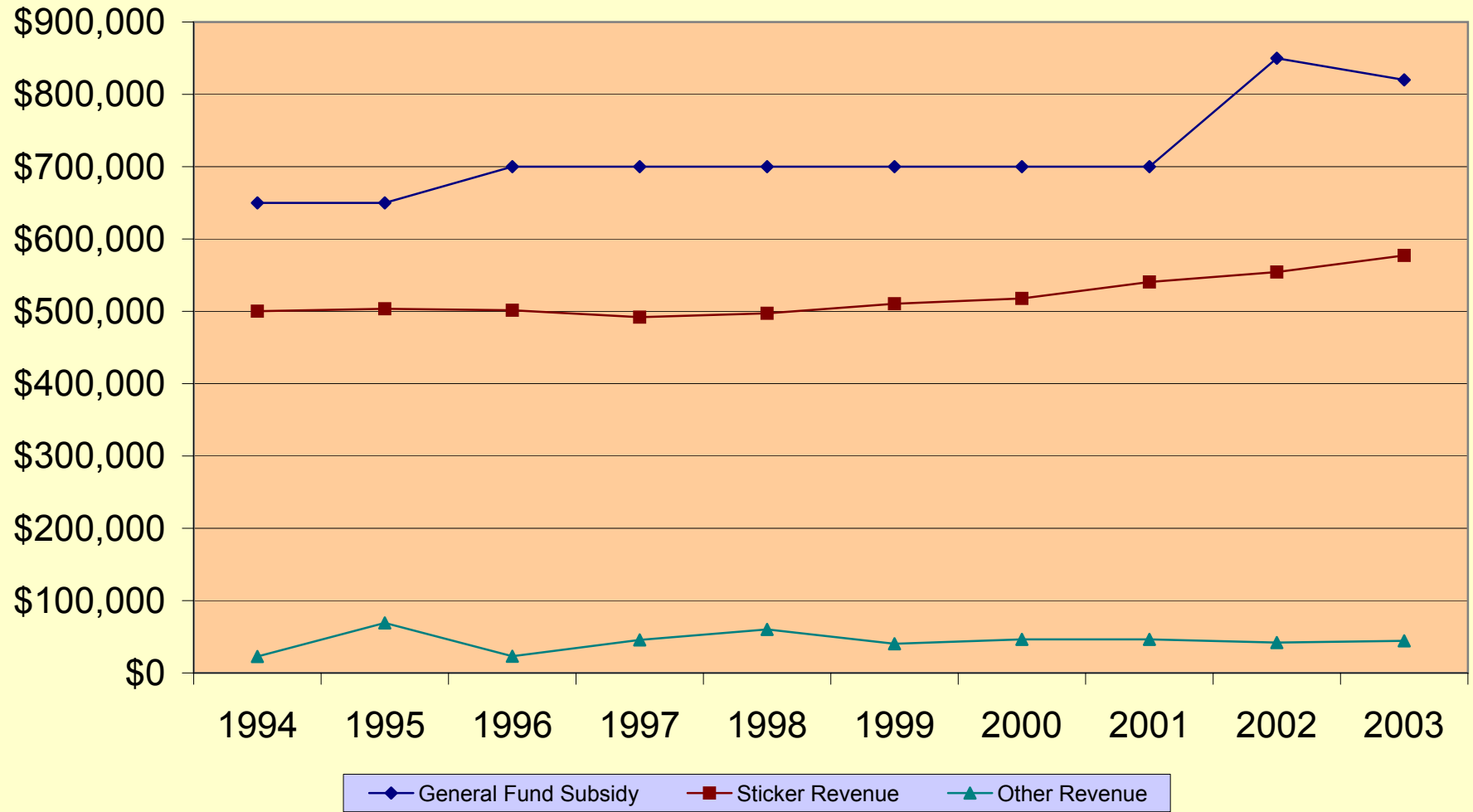
**Thank You**

Housing and Neighborhood Development Director Susie Johnson, Public Works Deputy Director Toni McClure, Sanitation Director Larry Barker, and Citizen Services Coordinator Christina Fulton provided extensive information and research for this report. Input was also received from sanitation crew members, members of the public and council members. We also continue to appreciate the efforts of those staff, council members and citizens who served on the 2001 revenue committee.

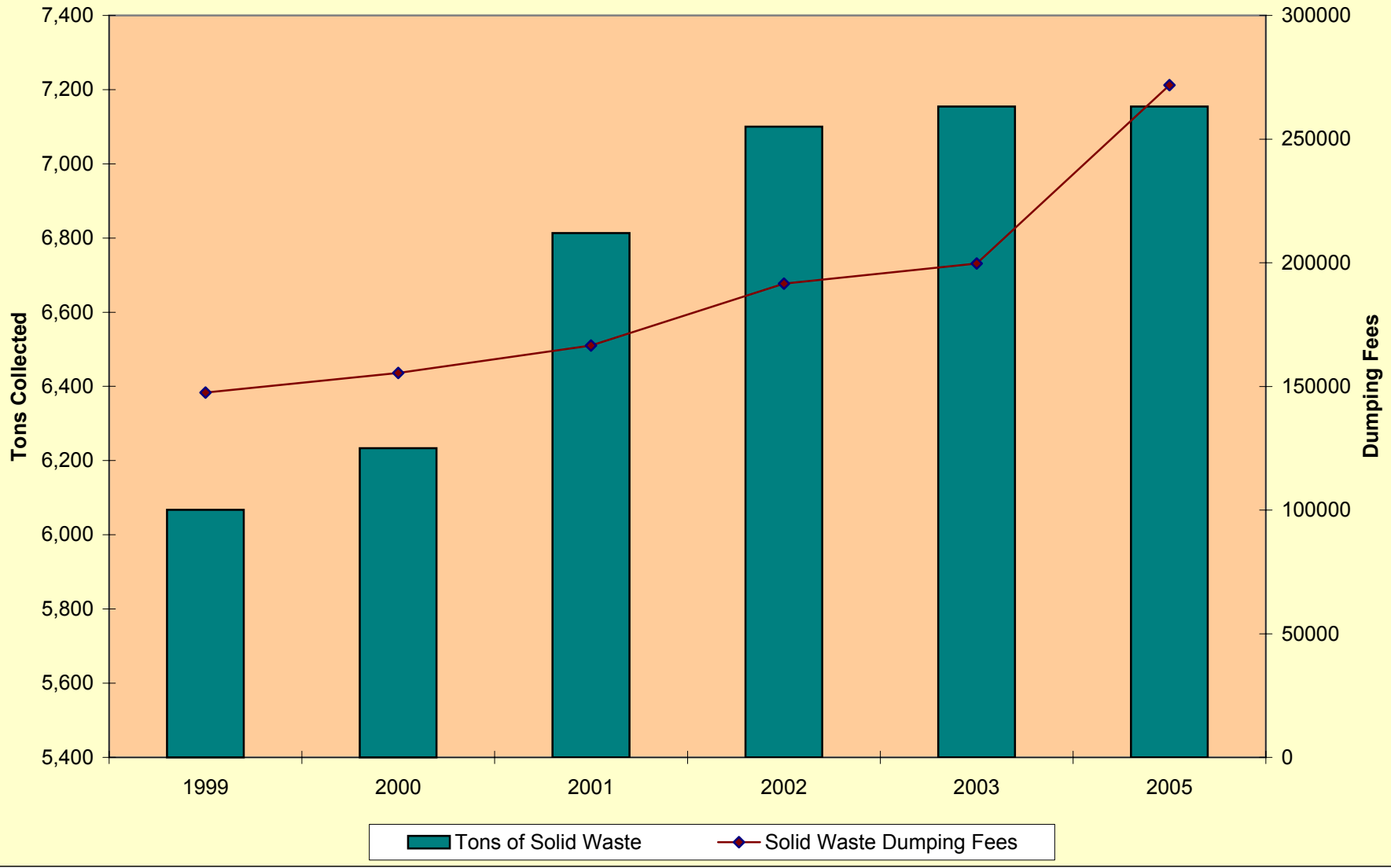
## Service Demand 10 Year Change



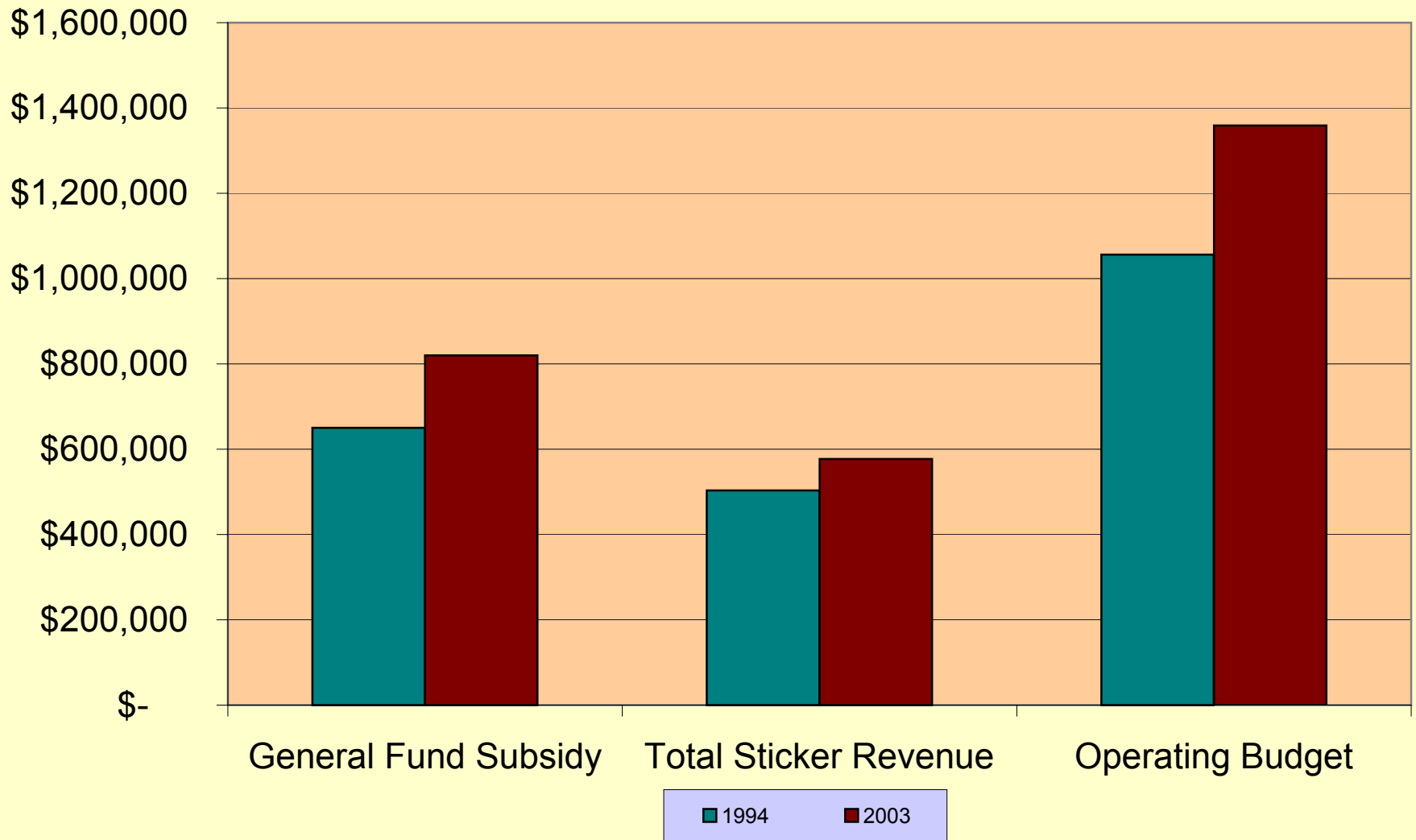
## 10 Year Historical Trend Annual Revenue by Source



### Solid Waste 1999 through 2003 plus Projected 2005



## Operating Budgets and Major Funding Sources 10 Year Change



## MEMORANDUM

**To: Members of the Common Council**  
**From: Julio Alonso, Director of Public Works**  
**Date: August 26, 2004**  
**Re: Explanation of Items Included in Ordinance 04-23**

Following is a brief description of changes this ordinance will make to various sections of Title 6.

### Trash and Yard Waste Tags

Increases the price of trash stickers from \$1.00 to \$2.00 and increases the price of yard waste stickers from \$.25 to \$1.00. Background information and arguments for this increase can be found in my memo of August 23, 2004.

### Maximum Container Size

Increases the maximum container size from 32 gallons to 35 gallons and keeps maximum weight at 40 pounds. An on-site survey of local retail stores demonstrates that the 35 gallon size is more readily available than the 32 gallon size. There are many larger sizes also available, but no 40 gallon option is available. We believe that if we allow a larger container than 35 gallons we will see more abuse of the 40 pound weight limit.

### Large Item and Appliance Collection

Moves the definitions of Appliances and Large Items to the definition section. They were previously buried in Section 6.04.047. We also added a clause to make it clear that appliances may not be set out more than 24 hours in advance and another clause which gives the Public Works Director some flexibility in scheduling the collection if necessary. Finally, we tweaked a sentence to try to make it clear that the same tags are used for large items and appliances as are used for trash.

### Recycling Collection

The current ordinance only mentions recycling in 6.04.030 regarding Pre-collection Practices and sets out collection practices in that section. We changed 6.04.030 so as to address only pre-collection practices and added a new section 6.04.046 dealing with collection practices. We also changed the language to reflect the fact that we were able to go to a two-stream collection process in January of 2004 instead of the former three-stream process. Finally, we eliminated the detailed lists of what can be recycled and added a provision that we will prepare and distribute a list annually (we already do this in the annual brochure). This gives us more flexibility to adjust to changes in technology and to shifting markets.

### Enforcement

Title 6 is also being amended to allow for a notice period for non-possessory property owners (i.e., landlords) to remedy Title 6 violations on rental properties. Landlords will not be liable for fines for Title 6 violations for a seven day period after issuance of a NOV, provided that the violation is remedied, or the landlord presents to HAND, during that seven day period, copies of all leases covering the property at the time of the violation. Landlords would still be liable for fines for violations not remedied by the end of the seven day period. This amendment is put forth as a result of a recent ruling in a Monroe Circuit Court decision; it also reflects legal reasoning spelled out in a decision by the Maine Supreme Court that held that non-possessory property owners can be fined for violations on their property if they have been given notice of the violation and an opportunity to cure.

In addition, we propose to eliminate the "correction period" provision in the current code and flatten the fine structure for various offenses. The "correction period" currently involves a lower fine and is seven days in length (except for violations involving leaving your can out after collection or putting it out too early which has a 24 hour correction period). In practice, this provision has served mostly to create confusion. We believe it would be cleaner to simply set forth what the fine is for various violations and have that fine take effect on day one.

It should be noted that these changes to the enforcement provisions are not intended in any way to change current enforcement policies regarding vegetation.

**Title 6**

**HEALTH AND SANITATION**

**Chapters:**

- 6.04 Refuse and Yard Waste Collection by the City**
- 6.05 Commercial Refuse Hauling and Collection**
- 6.06 Refuse and Weeds**
- 6.12 Smoking in Public Places and Places of Employment**
- 6.15 Used Motor Oil Depository**

## Chapter 6.04

### REFUSE AND YARD WASTE COLLECTION BY THE CITY

#### Sections:

- 6.04.010 Definitions.**
- 6.04.020 Collection supervised by the Board of Public Works and Department of Public Works.**
- 6.04.030 Precollection practices.**
- 6.04.040 Refuse containers.**
- 6.04.045 Yard waste receptacles.**
- 6.04.047 Large items and appliances.**
- 6.04.050 Collection practices.**
- 6.04.060 Enforcement procedures.**
- 6.04.070 Removal of refuse, yard waste and recycling containers.**
- 6.04.080 Enterprise fund.**

#### **6.04.010 Definitions.**

As used in this title, the following terms have the following meanings unless otherwise designated:

[“Appliances” includes refrigerators, stoves, washers and dryers and similar items. Construction materials, tires, automobile parts, and electronics such as televisions, home entertainment equipment and computer equipment are not included and will not be collected.](#)

“Bulk trash” means all rubbish, excluding yard waste, of a size or weight that exceeds an appropriate container for storage and collection.

“City trash pick up tag” and “city yard waste pick up tag” means any adhesive sticker or tag distributed solely by the city of Bloomington or its agents which shall bear an identification mark established by the city.

“Garbage” means putrescible animal and vegetable wastes resulting from handling, preparation, cooking, and consumption of food.

[“Large items” includes sofas, chairs, tables, and similar items. Construction materials, tires, automobile parts, and electronics such as televisions and](#)

[computer equipment are not included and will not be collected.](#)

“Putrescible substances” means substances which are subject to organic decomposition.

“Recycling” means a process by which materials that would otherwise become solid waste are collected, separated or processed, and converted into materials or products for reuse or resale.

“Refuse” means all putrescible and nonputrescible solid wastes, including animal wastes, garbage, rubbish, ashes, street cleanings, dead animals, abandoned vehicles as defined in Section 15.04.020 of the Bloomington Municipal Code, and solid market and industrial wastes.

“Rubbish” means nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, wood, glass, bedding, crockery, construction debris, and similar materials.

“Yard waste” means grass, weeds, leaves, brush, tree trimmings, hedge clippings, and other yard and garden materials. (Ord. 02-40 § 1, 2002; Ord. 93-13 § 1, 1993; Ord. 90-10 §§ 2, 3, 1990; Ord. 87-46 § 1, 1987; Ord. 79-1 § 2 (part), 1979).

#### **6.04.020 Collection supervised by the Board of Public Works and Department of Public Works.**

All refuse and yard waste accumulated in the city that meets the requirements of this chapter shall be collected, conveyed and disposed of by the city under the supervision of the Board of Public Works and the Department of Public Works. The Board shall have the authority to make regulations concerning the days of collection, type and location of containers, and such other matters pertaining to the collection, conveyance and disposal as it finds necessary, and to change and modify the same, provided that such regulations are not contrary to the provisions of this chapter. (Ord. 90-10 § 4, 1990; Ord. 79-1 § 2 (part), 1979).

#### **6.04.030 Precollection practices.**

(a) Garbage. All garbage, before being placed in garbage cans for collection, shall have drained from



it all liquids and shall be wrapped. Garbage must be free of vermin and pests.

(b) Rubbish. All rubbish shall be drained of liquid before being deposited for collection.

(1) All cans and bottles which have contained food shall be thoroughly rinsed and drained before being deposited for collection. All broken glass shall be wrapped.

(2) Other articles less than four feet by two feet by two feet shall be taken if the article can be loaded by one person.

(c) Yard Wastes.

(1) All grass, weeds, leaves and other similar yard and garden materials shall be placed in appropriate receptacles separate from refuse and shall not be mixed with any other substances.

(2) Brush, tree trimmings, hedge clippings and similar materials shall be cut to a length not to exceed four feet and securely tied in bundles not more than two feet thick before being deposited for collection.

(d) Recycling. Recyclable items must be sorted into the following two categories and each category must be placed into a separate paper sack or bin.

(1) Paper Products. All staples, wood and styro-foam must be removed from cardboard and paper products. All paper products must be dry.

(2) Metal Cans, Glass Containers and Plastic Bottles. All containers, bottles and cans must be clean, rinsed out and with the lids removed.

(e) Yard waste, recyclables and other refuse must be separated from one another when placed at the curb for collection. It is a violation of this chapter to mix these items, subject to fines as set forth in Section 6.04.060 of this chapter. The sanitation department will not collect these items if they are mixed together. (Ord. 02-40 § 2, 2002; Ord. 93-13 § 2, 1993; Ord. 90-10 §§ 5—7, 1990; Ord. 79-1 § 2 (part), 1979).

**6.04.040 Refuse containers.**

(a) Refuse containers shall be provided by the owner, tenant, lessee, or occupant of the premises. Refuse containers shall be maintained in good and

sanitary condition, with no ragged or sharp edges or any other defect liable to hamper or injure the person collecting the contents thereof.

(b) All garbage and rubbish shall be put in watertight metal, plastic, or other approved container with a tight-fitting cover, or in a securely sealed bag. Refuse containers shall be of a size not to exceed thirty-five (35) gallons in capacity. A single container or bag, when filled, shall not weigh more than forty (40) pounds. Approval of containers and bags shall be by the Director of the Sanitation Department.

(c) Any container that does not conform to the provisions of this chapter shall be promptly replaced upon notice. The Director of the Sanitation Department shall serve such notice by tagging the container.

(d) Trash scattered by animals or weather shall be removed promptly by the owner or occupant of the premises.

(e) A city sanitation trash pick up tag must be placed on every refuse container or suitable article every week before collection. The city shall provide trash pick up tags, for a charge of two dollars (\$2.00) each, through retailers in Bloomington. No items of refuse shall be collected by the sanitation department without the approved sanitation trash pick up tag affixed thereto. (Ord. 02-40 § 3, 2002; Ord. 93-13 §§ 3—5, 1993; Ord. 84-33 § 2(c), (d), 1984; Ord. 79-1 § 2 (part), 1979).

**6.04.045 Yard waste receptacles.**

(a) Yard waste receptacles shall be provided by the owner, tenant, lessee, or occupant of the premises. Yard waste receptacles shall be maintained in good and sanitary condition, with no ragged or sharp edges or any other defect liable to hamper or injure the person collecting the contents thereof.

(b) All yard waste shall be placed in one of the following receptacles:

(1) A watertight metal, hard plastic or other approved container with a tight fitting cover, which shall be of a size not to exceed thirty-five (35) gallons in capacity. A single container, when filled, shall not weigh more than forty (40) pounds. Approval of containers shall be by the Director of the Sanitation Department.

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Deleted: Recycling collection is provided free of charge to recipients of city trash and refuse collection. Collection occurs every other week on the customer's regular trash day

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Deleted: Paper products include mixed office paper, newspapers and inserts, phone books, magazines, paperboard and corrugated cardboard. Paperboard and cardboard must not have wax, plastic or foam coating.

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Deleted: This category includes metal food and beverage cans, glass jars and bottles of all colors. It does not include wire hangers, window glass or light bulbs.

Deleted: (3) Plastic Bottles #1 and #2. Includes all #1 and #2 recyclable plastic bottles. It does not include bowls, tubs, cups, bags, wraps or foams. All bottles must be clean, rinsed out and with the lids removed.

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(2) A two-ply wet strength paper bag to be securely sealed with a yard waste pick up tag described in subsection (c) below. Bags shall be of a size not to exceed thirty-five (35) gallons in capacity. A single bag, when filled, shall not weigh more than forty (40) pounds. Approval of containers shall be by the Director of the Sanitation Department.

(c) The city shall provide yard waste pick up tags for a charge of one dollar (\$1.00) each through retailers in Bloomington, one of which must be placed on every container, bag or bundle containing yard waste. During the free leaf collection period in the fall of each year, residents may obtain two-ply wet strength paper bags from the city at no charge. Those bags may be filled with leaves and placed out for collection without the required yard waste pick up tag. The bags may not contain trash or other refuse. (Ord. 02-40 § 4, 2002; Ord. 90-10 § 8, 1990).

#### 6.04.046 Recycling

(a) Recycling collection is provided free of charge to recipients of city trash and refuse collection. Collection occurs every other week on the customer's regular trash day. Recyclable items must be sorted into the following two categories and each category must be placed into a separate container.

(1) Paper products.

(2) Metal Cans, Glass Containers and Plastic Bottles.

(b) Sorted recyclables shall be placed in a plastic bin, cardboard box, paper bag or other approved container. Recyclables may not be placed in plastic bags. Recyclable containers shall be of a size not to exceed thirty-five (35) gallons in capacity. A single container, when filled, shall not weigh more than forty (40) pounds.

(c) The Department of Public Works shall prepare and promulgate annually a list of what types of paper products, metal cans, glass containers and plastic bottles are recyclable. The list may change from time to time as the recycling market adjusts to shifting demands and technologies.

#### **6.04.047 Large items and appliances.**

(a) Large Items. Two (2) city sanitation trash pick up tags must be placed on every large item placed out for collection. Large items may be placed at the curb on the customer's regular refuse/trash day. ~~Items such as clothesline poles and swing sets must be broken down before being placed at the curb.~~ The city shall provide trash pick up tags, for a charge of ~~two dollars (\$2.00)~~ each, through retailers in Bloomington. ~~These trash pick up tags are the same as those that are used for refuse containers. No large items shall be collected by the sanitation department without the approved sanitation trash pick up tags affixed thereto.~~

(b) Large Appliances. Two (2) city sanitation trash pick up tags must be placed on every appliance placed out for collection. Appliances may be placed at the curb no more than 24 hours before the day of pickup. Appliance pickup shall occur on the last Friday of each month of the year, or as may be approved otherwise by the Director of Public Works. Customers must call the sanitation department by 5:00 p.m. on Thursday and inform them that they are setting the appliances out for collection. ~~The city shall provide trash pick up tags, for a charge of two dollars (\$2.00) each, through retailers in Bloomington. These trash pick up tags are the same as those that are used for refuse containers. No appliances shall be collected by the sanitation department without the approved sanitation trash pick up tags affixed thereto.~~ (Ord. 02-40 § 5, 2002).

#### **6.04.050 Collection practices.**

(a) Collection shall be made at least once each week or more often as may be ordered by the Board of Public Works. Collection schedules shall be established and published by the Board.

(b) Collection shall be made from all places of residence within the city limits except for the following:

- (1) Buildings containing more than four residential units;
- (2) Residences located above or in the same structure as a business or businesses;
- (3) Residential units located on private streets.

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**Deleted:** Large items include sofas, chairs, tables, and similar items.

**Deleted:** Construction materials, tires, automobile parts, and electronics such as televisions and computer equipment are not included and will not be collected

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**Deleted:** Appliances include refrigerators, stoves, washers and dryers and similar items. Construction materials, tires, automobile parts, and electronics such as televisions, home entertainment equipment and computer equipment are not included and will not be collected.

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However, collection may be provided to the above listed residences if specifically authorized in writing by the Director of Public Works. Before authorizing such collection, the Director of Public Works may require terms and conditions to protect the city and residents. The Director of Public Works may revoke such authorization in writing at his or her discretion.

(c) Collection shall be made from curbs or, where there are no curbs, the property line immediately adjacent to the public thoroughfare. All containers, bags, bundles and other articles to be picked up must be placed adjacent to the curbs, and suitable for packers. All containers shall be put back in an upright position and the covers replaced.

(d) Collection shall be made from alleyways where road conditions permit and alley service is more convenient than street service. The Director of Sanitation shall have the authority to determine which alleys will have collection service and when weather conditions permit such service.

(e) Collection shall be made only during the hours of five a.m. and ten p.m.

(f) It shall be a violation of this chapter for any unauthorized commercial enterprise to collect, obtain, possess, pick up or cause to be collected, obtained, possessed or picked up any refuse, rubbish, garbage or yard waste from places of residence on routes within the city limits that are served by the city sanitation department. Occasional removal of bulk trash associated with construction, moving, or seasonal cleaning does not require authorization. Such authorization shall be determined by the board of public works. Any and each such violation hereof from one or more locations shall constitute a separate and distinct violation of this chapter. (Ord. 02-40 § 6, 2002; Ord. 93-13 § 6, 1993; Ord. 91-62 § 1, 1991; Ord. 90-10 § 9, 1990; Ord. 84-33 § 2(a), 1984; Ord. 79-1 § 2 (part), 1979).

#### 6.04.060 Enforcement procedures.

(a) If the director of the housing and neighborhood development department, the assistant director, any neighborhood compliance officer, or any other designee of the director (collectively referred to as "staff") determines that there exists a violation of this

chapter, that person shall issue a notice of violation (NOV) to the responsible party. For purposes of issuing a NOV, the following persons shall be considered responsible parties, with liability for fines and responsibility for remedy of the violation: persons with any possessory interest in the property; property owner(s); and/or any persons who have caused the violation. Liability for fines shall not attach to non-possessory property owner(s) for a period of seven (7) days following the issuance of the NOV, provided that the violation is remedied, or that the non-possessory property owner(s) presents to HAND, within seven days after issuance of the NOV, a true and exact copy of any and all leases in effect during the time period covered by the NOV.

(b) The NOV shall be in writing and shall be served on one or more of the responsible parties in one or more of the following manners: delivery in person; by first class mail; and/or by placement in a conspicuous place on the property where a violation occurs. The notice shall state:

- (1) The location of the violation;
- (2) The nature of the violation;
- (3) The period of correction (if any);
- (4) The fine assessed for the violation;

(5) Additional remedies the city may seek for violation;

(6) That the fine is to be paid at the city of Bloomington department of housing and neighborhood development;

(7) That the fine may be contested in the Monroe County Circuit Courts.

(c) Schedule of Fines. The fine for any violation of Chapter 6.04.070 shall be fifteen (\$15.00) dollars. The fine for all other violations of Chapter 6.04 shall be fifty (\$50.00) dollars. Non-possessory property owners shall not be subject to fines for the seven day period after issuance of the NOV, provided that the provisions outlined in 6.04.060 (a) are met. Each day that a violation continues shall constitute a separate violation.

(d) If the responsible party fails to remedy the violation cited in the NOV, the city legal department shall bring suit in a court of competent jurisdiction to collect the accumulated fines, any other costs associ-

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**Deleted:** The following fine schedule shall apply to violations of Section 6.04.070 of this chapter:¶

Correction period allowed from date of NOV: 24 hours¶

Fine during correction period: \$10.00¶

Daily fine assessed after correction period has elapsed: \$15.00¶

The following fine schedule shall apply to all other violations of chapter 6.04:¶

Correction period allowed from date of NOV: 7 days¶

Daily fine during correction period:

\$25.00¶

Daily fine assessed after correction period has elapsed: \$50.00

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ated with remedy of the violation as are allowed by law, and obtain any other legal remedy available at law. (Ord. 02-40 § 7, 2002; Ord. 00-18 § 4, 2000).

**6.04.070 Removal of refuse, yard waste and recycling containers.**

Containers, bags and other articles to be picked up shall not be placed upon the street or sidewalk so as to be visible from the street more than twenty-four hours prior to the time when such refuse, yard waste or recycling is to be collected and it shall be removed from the street or sidewalk on the same day as the collection is made. If a containment area is permanently located in an alleyway, such area shall be located so as not to hinder refuse, yard waste or recycling pick-up or traffic by pedestrians or vehicles. (Ord. 02-40 § 8, 2002; Ord. 90-10 §§ 12, 13, 1990; Ord. 84-33 § 2(b), 1984; Ord. 79-1 § 2 (part), 1979).

**6.04.080 Enterprise fund.**

The revenues collected by the city from the distribution of city sanitation decals shall be deposited in a nonreverting enterprise fund. This fund shall be established for the purpose of accounting and paying for the costs of collecting, disposing, and recycling of refuse. When necessary, the common council may approve additional operating transfers into this fund. (Ord. 93-13 § 8, 1993).

**Chapter 6.05**

**COMMERCIAL REFUSE HAULING AND COLLECTION**

**Sections:**

- 6.05.010 Refuse containers.**
- 6.05.020 Collection practices.**
- 6.05.030 Violations.**

**6.05.010 Refuse containers.**

All establishments and institutions which are served by commercial refuse collection services shall

keep their containers covered and sanitary at all times. (Ord. 79-1 § 3 (part), 1979).

**6.05.020 Collection practices.**

Collection shall be made only during the hours of five a.m. and ten p.m. (Ord. 79-1 § 3 (part), 1979).

**6.05.030 Violations.**

Any person, firm, or corporation who violates any of the provisions of this chapter shall be subject to a fine of not less than ten dollars and not more than one hundred dollars for each violation. Each day that a violation continues shall constitute a separate violation. (Ord. 79-1 § 3 (part), 1979).

**Chapter 6.06**

**REFUSE AND WEEDS**

**Sections:**

- 6.06.010 Deposit of refuse.**
- 6.06.020 Use of city refuse containers.**
- 6.06.030 Excessive growth.**
- 6.06.040 Inspections.**
- 6.06.050 Enforcement procedures.**
- 6.06.060 Failure to remedy.**
- 6.06.070 Cost of removal by city.**
- 6.06.080 Appeal of removal notice.**
- 6.06.090 Vehicles hauling refuse.**
- 6.06.100 Violations.**

**6.06.010 Deposit of refuse.**

It is unlawful for any person to throw, place, or scatter any garbage, rubbish, trash, or other refuse over or upon any premises, street, alley, either public or private, or to suffer or permit any garbage, rubbish, trash or other refuse to be placed or deposited on the premises owned, occupied or controlled by such person either with or without the intent to later remove, cover, or burn it. This provision shall not restrict the filling of low lands within the City with brick, stone, sand, gravel, cold ashes, or dirt after the appropriate permit has been obtained from the City Engineering Department. (Ord. 79-1 § 4 (part), 1979).

**6.06.020 Use of city refuse containers.**

It is unlawful for any person to deposit household or commercial refuse in any receptacle maintained on a sidewalk or at any other public location by the City for disposal of refuse by pedestrians. (Ord. 79-1 § 4 (part), 1979).

**6.06.030 Excessive growth.**

It is unlawful for the owner of any lot or tract of ground within the city to allow it to become overgrown with weeds, grass, or noxious plants beyond the height of eight inches or to such extent that the growth is detrimental to the public health and constitutes a nuisance. (Ord. 00-18 § 5, 2000; Ord. 79-1 § 4 (part), 1979).

**6.06.040 Inspections.**

It shall be the duty of the Police Department or the Housing Code Enforcement Office to make a careful inspection of any lots, grounds and tracts of land situated within the corporate limits of the City for the purpose of determining whether there is a violation of this chapter. (Ord. 00-18 § 6, 2000; Ord. 87-46 § 2, 1987; Ord. 79-1 § 4 (part), 1979).

**6.06.050 Enforcement procedures.**

(a) If the director of the housing and neighborhood development department, the assistant director, any neighborhood compliance officer, or any other designee of the director (collectively referred to as "staff") determines that there exists refuse, weeds or other vegetation on property within the city which violates this chapter, that person shall issue a notice of violation (NOV) to the responsible party. For purposes of issuing a NOV, the following persons shall be considered responsible parties, with liability for fines and responsibility for remedy of the violation: persons with any possessory interest in the property; property owner(s); and/or any persons who have caused the violation. Liability for fines shall not attach to non-possessory property owner(s) for a period of seven (7) days following issuance of the NOV, provided that the violation is remedied, or that the non-possessory property owner(s) presents to

HAND, within seven days after issuance of the NOV, a true and exact copy of any and all leases in effect during the time period covered by the NOV.

(b) The NOV shall be in writing and shall be served on one or more of the responsible parties in one or more of the following manners: delivery in person; by first class mail; and/or by placement in a conspicuous place on the property where a violation occurs. The notice shall state:

- (1) The location of the violation;
- (2) The nature of the violation;
- (3) The period of correction (if any);
- (4) The fine assessed for the violation;

(5) Additional remedies the city may seek for violation;

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**Deleted:** (5) The increase in fine, which is to be assessed daily, if violation continues beyond the correction period;¶

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(6) that the fine is to be paid at the city of Bloomington department of housing and neighborhood development;

(7) That the fine may be contested in the Monroe County Circuit Courts.

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(c) Schedule of Fines. The fine for any violation of Chapter 6.06 shall be fifty (\$50.00) dollars. Non-possessory property owners shall not be subject to fines for the seven day period after issuance of the NOV, provided that the provisions outlined in 6.06.05(a) are met. Each day that a violation continues shall constitute a separate violation. (Ord. 00-18 § 7, 2000).

**Deleted:** The following fine schedule shall apply to violations of this chapter:¶

6.06.010: Deposit of Refuse.¶

(1) Correction period allowed from date of NOV: seven days;¶

(2) Fine during correction period: twenty-five dollars;¶

(3) Daily fine assessed after correction period has elapsed: fifty dollars.¶

6.06.030: Excessive Growth of Vegetation.¶

(1) Correction period allowed from date of NOV: seven days;¶

(2) Fine during correction period: twenty dollars;¶

(3) Daily fine assessed after correction period has elapsed: twenty-five dollars.

**6.06.060 Failure to remedy.**

(a) If the responsible party fails to remedy the violation cited in the NOV during the correction period, the city legal department shall bring suit in a court of competent jurisdiction to collect the accumulated fines, any other costs associated with remedy of the violation as are allowed by law, and any other remedies available at law, including but not limited to injunctive relief.

(b) In addition to subsection (a) of this section, the city may, upon order of its board of public works take steps to remedy the violation. Any order of the board of public works shall be in writing and shall include written findings of fact. All appeals from written findings of the board shall be made to courts

of competent jurisdiction within ten days. The city may also seek any other remedies available at law. (Ord. 00-18 § 8, 2000).

**6.06.070 Cost of removal by city.**

If the landowner fails to remove the refuse or vegetation and the City removes it, the controller shall make a certified statement of the actual cost incurred by the City for the removal. The statement shall be served on the landowner by certified mail. The landowner shall pay the amount in the statement to the City Legal Department within ten days after receiving it. If the landowner should fail to pay within the ten-day period, a certified copy of the statement of costs shall be filed in the office of the county auditor. The auditor shall place the amount claimed on the tax duplicate against the property affected by the work. The amount shall be collected as taxes are collected and disbursed to the general fund of the city. (Ord. 89-30 § 2, 1989).

**6.06.080 Appeal of removal notice.**

An appeal of the written removal notice must be made in writing, within five days of the date of the removal notice to the Board of Public Works, which shall issue its written findings. All appeals from written findings of the Board shall be made to courts of competent jurisdiction within ten days. (Ord. 87-46 § 6, 1987; Ord. 82-67 § 3, 1982).

**6.06.090 Vehicles hauling refuse.**

(a) It is unlawful to transport refuse, stone or other materials that are likely to fall from a vehicle unless such materials are covered and secured so as to prevent their deposit on public and private property.

(b) Any materials falling from a vehicle shall be promptly removed by the person responsible for their deposit. If such person neglects or refuses to remove the materials, the city shall cause such materials to be removed at the expense of the person responsible, who shall be liable to pay the city the cost of removal. (Ord. 79-1 § 4 (part), 1979).

**6.06.100 Violations.**

Violations of the provisions of this chapter are declared a public nuisance. Any person who violates any provision of this chapter shall be subject to a fine of not less than ten dollars and not more than one hundred dollars for each violation. Each day that a violation continues shall constitute a separate violation. (Ord. 00-18 § 9, 2000; Ord. 87-46 § 7, 1987; Ord. 79-1 § 4 (part), 1979).

**ORDINANCE 04-24**

**TO CODIFY THE PROVISIONS OF ORDINANCE 79-74, AND ORDINANCE 87-31,  
EACH AS AMENDED, ESTABLISHING AND AUTHORIZING EXPENDITURES  
FROM THE SPECIAL NON-REVERTING IMPROVEMENT FUND,  
TO CODIFY THE PROVISIONS OF ORDINANCE 96-31 AS AMENDED  
ESTABLISHING AND AUTHORIZING EXPENDITURES FROM THE  
TELECOMMUNICATIONS FUND, AND TO AUTHORIZE EXPENDITURES FROM  
THE MAYOR'S PROMOTION OF BUSINESS LINE  
IN THE MAYOR'S OFFICE BUDGET**

- WHEREAS, the Bloomington Common Council adopted Ordinance 79-74, "To Create a Special Non-Reverting Improvement Fund," which provides that all monies received by the City pursuant to the 1979 Agreement In Lieu of Annexation as approved and ratified by Ordinance 79-73, shall be placed in the special non-reverting fund; and,
- WHEREAS, Ordinance 87-31 provides that all monies received by the City pursuant to the 1987 Agreement In Lieu of Annexation, as approved and ratified by Ordinance 87-30, shall be placed in the special non-reverting fund, and that a "Road and Traffic Improvement Account" be created within the special non-reverting fund; and,
- WHEREAS, Ordinance 97-55 provides that all monies received by the City pursuant to the Agreement to Modify and Extend the 1987 Agreement, as approved and ratified by Resolution 98-02, shall be placed in the special non-reverting fund with certain funds to be allocated to the Road and Traffic Improvement Account within that fund; and,
- WHEREAS, the Agreement provides that monies received by the City may be used for any legal public purpose; and,
- WHEREAS, Ordinance 79-74, with subsequent amendments thereto, provides that the monies in the fund may be used for various purposes, and,
- WHEREAS, the Bloomington Common Council adopted Ordinance 96-31, "To Establish a Telecommunications Non-Reverting Fund," which provides that all monies received by the City from cable franchise fees and from monies received by the City from the sale, lease, operation or other use of its telecommunications infrastructure shall be placed in said non-reverting fund; and,
- WHEREAS, Ordinance 96-31 also provides that the monies in the fund may be used for various purposes; and,
- WHEREAS, it would be of benefit to the City to have the provisions of said Ordinances set out as provisions within the Bloomington Municipal Code; and,
- WHEREAS, Indiana Code § 36-7-2-7 empowers cities to promote economic development and tourism, and for such purposes the City of Bloomington may expend moneys from the General Fund for civic or governmental purposes in the best interest of the City; and,
- WHEREAS, The City of Bloomington budgets and appropriates funds into the Mayor's Promotion of Business line in the Mayor's Office budget for such civic and governmental purposes; and,
- WHEREAS, The State Board of Accounts has advised cities and towns that it believes a general ordinance authorizing such expenditures is necessary under Home Rule, in addition to the budgeting and appropriation of such funds;

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

SECTION I. Ordinance 79-74 as amended is hereby repealed and Chapter 2.26 of the City of Bloomington Municipal Code is hereby amended by adding the following section titles to the index for this chapter and by adding the following sections which shall read as follows:

Section 2.26.010. Special Non-Reverting Fund – Establishment and Funding

There is hereby created a Special Non-Reverting Improvement Fund. All monies received by the City pursuant to the Agreement in Lieu of Annexation approved by Ordinance 87-30, and the Agreement to Modify and Extend the 1987 Agreement approved by Ordinance 97-55 and Resolution 98-02, shall be placed in the Special Non-Reverting Improvement Fund. Within the Special Non-Reverting Fund shall be a “Road and Traffic Improvement Account” as authorized by Ordinance 87-31, to receive and expend funds in a manner consistent with the provisions of the Agreement in Lieu of Annexation as modified and amended.

Section 2.26.020. Special Non-Reverting Fund – Uses

Pursuant to the provisions of the Agreement in Lieu of Annexation as modified and amended, the monies in the Special Non-Reverting Improvement Fund, other than those deposited in the Road and Traffic Improvement Account, may be used for any legal public purpose. The uses of said funds shall include but not be limited to:

- (a) the provision of police and fire protection service and other services related to health and safety, including animal care and control and the acquisition of emergency equipment.
- (b) road and traffic improvements, including but not limited to right-of-way procurement, traffic signalization and the construction or reconstruction of streets, curbs and gutters, and any and all costs associated with the acquisition of land and/or payment for improvements thereon in order to serve the existing industries and encourage development in the vicinity of the industries, thereby strengthening the City’s position for future annexation.
- (c) payment for professional services, salaries, material and equipment necessary to prepare fiscal plans and other reports and studies required to proceed with annexation of the areas contiguous to the City of Bloomington, including services provided by the City Controller’s Department staff in the development of written fiscal plan(s) for annexation of contiguous territory, and to obtain federal and non-federal grant funding that may be used for the benefit of the City or industries which are party to the agreement.
- (d) advances on expenditures for capital improvement projects in anticipation of the issuance of bonds; and advances on expenditures for capital improvement projects in anticipation of receipt of anticipated tax revenues. Upon issuance of bonds, said advances shall be repaid from bond proceeds; upon receipt of anticipated tax revenues, said advances shall be repaid from said revenues.

Section 2.26.030. Special Non-Reverting Fund – Appropriations from the Fund, Amendments and Termination.

Expenditures from the Special Non-Reverting Fund and the Road and Traffic Improvement Account within that Fund which are not included in the annual budget appropriation shall be authorized by approval of an appropriation ordinance by the City’s fiscal body. The Special Non-Reverting Fund shall continue in this form until amended or terminated by ordinance. Unless indicated otherwise by ordinance, the proceeds of the Fund at termination shall be deposited into the General Fund.

SECTION II. Ordinance 96-31 as amended is hereby repealed and Chapter 2.26 of the City of Bloomington Municipal Code is hereby amended by adding the following section titles to the index for this chapter and by adding the following sections which shall read as follows:



Section 2.26.040. Telecommunications Non-Reverting Fund – Establishment and Funding

A Telecommunications Non-Reverting Fund (Fund) shall be established in the Office of the Controller. The Fund shall derive its revenues from cable franchise fees and from monies received by the City from the sale, lease, operation or other use of its telecommunications infrastructure. All cable franchise fee revenues received by the City shall be deposited into the Fund. In addition, all monies received by the City from the sale, lease, operation, or other use of its telecommunications infrastructure up to a maximum of one-hundred and twenty-five percent (125%) of the total amount previously appropriated from the Telecommunications Infrastructure portion of the Fund shall be deposited into the Fund and used for Telecommunications Infrastructure.

Section 2.26.050. Telecommunications Non-Reverting Fund – Uses

Sixty percent (60%) of cable franchise fees shall be dedicated for audio-visual and information technology, and public, education, and government access/telecommunications services (hereinafter known as Telecommunications Services) and forty percent (40 %) of cable franchise fees shall be dedicated for audio-visual and information technology, and for the planning, design, development, construction, maintenance, and repair of the City's telecommunications infrastructure (hereinafter known as Telecommunications Infrastructure). In addition to the 40% of the cable franchise fees dedicated for Telecommunications Infrastructure, all monies received by the City from the sale, lease, operation or other use of its telecommunications infrastructure shall also be dedicated for this purpose up to the amount specified in Section 2.26.040.

Section 2.26.060. Telecommunications Non-Reverting Fund – Appropriations from the Fund, Amendments and Termination.

All expenditures from the Telecommunications Non-Reverting Fund shall be subject to appropriation by the City's fiscal body and shall be budgeted through the Department of Public Works. The Telecommunications Non-Reverting Fund shall continue in this form until amended or terminated by ordinance. Unless indicated otherwise by ordinance, the proceeds of the Fund at termination shall be deposited into the General Fund.

SECTION III. The Common Council is hereby authorized to budget and appropriate funds from the General Fund of the City, to pay the expense of or to reimburse City officials for expenses incurred in promoting the best interest of the City of Bloomington. Such expenses may include but shall not be limited to expenses incurred in promoting industrial, commercial, or residential development; expenses incurred in developing relations with other units of government; and any other expense of a civic or governmental nature deemed by the Mayor or the Common Council to be in the best interest of the City of Bloomington.

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

SECTION V. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City of Bloomington and approval of the Mayor.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

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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 ordinance has three goals: (1) to codify and update the language contained in Ordinances 79-74 and 87-31, both as amended, regarding the establishment and funding of the Special Non-Reverting Improvement Fund into which payment from those industries which are parties to the Agreement in Lieu of Annexation are deposited, and uses of that fund; (2) to codify and update the language contained in Ordinance 96-31, as amended, regarding the establishment and funding of the Telecommunications Fund and uses of that fund; and (3) to formally authorize expenditures from the Promotion of Business line of the Mayor's budget as required by the State Board of Accounts.

Date: August 24, 2004  
To: Councilmembers  
From: Susan Clark  
Subj: Ordinance 04-24

## CODIFICATION

As you know, the Council as legislative body considers different types of ordinances, some of which modify the Bloomington Municipal Code, some of which do not.

A series of ordinances has been passed over the years with regard to the establishment and uses of two funds: the Special Nonreverting Fund (frequently known as the “Westside Fund”) and the Telecommunications Fund. Please see the “Whereas” clauses of Ordinance 04-24 for a chronology of this legislation.

None of these adopted ordinances placed the language regarding these funds in the Bloomington Municipal Code. Accordingly, research for internal or external purposes regarding these funds involves an examination of photocopied legislation and memoranda that hopefully has been centrally compiled and collected. (Fortunately, that has been my experience to date.)

Ordinance 04-24 “codifies” — inserts into the Bloomington Municipal Code — the most current provisions of all the legislation approved with regard to these two funds. Passage will allow easy review, by both City staff and anyone else, of the current regulations about the funds. It seemed most logical to place this information in the portion of the Municipal Code dealing with the Controller’s Office.

## SPECIAL NONREVERTING FUND

The source of revenues for the Special Nonreverting Fund (frequently known as the “Westside Fund”) are Payments In Lieu of Annexation from what are collectively and colloquially known as the “Westside industries,” primarily the manufacturing companies located along Curry Pike. (The “Nonreverting” label means the funds do not revert to the General Fund at the end of the calendar/budget year.) As the result of the baseline agreement adopted in 1979 and two renewals/extensions in 1987 and 1997, the businesses that are parties to the agreement make payments to the City in exchange for the City agreeing not to annex their property — regardless of contiguity or the increase in property tax revenue the City would derive from doing so — during the term of the agreement.

This agreement between the City and the Westside industries is an economic development measure targeting these industries by not, via annexation, applying the City’s property tax rate to the assessed valuation of their land, buildings, equipment and inventories. Another key goal of the agreement is to give the industries relative predictability with regard to this component of their expenditures. While not inside the city limits, the Westside industries do receive City fire protection response and backup City law enforcement response (sometimes first response if the Sheriff’s deputies are tied up elsewhere.)

As you know, most property tax revenues are “general purpose” in nature (as are most revenues from the County Option Income Tax.) They are one of the few “unrestricted” sources of revenues which can be used for the general operation of the City as opposed to being set aside for a specific purpose. (For example, gas tax receipts distributed by the state must be used for road improvements.) It is consistent with this idea that these payments in lieu of taxes be collected maintaining some flexibility with regard to their permitted expenditure.

The permitted uses of the Special Nonreverting Fund have been modified and expanded many times over a period of 25 years. As part of the codification process, Ordinance 04-24 also adds to the list of permitted uses for this fund two types of expenditures that are now funded by other broadly based revenue sources (e.g. property taxes and COIT): public safety and animal care & control. Combined, these operations account for 62% of the expenditures in the City’s 2004 General Fund Budget.

However, it is important to note that nothing about Ordinance 04-24 or *any* legislation coming forward as part of the 2005 Budget actually appropriates or otherwise gives permission to spend monies from the Special Nonreverting Fund for these purposes.

Similarly, the 2005 Budget does not assume passage of Ordinance 04-24. Expenditures from the Special Nonreverting Fund that are in the 2005 budget have already been discussed at the July budget hearings: \$93,200 in annexation-related expenses, including staff. Using these monies in 2005 for the Police, Fire or Animal Care and Control budgets would (according to the provisions of Ordinance 04-24) require approval of a future, separate appropriation ordinance by the Council. We bring this current ordinance forward with an eye towards augmenting our options moving forward.

The current industry parties to the In Lieu of Annexation Agreement are listed at the end of this memo. Total receipts for payments in lieu of annexation in 2003 totaled \$198,460.

#### TELECOMMUNICATIONS FUND.

The Telecommunications Nonreverting Fund was established by ordinance in 1996 dedicating 60% of cable franchise revenues to “Telecommunications Services” and 40% for “Telecommunications Infrastructure.” Ordinances adopted in 2000 and 2003 clarified permitted uses (e.g. maintenance) and added as a funding source, with a cap, any of future revenues that might be derived from the Bloomington Digital Underground fiber optic infrastructure (there have been none to date).

Ordinance 04-24 codifies the provisions of these ordinances and places them in the section of the Bloomington Municipal Code about the Controller’s Office. It also clarifies that appropriated expenditures for audio-visual and technology purposes are permitted. (The term “telecommunications” was never defined in any of the ordinances.) This approach is consistent with expenditures that have been made from the Fund in the past such the two flat screen monitors hanging on the balcony in the Council Chambers, digital upgrades in the control booth used by CATS, and the presented budget plan to use 2005 capital expenditures from the fund for chambers and building security cameras.

As always, appropriations and expenditures from this Fund beyond those amounts already presented in the 2005 Budget would require a separate Appropriation Ordinance be approved by the Council. This ordinance does not modify the 2005 Budget.

## PROMOTION OF BUSINESS

The State Board of Accounts' (SBA) *2004 Cities and Towns Bulletin and Uniform Compliance Guidelines* recommends that municipalities adopt an enabling ordinance establishing the Promotion of Business budget line in their 2005 budgets. The budget line has been funded during (at least) the previous two administrations and previous expenditures from this line were consistent with the authority granted by Indiana Code 36-7-2-7 (see accompanying memo from Trisha Bernens, City Attorney.) The SBA would now prefer that municipalities also adopt the enabling legislation as a "Home Rule" ordinance as provided by IC 36-1-3. This language, copied from the March 2004 SBA Bulletin, is included in Ordinance 04-24 and is essentially housekeeping based on these updated guidelines from the SBA.

Please let me know if you have any questions about any of the provisions of this ordinance.

## PARTIES TO THE 1998 IN LIEU OF ANNEXATION AGREEMENT

ABB  
Cook Inc  
General Electric  
Otis Elevator  
PYA Monarch  
ATR Coil  
Dunn, Ferguson, Ragle  
Exmin  
Public Investment Corp.  
Sabin  
Schulte  
D & F (Whitestone)

Date: August 24, 2004  
To: Susan Clark  
From: Patricia Bernens  
Subj: Promotion of Business Budget Line

After reviewing The State Board of Accounts' (SBA) *2004 Cities and Towns Bulletin and Uniform Compliance Guidelines* and related statutes referred to therein, I am recommending approval by ordinance of language enabling the Promotion of Business budget line. As you know, there have been appropriations to, and expenditures from, this line as long as anyone can remember. However, SBA has recently advised that their audit position requires a "home rule" ordinance to authorize such expenditures.

Indiana Code 36-7-2-7 specifically lists "promotion of economic development" as a general power of municipal government and previous budgets for this line have been approved with completion of SBA Form 1. In the guidelines referred to above, which were issued earlier this year, the SBA advises that municipalities also confirm enabling of the expenditures with a separate ordinance under IC 36-1-3 (Home Rule.) SBA provided model language for such an ordinance. Including the model language in a section of Ordinance 04-24 would comply with the SBA position.

Section 2.26.010. Special Non-Reverting Fund – Establishment and Funding

There is hereby created a Special Non-Reverting Improvement Fund. All monies received by the City pursuant to the Agreement in Lieu of Annexation approved by Ordinance 87-30, and the Agreement to Modify and Extend the 1987 Agreement approved by Ordinance 97-55 and Resolution 98-02, shall be placed in the Special Non-Reverting Improvement Fund. Within the Special Non-Reverting Fund shall be a “Road and Traffic Improvement Account” as authorized by Ordinance 87-31, to receive and expend funds in a manner consistent with the provisions of the Agreement in Lieu of Annexation as modified and amended.

Section 2.26.020. Special Non-Reverting Fund – Uses

Pursuant to the provisions of the Agreement in Lieu of Annexation as modified and amended, the monies in the Special Non-Reverting Improvement Fund, other than those deposited in the Road and Traffic Improvement Account, may be used for any legal public purpose. The uses of said funds shall include but not be limited to:

- (a) the provision of police and fire protection service and other services related to health and safety, including animal care and control and the acquisition of emergency equipment.
- (b) road and traffic improvements, including but not limited to right-of-way procurement, traffic signalization and the construction or reconstruction of streets, curbs and gutters, and any and all costs associated with the acquisition of land and/or payment for improvements thereon in order to serve the existing industries and encourage development in the vicinity of the industries, thereby strengthening the City’s position for future annexation.
- (c) payment for professional services, salaries, material and equipment necessary to prepare fiscal plans and other reports and studies required to proceed with annexation of the areas contiguous to the City of Bloomington, including services provided by the City Controller’s Department staff in the development of written fiscal plan(s) for annexation of contiguous territory, and to obtain federal and non-federal grant funding that may be used for the benefit of the City or industries which are party to the agreement.
- (d) advances on expenditures for capital improvement projects in anticipation of the issuance of bonds; and advances on expenditures for capital improvement projects in anticipation of receipt of anticipated tax revenues. Upon issuance of bonds, said advances shall be repaid from bond proceeds; upon receipt of anticipated tax revenues, said advances shall be repaid from said revenues.

Section 2.26.030. Special Non-Reverting Fund – Appropriations from the Fund, Amendments and Termination.

Expenditures from the Special Non-Reverting Fund and the Road and Traffic Improvement Account within that Fund which are not included in the annual budget appropriation shall be authorized by approval of an appropriation ordinance by the City’s fiscal body. The Special Non-Reverting Fund shall continue in this form until amended or terminated by ordinance. Unless indicated otherwise by ordinance, the proceeds of the Fund at termination shall be deposited into the General Fund.

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In addition the monies in said fund may be used by the Board of Public Works for acquisition of property for a parking facility, the design and construction of a parking facility, and any cost related thereto. In the event that the monies in said fund are used by the Bloomington Board of Public Works as has been described herein, and property is acquired and sold to the Bloomington Downtown Parking Development Corporation, the Bloomington Downtown Development Corporation shall pay the City of Bloomington the fair market value for the property as determined by two independent appraisers (however, the land may not be sold to the Bloomington Downtown Development Corporation for an amount less than the amount paid by the Board of Public Works for the land) and any and all costs incurred in the design and construction of the parking facility, from the proceeds of the sale of bonds pursuant to I.C. 36-1-10. All monies received by the City pursuant to the Agreement in Lieu of Annexation, approved and ratified by the Common Council by Ordinance 79-73, shall be place in the Special Non-Reverting Improvement Fund. Such payment made to the City of Bloomington by the Bloomington Downtown Development Corporation shall be deposited into the Special Non-Reverting Improvement Fund. Additionally, the monies in said fund may be used by the City of Bloomington for advances on expenditures for capital improvement projects in anticipation of the issuance of bonds; and advances on expenditures for capital improvement projects in anticipation of receipt of anticipated tax revenues. Upon issuance of bonds, said advances shall be repaid from bond proceeds; upon receipt of anticipated tax revenues, said advances shall be repaid from said revenues. Additionally, monies in said fund may be used by the City of Bloomington for the acquisition of emergency equipment for use in benefiting or serving the properties which are parties to the "Agreement to Modify and Extend the 1987 Agreement."



Section 2.26.040. Telecommunications Non-Reverting Fund – Establishment and Funding

A Telecommunications Non-Reverting Fund (Fund) shall be established in the Office of the Controller. The Fund shall derive its revenues from cable franchise fees and from monies received by the City from the sale, lease, operation or other use of its telecommunications infrastructure. All cable franchise fee revenues received by the City shall be deposited into the Fund. In addition, all monies received by the City from the sale, lease, operation, or other use of its telecommunications infrastructure up to a maximum of one-hundred and twenty-five percent (125%) of the total amount previously appropriated from the Telecommunications Infrastructure portion of the Fund shall be deposited into the Fund and used for Telecommunications Infrastructure.

Section 2.26.050. Telecommunications Non-Reverting Fund – Uses

Sixty percent (60%) of cable franchise fees shall be dedicated for audio-visual and information technology, and public, education, and government access/telecommunications services (hereinafter known as Telecommunications Services) and forty percent (40 %) of cable franchise fees shall be dedicated for audio-visual and information technology, and for the planning, design, development, construction, maintenance, and repair of the City’s telecommunications infrastructure (hereinafter known as Telecommunications Infrastructure). In addition to the 40% of the cable franchise fees dedicated for Telecommunications Infrastructure, all monies received by the City from the sale, lease, operation or other use of its telecommunications infrastructure shall also be dedicated for this purpose up to the amount specified in Section 2.26.040.

Section 2.26.060. Telecommunications Non-Reverting Fund – Appropriations from the Fund, Amendments and Termination.

All expenditures from the Telecommunications Non-Reverting Fund shall be subject to appropriation by the City’s fiscal body and shall be budgeted through the Department of Public Works. The Telecommunications Non-Reverting Fund shall continue in this form until amended or terminated by ordinance. Unless indicated otherwise by ordinance, the proceeds of the Fund at termination shall be deposited into the General Fund.

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IV. Flow of Funds. All cable franchise fee revenues received by the City shall be deposited into the Fund and used for Telecommunications Services or Telecommunications Infrastructure according the provisions of Section III of the ordinance. In addition, all monies received by the City from the sale, lease, operation, or other use of its telecommunications infrastructure up to a maximum of one-hundred and twenty-five percent (125%) of the total amount previously appropriated from the Telecommunications Infrastructure portion of the Fund shall be deposited into the Fund and used for Telecommunications Infrastructure.

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Section V. Expenditures from Fund.

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Section VI. Amendment and Termination.

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**City of Bloomington**  
**Special Non-Reverting Fund**  
**Statement of Revenues, Expenditures and Changes in Fund Balance**

	1995	1996	1997	1998	1999	2000	2001	2002	2003	YTD 2004
<b>Revenues</b>										
In Lieu of Annexation Payments	147,038	133,170	137,704	164,197	135,380	164,650	148,845	173,653	198,460	99,230
Interest on Investments	4,647	2,150	8,413	21,321	12,741	26,547	28,488	16,350	10,763	5,765
Miscellaneous Reimbursements	32,000	14,469	3,743	5,605	400	-	-	-	-	27
<b>Total Revenues</b>	<b>183,685</b>	<b>149,789</b>	<b>149,860</b>	<b>191,122</b>	<b>148,521</b>	<b>191,197</b>	<b>177,333</b>	<b>190,002</b>	<b>209,223</b>	<b>105,022</b>
<b>Expenditures</b>										
Personnel	41,629	48,281	6,155	-	-	-	3,539	1,801	-	-
Supplies	2,817	6,503	-	-	-	-	-	-	443	-
Other Services & Charges	107,412	28,634	35,685	410,103	-	120,759	40,970	249,039	102,758	39,227
Capital Outlays	-	-	-	-	-	-	-	-	78,653	291,347
<b>Total Expenditures</b>	<b>151,857</b>	<b>83,419</b>	<b>41,839</b>	<b>410,103</b>	<b>-</b>	<b>120,759</b>	<b>44,509</b>	<b>250,840</b>	<b>181,854</b>	<b>330,574</b>
<b>Other Financing Sources</b>										
Operating Transfers In	29,180	336	325,000	-	-	-	221,000	-	-	185,000
Operating Transfers Out	(100,000)	(37,000)	(37,000)	-	-	-	-	-	-	-
<b>Excess (Deficiency) of Revenues</b>	<b>(38,992)</b>	<b>29,706</b>	<b>396,021</b>	<b>(218,981)</b>	<b>148,521</b>	<b>70,437</b>	<b>353,824</b>	<b>(60,838)</b>	<b>27,370</b>	<b>(40,552)</b>
<b>Fund Balance - January 1</b>	<b>55,710</b>	<b>16,718</b>	<b>46,424</b>	<b>442,444</b>	<b>223,464</b>	<b>371,985</b>	<b>442,422</b>	<b>796,246</b>	<b>735,408</b>	<b>762,778</b>
<b>Fund Balance - December 31</b>	<b>16,718</b>	<b>46,424</b>	<b>442,444</b>	<b>223,464</b>	<b>371,985</b>	<b>442,422</b>	<b>796,246</b>	<b>735,408</b>	<b>762,778</b>	<b>722,226</b>

**Telecommunications Non-Reverting Fund  
Fund Analysis - As of 08/25/04**

	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>YTD 2004</u>
<b><u>Total Fund</u></b>								
Beginning Cash	-	85,809.26	244,814.40	507,426.93	766,877.84	864,158.22	550,888.01	670,643.38
<b>Revenues:</b>								
Miscellaneous & Interest Income		9,295.64	16,601.80	36,233.85	40,059.68	20,446.40	9,574.29	8,178.45
Franchise Fees	89,509.26	316,868.07	387,049.63	446,673.60	474,029.40	538,178.82	551,365.85	437,129.74
Total Revenue	89,509.26	326,163.71	403,651.43	482,907.45	514,089.08	558,625.22	560,940.14	445,308.19
<b>Expenses:</b>								
Telecommunication Services	3,700.00	167,158.57	141,038.90	223,456.54	231,808.70	271,784.61	338,367.16	143,259.00
Telecommunication Infrastructure	-	-	-	-	156,337.82	600,000.00	97,532.61	20,086.20
Encumbered Expenses	-	-	-	-	28,662.18	110.82	5,285.00	
Total Expenses	3,700.00	167,158.57	141,038.90	223,456.54	416,808.70	871,895.43	441,184.77	163,345.20
Available Cash	85,809.26	244,814.40	507,426.93	766,877.84	864,158.22	550,888.01	670,643.38	952,606.37
<b><u>Services Account (60%)</u></b>								
Beginning Cash	-	50,005.56	78,545.21	179,697.17	245,985.10	322,629.85	386,020.37	367,152.29
<b>Revenues:</b>								
Miscellaneous & Interest Income	-	5,577.38	9,961.08	21,740.31	24,035.81	12,267.84	5,744.57	4,907.07
Franchise Fees	53,705.56	190,120.84	232,229.78	268,004.16	284,417.64	322,907.29	330,819.51	262,277.84
Total Revenue	53,705.56	195,698.23	242,190.86	289,744.47	308,453.45	335,175.13	336,564.08	267,184.91
<b>Expenses:</b>								
Telecommunication Services	3,700.00	167,158.57	141,038.90	223,456.54	231,808.70	271,784.61	338,367.16	143,259.00
Encumbered Expenses	-	-	-	-	-	-	17,065.00	
Total Expenses	3,700.00	167,158.57	141,038.90	223,456.54	231,808.70	271,784.61	355,432.16	143,259.00
Available Cash	50,005.56	78,545.21	179,697.17	245,985.10	322,629.85	386,020.37	367,152.29	491,078.21
<b><u>Infrastructure Account (40%)</u></b>								
Beginning Cash	-	35,803.70	166,269.19	327,729.76	520,892.74	541,528.37	164,867.64	303,491.09
<b>Revenues:</b>								
Miscellaneous & Interest Income	-	3,718.26	6,640.72	14,493.54	16,023.87	8,178.56	3,829.72	3,271.38
Franchise Fees	35,803.70	126,747.23	154,819.85	178,669.44	189,611.76	215,271.53	220,546.34	174,851.90
Total Revenue	35,803.70	130,465.48	161,460.57	193,162.98	205,635.63	223,450.09	224,376.06	178,123.28
<b>Expenses:</b>								
Telecommunication Infrastructure	-	-	-	-	156,337.82	600,000.00	97,532.61	20,086.20
Encumbered Exp. for Infrastructure	-	-	-	-	28,662.18	110.82	(11,780.00)	-
Total Expenses	-	-	-	-	185,000.00	600,110.82	85,752.61	20,086.20
Available Cash	35,803.70	166,269.19	327,729.76	520,892.74	541,528.37	164,867.64	303,491.09	461,528.16

PUBLIC NOTICE ADVERTISING (Continued)

IC 5-3-1-0.4 defines a newspaper for the publication of legal notices and reports as a daily, weekly, semi-weekly, or tri-weekly newspaper of general circulation which has been published for at least three (3) consecutive years in the same city or town and entered, authorized and accepted by the United States Postal Service for three (3) consecutive years as mailable matter of the periodicals class and which has at least fifty percent (50%) of all copies circulated paid for by subscribers or other purchasers at a rate that is not nominal. IC 5-3-1-4(g) allows a city or town, at its discretion, to publish public notices in a qualified publication as defined in IC 5-3-1-7 to provide supplementary notification to the public. The cost of publishing supplementary notification is a proper expenditure of the city or town.

PROMOTION OF CITY AND TOWN BUSINESS

IC 36-7-2-7 allows cities and towns to promote economic development and tourism. Such statute replaced a prior law which authorized cities and towns to budget and appropriate funds from the general fund to pay the expenses of, or to reimburse city or town officials as the case may be, for expenses incurred in promoting the best interest of the city or town. Accordingly, a Home Rule ordinance needs to be adopted in accordance with IC 36-1-3 in order to enable a city or town to pay for such expenses.

In an effort to assist cities and towns that have not passed an enabling ordinance but who wish to establish the promotion of business appropriation, we are repeating wording contained in the old statute. Many municipalities have used similar wording in their enabling ordinance.

“City and town councils are authorized to budget and appropriate funds from the general fund of the city, or town, to pay the expenses of or to reimburse city officials or town officials as the case may be for expenses incurred in promoting the best interest of the city or town. Such expenses may include, but not necessarily be limited to, rental of meeting places, meals, decorations, memorabilia, awards, expenses incurred in promoting industrial, commercial, and residential development, expenses incurred in developing relations with other units of government and any other expenses of a civic or governmental nature deemed by the mayor or the town council to be in the interest of the city or town.”

This is furnished only for your information. Each city and town should establish, by ordinance, the parameters for such appropriations and expenditures. Such ordinance should list the specific types of promotional expenses which can be paid from moneys appropriated for such purposes.

**RESOLUTION 04-15**

**PETITION TO APPEAL FOR AN INCREASE TO THE MAXIMUM LEVY**

- WHEREAS, While compiling the 2004 budget, the City of Bloomington used the net assessed valuation which was provided by the county auditor in August 2003 in the amount of \$2,469,443,348; and
- WHEREAS, the City was not advised that assessed values were expected to decrease due to the new exemptions for business personal property value. Said decrease was created by SEA 464 in 2002, when the legislature expanded the interstate commerce exception for inventory; and
- WHEREAS, the property tax rate advertised on the City's behalf by the county, .8224, was therefore based upon an overstated assessed value; and
- WHEREAS, when the advertised rate was applied to the final pay 2004 assessed value of \$2,432,473,914, the City experienced a property tax levy shortfall of \$476,619; and
- WHEREAS, the total shortfall for the City's levy controlled funds was \$424,427; and
- WHEREAS, the shortfall reduced the City's authority to raise property taxes in the future as pursuant to Indiana Code Chapter 6-1.1-18.5; and
- WHEREAS, the City desires to recapture the revenue lost in 2004, and to seek relief from future maximum levy limitations;

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

SECTION I. The Common Council of the City of Bloomington, Monroe County, State of Indiana, has determined to file for an excess levy appeal pursuant to Indiana Code §6-1.1-18.5-14, which authorizes such appeal for the purposes of "Correction of Advertising, Mathematical or Data Error."

SECTION II. The amount of the excess levy appeal shall be \$424,427, which is the amount of the 2004 levy shortfall for the levy controlled funds. In addition, \$443,102 has been added to the 2005 levy request in order to recapture the reduction in the City's maximum levy limit created by the shortfall. This amount (\$443,102) consists of \$424,427 plus the 2005 growth factor of 4.4%.

SECTION III. The fiscal body of the City of Bloomington, Monroe County hereby resolves to proceed with a petition for an excess levy to the Department of Local Government Finance to increase the City's maximum levy.

SECTION IV. This resolution shall be in full force and effect from and after its passage by the Common Council of the City of Bloomington and approval of the Mayor.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
MICHAEL DIEKHOFF, 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 petitions the Department of Local Government Finance for an excess levy appeal. If the appeal is granted, the City will recover \$424,427 in revenue lost for 2004, and the maximum allowable 2005 levy will increase by \$443,102.



**City of Bloomington  
Office of the Controller**

**Memorandum**

**To:** Council Members  
**From:** Susan Clark, Controller  
**Re:** Potential excess levy appeal – Resolution 04-15  
**Date:** August 26, 2004

As you know, in 2004, the City will receive \$476,619 less property tax revenue than budgeted. We recently learned of a process by which we can petition to recover a portion of that shortfall.

Our 2004 budgeted property levy was \$20,481,284. The budget order approved by the Department of Local Government Finance (DLGF) included a levy of \$20,005,417. The total shortfall for our levy controlled funds was \$424,427. Levy controlled funds are statutorily capped to increase by certain growth factors. Our levy controlled funds include the General Fund, Parks General Fund, Cumulative Capital Improvement – Rate, Police Pension and Fire Pension.

**Background**

While compiling the 2004 budget, the City of Bloomington used the net assessed valuation which was provided to us by the county auditor in August 2003. (\$2,469,443,348)

It is our understanding that county auditors were instructed by the DLGF to advise taxing units of the anticipated decrease in assessed values. Officials at the auditor's office assumed that the state would inform us of the decrease. Regardless, we were not advised that assessed values were expected to decrease due to the new exemptions for business personal property value.

The property tax rate advertised on our behalf by the county, .8224, therefore was created with an overstated assessed value. When the advertised rate was applied to the final pay 2004 assessed value of \$2,432,473,914, we experienced a levy shortfall of \$476,619. The total shortfall for our levy controlled funds was \$424,427.

If granted, this appeal would increase our levy by \$424,427 times the growth factor of 1.044, or \$443,102, to recoup the loss in our maximum levy authority PLUS \$424,427 for the 2004 shortfall itself. The total increase to our levy would be \$867,529.



## **Petition to Appeal for an Increase to the Maximum Levy**

We may be able to recoup our 2004 levy loss in 2005. This type of appeal is called "Correction of Advertising, Mathematical or Data Error." There is no guarantee that the appeal will be granted. The final determination is made by the Commissioner of the Department of Local Government Finance (DLGF).

The first step of the process requires that our public notice for the 2005 budget include the \$424,427 shortfall. We added that amount plus \$443,102 to the 2005 levy request in order to recapture the reduction in the City's maximum levy limit created by the shortfall. This amount (\$443,102) consists of \$424,427 plus the 2005 growth factor of 4.4%. The total potential new revenue is \$867,529.

If Resolution 04-15 is adopted, I will forward it along with other documentation to the DLGF. The Local Government Tax Control Board will meet later this year and will make a recommendation to the Commissioner. The decision of the Commissioner should be made by the end of the year.

### **Impact**

If the appeal is granted, our budgeted gross pay 2005 property tax rate would increase to 1.0062. We anticipate that the actual gross pay 2005 rate will be lower because we are using 90% of the pay 2004 net assessed valuation in order to estimate our 2005 property tax rate, as recommended by the DLGF. The DLGF recommendation is based on an expectation of a 10% decline in assessed values due to increases in exemptions adopted by the state legislature last year. Our estimate for the decrease in assessed values is actually 4%, which would yield a gross property tax rate of .9042, with the excess levy appeal.

Based on our estimates, a property owner with a net assessed value of \$100,000 would see a property tax increase of approximately \$25 resulting from the appeal, if granted.

Please feel free to contact me at 349-3416 if you have any questions.

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

COMMON COUNCIL  
REGULAR SESSION  
March 3, 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

Chris Sturbaum said he shook hands with the new owner of the Von Lee who intends to put a bar in the theater and who had just gotten approval for a liquor license. He said this ended the theater as we knew it and said, too, that there were betrayals of the community in a local judges ruling which stated that it was reasonable for a corporation to dictate whether or not this local theater would be able to show films again. He noted Indiana University's lack of action. He said he was nostalgic for a free enterprise system actually functioning.

MESSAGES FROM  
COUNCILMEMBERS

Chris Gaal thanked Sturbaum for defending this piece of history in the community. Gaal said that he had been hearing much from constituents about jobs and the local economy, and that this was a real issue. He contrasted this with the initiative that was being pushed by many members of the Indiana House regarding a constitutional amendment banning same sex marriage. He said this wasn't a real issue, but rather a play of politics generating heat to excite voters in an election year on a divisive cultural issue, and wasn't actually intended to help Hoosiers. He said this 'issue' was a distraction from the real issue: doing something about jobs, healthcare and basic economic security, and would just discriminate against a group of people. He added that many companies were adding domestic partner benefits to their benefit packages to attract employees at the same time the legislature seemed to be concerned about what people were doing in their private relationships.

While it was not legal or conceivable for the city to issue marriage licenses in Indiana, Gaal proposed that the City of Bloomington instead work with groups in the community to facilitate resources for non-traditional couples, unmarried couples, gay or straight to protect legal rights. He said legal documents could be executed and mentioned durable power of attorney, legal wills and the appointment of a health care representative to help people not be shut out of important life decisions surrounding medical care. He said nontraditional couples should be empowered. He said as a community we should recognize that committed non-traditional relationships are committed relationships, we should be proud of the diversity and tolerance in our community, and send that message to our state representatives.

Andy Ruff said he was in complete agreement with Gaal's statement and noted that the Fernandez administration was very forward looking in this regard.

Ruff announced an Ophelia Project Workshop on "Understanding Aggression" for the following weekend.

He noted an article in the February 22<sup>nd</sup> issue of the *Toronto Global Mail* which featured Bloomington in an article covering I-69.

Stephen Volan thanked the ITS department for the delivery of his new laptop and promised to be extra efficient now.

He said as the council representative to the Solid Waste District Board of Directors, he wished to make the statement that the District was in crisis and would be meeting again to discuss the problem. He said

several issues were intertwined, and the financial matters were grave. He added that no matter what happened to the organization, or who was to blame for the chaos, the cost of managing the county's waste would continue to mount. Even if the landfill were to be closed, the act of closing it would cost a lot of money. He invited citizens to ask him questions about the district and gave his email address.

MESSAGES FROM  
COUNCILMEMBERS (cont'd)

David Sabbagh said that he understood why citizens got upset when the council members talked about things which are outside the realm of the council, however, the state government has a serious impact on Bloomington citizens. He said he had a duty to speak up privately and publicly, and added that as a Republican, an elected official, and a citizen of the State of Indiana he was disappointed in the House Republicans for their recent actions in boycotting House sessions where they could have worked on solutions of jobs, business creation, education, and a new economic model to help the less fortunate. He said they showed a lack of leadership in not addressing these problems. He added that he was in favor of same sex marriages.

Sabbagh said that local governments depend on the tools that the state legislature gives them, and therefore the actions of the state assembly has a significant impact on the problems and solutions at a local level.

Sabbagh said that on a more positive note, he congratulated Sue Wanzer, Deputy Clerk, who was to take over presidency of the Monroe County Community School Corporation Board after the resignation of Lynn Coyne.

Dave Rollo announced an upcoming meeting of the Plan Commission to deliberate on the Renwick development proposal with particular attention to the traffic impact of the development. He urged residents to attend this meeting or contact him to share their views. He added that he had put several copies of the developer's proposal on reserve in the Indiana Room at the Monroe County Public Library, and said, too, that good public policy depends on public participation and again urged citizens to attend.

Tim Mayer said that politicians from the White House to the State House should stay out of people's personal lives, especially if those people are living within the laws of the land.

Mike Diekhoff replied "Don't mess with the Constitution!"

Mayor Mark Kruzan commended police officers who helped in a recent accident situation that could have been much worse without their intervention. He also thanked the department and other emergency personnel from IU, fire department, department of natural resources and members of the public for their help in saving two people who were stranded on Lake Griffy. He specially commended Officers Chris Scott and Joe Crider for their rescue.

MESSAGE FROM THE MAYOR

Mayor Kruzan said he had received requests, similar to those to the mayor of San Francisco, to issue marriage licenses to same sex couples. He then read the following statement:

Unlike in some states, such as California, mayors in Indiana are not authorized by statute to issue marriage licenses of any type. In fact, Indiana Code 35-44-1-2 states that a public servant who knowingly or intentionally performs an act that he is forbidden by law to perform commits official misconduct, a class A misdemeanor. As an attorney and elected official, I have sworn to uphold the constitution of the state of Indiana and believe it's quite possible for an attorney to be disbarred for trying to issue a license. I want to make clear that I don't intend to issue same sex marriage licenses, just as I cannot issue opposite sex marriage licenses.

But do not mistake that decision for acceptance of the prohibition of same sex marriage law in Indiana. I object to an obviously discriminatory ban, and I voted against it as a member of the Indiana General Assembly.

Even more objectionable is the effort to amend our state and federal constitutions with such a provision.

What we need is a constitutional amendment against intolerance and prejudice.

I understand that many people disagree with my assessment. But I would hope that citizens on both sides of the same sex marriage issue would agree on two things. First that our constitution is too important to be used as disposable document to be altered as an election year tactic. And second, that our city's, our state's, and our nation's real priorities rest in providing affordable health care, insuring the millions of us without coverage, and creating jobs for the growing number of unemployed.

I've seen many ugly things occur in the halls of the Indiana General Assembly. Fortunately, I've seen far more good that outweighs the bad. But in this instance, misguided bigotries threaten the institution's credibility.

Countless hours and taxpayer dollars have gone to waste when our state can least afford it so that a skewed political agenda can advance at the expense of a specific class of our fellow citizens.

It's truly sad that in this new millennium such an ancient bias still exists. Sadder yet, that efforts are being made to immortalize it in the ultimate law of our land.

History will not smile kindly upon the proponents of this constitutional amendment.

Message from the Mayor (*cont'd*)

The Bloomington Human Rights Commission issued its annual Human Rights Commission Awards to the late Congressman Frank McCloskey and the Bill of Rights Defense Committee.

Roberta McCloskey accepted the award as Calloway Thomas read the inscription. McCloskey thanked the present Human Rights Commission and all the commissioners who have served in the past, and urged citizens to follow Frank's example of standing up for human injustice and not be afraid to do so.

Calloway Thomas read the names of the Bill of Rights Defense Committee members and the award inscription; the award was accepted by David Keppel and Pedro Roman.

- Keppel said they were honored to accept the award on the same night that McCloskey was honored, honored to live in a community that had a human rights commission, and honored to live in a community where the city council would stand up for beliefs in passing the resolution against the US Patriot Act.
- Roman gave an international perspective to McCloskey's work in Bosnia and invited citizens to join the Bill of Rights Defense Committee.

Aja Romano, citizen, read a statement from Dr. Philip Amerson, President of Claremont Theology School in Claremont, California, and former pastor of the First United Methodist Church in Bloomington and long time friend of Congressman Frank McCloskey.

Romano also informed the council of a newly formed group called BloomingPride which was created to advance the progress of civil rights of gay, lesbian, bisexual and transgendered individuals in Bloomington and around the state.

She said the city must continue to take a stand for the freedom and dignity of every American and to promote the basic human and civil rights of all minorities.

She formally petitioned the city council to pass a resolution expressing the city's opposition to and contempt for any state or federal constitutional amendment which would target gays and lesbians by excluding them from the rights of marriage. She said any constitutional amendment that traded inclusion and protection under the law for alienation and intolerance is an unjust law and should be opposed.

COMMITTEE REPORTS

PUBLIC INPUT

Kevin Shifflet, citizen, spoke about environmental issues in the Cascades road area with regards to erosion control. He said an erosion control fence should be in place and wasn't. He stated that he had photographed the area of concern and had contacted the Indiana Department of Environmental Management about the problem. In bringing this matter to the attention of the City Council, he hoped that the city would set an example for developers by being aware of the problem and correcting it.

PUBLIC INPUT (cont'd)

Matthew Bodell, IU student, thanked Kruzan, Gaal and Sabbagh for their comments. He asked that they remind legislators that the US Constitution had never been amended to take rights away from a group of people as he said the federal marriage amendment would do. He said rather than accepting the statement that gay folks want to redefine marriage, it should be remembered that government defined it as a social contract.

Isabell Piedmont said she appreciated the comments by elected officials and the public with regard to the proposed amendment and the formation of BloomingPride. Piedmont also said she was concerned that tax dollars were used to purchase stun guns for county law enforcement officers and said she didn't want them to be purchased for the city police department. She said Fort Wayne's Crisis Intervention Program has proved successful in reducing violence in their jail and encouraged both the city and county to look into a program such as that one.

It was moved and seconded that Bruce Myers and Rick Dietz be appointed to the Bloomington Digital Underground Advisory Committee. The appointments were approved by a voice vote.

BOARD AND COMMISSION APPOINTMENTS

It was moved and seconded that Resolution 04-02 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, stating that there had been no committee hearing on the resolution. She announced that the public comment portion of this deliberation would serve as the publicly advertised hearing on this legislation. It was moved and seconded that Resolution 04-02 be adopted.

LEGISLATION FOR SECOND READING

Resolution 04-02 To Confirm Resolution 04-01 Which Designated an Economic Revitalization Area (ERA), Approved a Statement of Benefits, and Authorized a 10-Year Period of Abatement – Re: The Woolery Stone Mill Parcel at 2200 West Tapp Road (Woolery Ventures LLC, Petitioner)

Ron Walker, Director of Economic Development, briefly summed up the request for a tax abatement for the redevelopment of the historic stone mill into a 55 room hotel with conference space, 42 two- and three-bedroom apartments, climbing gym facility, restaurant and brewpub. He said the entire investment would be about \$60M, it would create about 45 new jobs.

There was no public comment on this resolution. There were no council comments or questions on the resolution.

Resolution 04-02 received a roll call vote of Ayes: 9, Nays: 0.

It was moved and seconded that Resolution 04-03 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the committee recommendation of 9-0. It was moved and seconded that Resolution 04-03 be adopted.

Resolution 04-03 To Designate an Economic Revitalization Area, Approve a Statement of Benefits, and Authorize a Period of Tax Abatement – Re: 1116 S. Walnut (Bloomington Paint and Wallpaper, Inc., Petitioner)

Ron Walker, Director of Economic Development, gave an overview of the project, a two story mixed use building on South Walnut and West Grimes. He described the retail and upstairs apartment uses of the building adding that the entire investment would total \$1M. He said the petitioner may add two new jobs with the facility and was requesting a five year abatement. He added that the Economic Development

Resolution 04-03 (cont'd)

Commission and the Redevelopment Commission had both recommended the five year abatement as well. Walker added that the site and its proposed uses had met the criteria for tax abatements with regards to both state and city regulations and recommended approval. Brad Night, the petitioner, was present to answer questions.

There was no public comment on the resolution.

Mayer said he had received a comment from a citizen expressing concern that this business was moving from the downtown square area. Mayer said the square was now a difficult place for conducting this type of business, said the new location would give a boost to the Walnut/Grimes area, and thanked the EDC for helping to make the project better.

Volan said the downtown building had been purchased, would be renovated for an existing downtown business, and there was no fear that this would be a blow to the downtown.

Sturbaum said there was public good in the design of the building, and that this would expand the area considered to be 'downtown' to this area. He said this met the Growth Policies Plan and urged support.

Ruff said he had received emails arguing that the council should not be supporting the move of a business away from the downtown area. He said he considered this area 'downtown' and supported this assistance to a locally owned, locally controlled business in their battle against the ever encroaching big box stores. He said this support was valued by our community as it would increase the amount of money and income that is not leaked off to a corporate office in another community. He added that keeping dollars in the community was an economic strategy every bit as good as the attraction of outside dollars. He noted that the public subsidy to this project would be below the threshold in annual dollar value to qualify for the living wage ordinance that he would be bringing forth, and added that he wholeheartedly supported this abatement.

Rollo said he supported this plan and agreed with Ruff on the support of a local small business.

Sabbagh said this project was located in the 5<sup>th</sup> councilmanic district and was pleased that it was part of the downtown.

Resolution 04-03 received a roll call vote of Ayes: 9, Nays: 0.

It was moved and seconded that Ordinance 04-06 be introduced and read by title and synopsis. Clerk Moore read the legislation and synopsis, giving the committee recommendation of 9-0. It was moved and seconded that Ordinance 04-06 be adopted.

Ordinance 04-06 To Designate an Economic Development Target Area (EDTA) – Re: Bloomington Paint and Wallpaper, Inc., Located at 1116 South Walnut Street

Ron Walker, Director of Economic Development said that because the site will contain retail and residential market rate units, the state required the Economic Development Target Area designation as well as the Economic Revitalization Area designation.

There were no public comments and no council questions, however council member Ruff said, "Chalk another one up for the anti-business Bloomington City Council!"

Ordinance 04-06 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 04-02 To Specially Appropriate from the General Fund Expenditures Not Otherwise Appropriated (Appropriating Funds from the General Fund for New Positions in Engineering and the Mayor’s Office and Transferring Funds within the General Fund To Accompany a Transfer in Position)

Appropriation Ordinance 04-02

Appropriation Ordinance 04-03 To Specially Appropriate from the Telecommunications Non-Reverting Fund (infrastructure) Expenditures Not Otherwise Appropriated (Appropriating Funds for Maintenance and Repair of the City’s Fiber Infrastructure, Installing Fiber Optic Cable, Purchasing Line-Locating Equipment for the Bloomington Digital Underground, and Installing Telecommunications Wiring for the Animal Shelter Expansion)

Appropriation Ordinance 04-03

Ordinance 04-07 To Amend Ordinances Which Fixed the Salaries of Appointed Officers and Employees of the Civil City (Ordinance 03-20) and Utilities (Ordinance 03-21) for the Year 2004 – Re: Positions in the Mayor’s Office, Information Services, Parking Enforcement, Traffic, Engineering, and Utilities Administration

Ordinance 04-07

There was no public input.

PUBLIC INPUT

The meeting was adjourned at 9:00 pm.

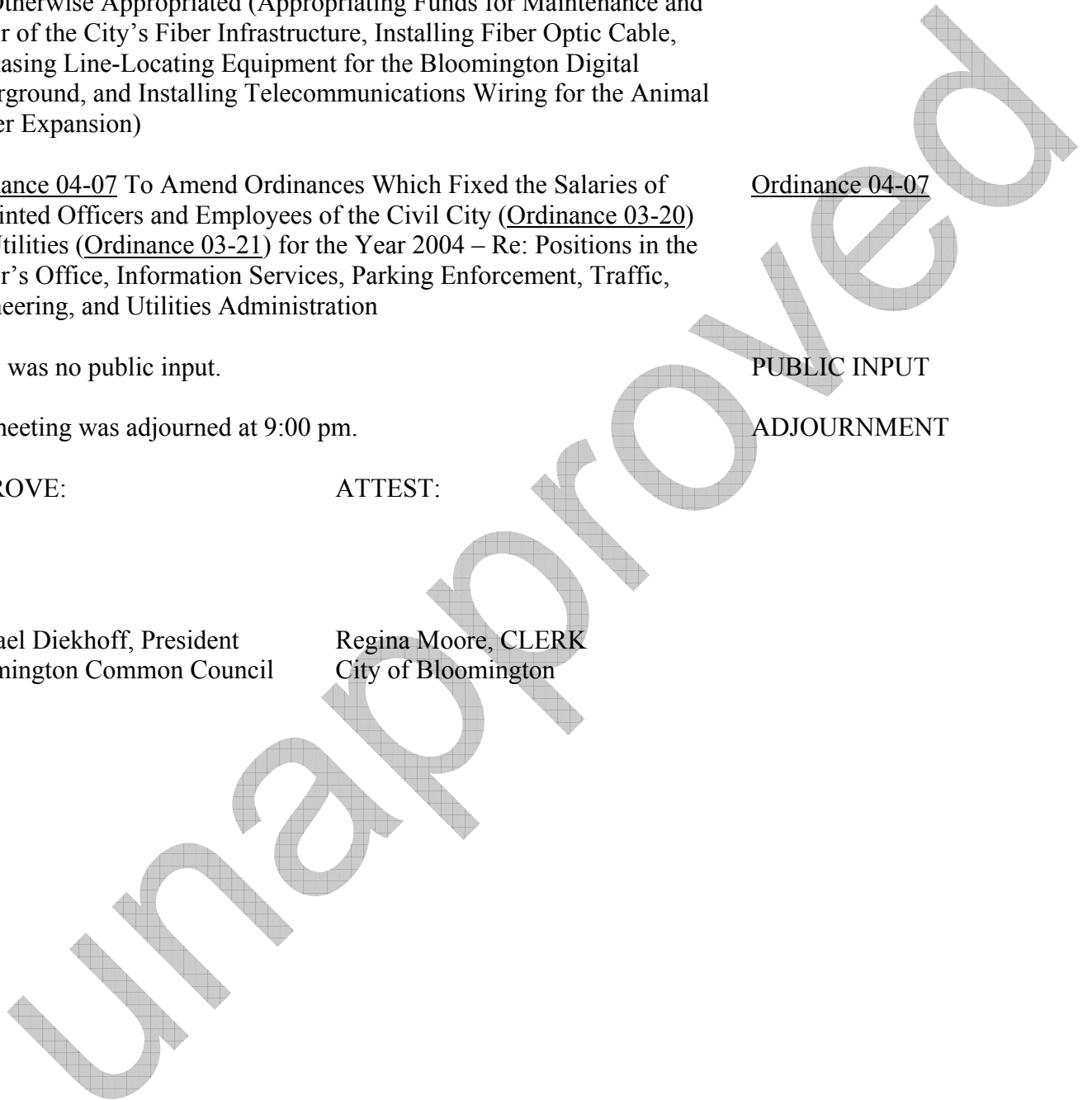
ADJOURNMENT

APPROVE:

ATTEST:

Michael Diekhoff, President  
Bloomington Common Council

Regina Moore, CLERK  
City of Bloomington



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

COMMON COUNCIL  
REGULAR SESSION  
April 7, 2004

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

ROLL CALL

Council President Deikhoff gave the Agenda Summation.

AGENDA SUMMATION

There were no minutes to be approved.

APPROVAL OF MINUTES

Chris Sturbaum said his recent attendance at a downtown parking meeting indicated that these problems are a symptom of moving forward with development without a plan. He said some of our decisions are committing us to moving in certain directions and we're not sure how it's going to work out. He said downtown businesses should survive the cure, and that he looks forward to working on the Growth Policies Plan. He announced that one of the planners being considered for a downtown planner for Bloomington would be featured on Community Access Television this weekend. He invited citizens to watch.

MESSAGES FROM  
COUNCILMEMBERS

Chris Gaal noted that the Parks and Recreation Department recently released its 2004 Summer Program Guide. He said it was available on the city's website and also at [www.bloomingtonparks.org](http://www.bloomingtonparks.org) and outlined some of the youth, musical and park activities of the Department saying that there was something fun in the guide for all ages of participants.

Andy Ruff commented on the Federal Highway Administration's Record of Decision regarding I-69 Route C-3 through Bloomington. He said he hoped that people understood that this was almost a foregone conclusion because the Federal Highway Administration as a general rule supports state decisions on expenditures of that state's share of federal gas tax money. He said that INDOT knows I-69 will be built with state money, Indiana's annual formula allocation of federal gas tax money, the same pot of money that funds the majority of the entire state transportation program. He added that this was not special federal fund for I-69.

Ruff said that this decision was expected, however and shouldn't change anyone's view on the project. He added that Mayor Kruzan has stated and written that his vision for the city of Bloomington did not include a major highway dividing it. He said our future quality of life and competitiveness in economic development lay in protecting our community character, environmental amenities, and high quality of life - the things that give Bloomington its advantage over similar places in the state and Midwest. He added that we need to stick to this vision and plan to prevent Bloomington from slipping into the haze of Generica, a generic, homogenized, interstate-type sprawling stereotype of Everywhere USA.

Ruff said that the I-69 highway would bring pressure from sprawl developments, bedroom community pressure from Indianapolis, more and more pressure from cookie cutter subdivisions and big box sprawl chain retail like found on any interstate in the country. He added that the environmental impacts of running a major international highway truck corridor through our city limits, down wind of the prevailing winds of our community would produce air and noise pollution through the heart of the city. He said the result of the legitimate sanctioned electoral process was that of electing people who articulated a vision and a plan for the future of this community that the majority of the community buys into and accepts and desires. He added that the community needs to stick with that plan.



MESSAGES FROM  
COUNCILMEMBERS (cont'd)

Ruff said that I-69 would have huge impacts for the community, but that the likelihood of I-69 being constructed, given the funding and opposition, is no more likely than the possibility of Crane being shut down. If we use that same logic that highway boosters are using, namely that we just need to plan for the possibility of I-69 coming, then we should be planning for the just as likely scenario that Crane will close, that these same people who are saying this would have a huge impact on Bloomington.

David Sabbagh reiterated a comment made several weeks ago and again that morning about Park and Ride. He said Park and Ride is a big issue these days and he said he was a strong supporter of the program; it was a good program, and said that it should be expanded. He said it needed a new route, and that the only way this would happen would be to engage Indiana University in opening of 7<sup>th</sup> Street to bus traffic. He stated that IU wanted the campus to be a pedestrian campus, and while he agrees with that sentiment, he said that busses are an enhancement to pedestrian traffic and that 7<sup>th</sup> Street open for traffic would allow the clients of the Park and Ride – IU students—to be taken to the heart of campus. He said he would continue to talk about this important issue and once more said that the city should again engage IU in the discussion of opening 7<sup>th</sup> Street for bus traffic.

Dave Rollo agreed with Sabbagh's statement on opening 7<sup>th</sup> Street and said he also had closely watched the Park and Ride discussions. He said the Bloomington Transit/Planning Department's Park and Ride survey that was recently released had been reviewed by Laurence "Buff" Brown, an engineer and attorney presently working for the Indiana Department of Environmental Management in the Office of Air Quality as a transportation emissions expert. He added that Brown had served on the Traffic Commission for nine years and was well versed in these issues and had a critical view of the Park and Ride system. Rollo said he agreed with Brown's conclusions that the Park and Ride seemingly generates car traffic in that it serves students who commute to and from their apartments to the Park and Ride system and then use the shuttle into campus. He said that if that's the case, we're defeating the inherent goal of diminishing the amount of traffic on streets. Rollo seconded Sturbaum's statement on a priority of a vibrant and successful downtown. He appealed to folks who want to see its vibrancy to make it a personal priority to patronize downtown businesses, restaurants, art galleries, Wonderlab and bookstores. He added that there was so much to see and do downtown, but that we can't take it for granted.

Rollo gave a Fourth District report which included an upcoming Plan Commission meeting rezoning petition for Renwick, the development of the Ramsey Farm. He said the proposal included 360 housing units with 20,000 square foot commercial area on the northeast corner of the 80 acre parcel on Moore's Pike and Sare Road. He said the concerns of park expansion, storm water runoff, the effects of the commercial component, and connectivity would be discussed. He said of particular concern was a proposed traffic circle on Moore's Pike. He encouraged citizens to attend or watch this last commission meeting on the development.

Rollo addressed concerns of residents on Longwood Drive just east of the Deer Park Conservancy. He said that a significant soil berm was being constructed close to the fence on the eastern edge of the conservancy. Rollo said that Tom Micuda, Planning Director, said that although there were constraints on the topological impacts of contouring land and landscaping within the easement, there was sufficient ambiguity within the landscaping portion of the agreement to allow the construction of the berm. Rollo said the explanation on the part of Deer Park Management was that the berm was to shield the Longwood

neighbors from noise emanating from their facilities, but curiously, Rollo said, no Longwood residents were contacted to ask about noise or for notification of the construction of the berm. Rollo said he agreed with Micuda that although the berm may be legal, it was unfortunate and unneighborly that the residents weren't consulted in advance. Rollo said he was assured that city personnel would continue to inspect the berm as work proceeded on it.

Rollo thanked the residents of Ruby Lane for their patience in the construction of a sidewalk and underlying storm water project. He said he would press for its completion as the project is long overdue. Rollo said he would make it his highest priority to see the completion of the project.

Timothy Mayer welcomed Bet Savich and the members of the Teen Action Project to the meeting and hoped that they would learn something from the proceedings.

Mayor Mark Kruzan commended Mike Miller and Derek Hershberger, for their actions in assisting emergency workers in rescuing two persons from the icy waters of Griffy Lake on February 28, 2004. Kruzan read proclamations in thanks and recognition of their heroic actions. Kruzan said that the two would receive City of Bloomington Parks and Rec T-shirts to replace the ones they gave to the victims as they were pulled out of the water that day.

Pete Giordano, Director of Community and Family Resources informed the council about the Teen Action Program (TAP) being administered by the Bloomington Volunteer Network (BVN) within his department. He reported that this leadership program for youth was funded through a Community Alliance to Promote Education (CAPE) grant which is administered through the Community Foundation with Lilly Endowment Funds.

Erin Hess, the Teen Leadership and Service Coordinator for the BVN, said the two year CAPE grant was supplemented with funds from the CFRD. She explained the program was open to freshman, sophomores and juniors in all Monroe County high schools to help teens learn teamwork, communications, problem solving, marketing, understanding diversity issues, partnering with adults, goal setting, organizing community events and grant writing.

Michel Jander, Oriane Robison, Miyako Fugua, DeJohn Rose and Sophia Percival, the TAP team leaders told about their team projects which were funded as a result of their organizational and grant writing skills, and which would take place the following week during National Youth Service Days.

They thanked the mayor and council for supporting their program and recognizing the important role that youth play in the community. They also encouraged any teen interested to contact the BVN.

Mayor Kruzan thanked the TAP participants for their involvement, thanked the staff, Giordano, Hess, Lucy Schaich, and Bet Savich for their work with the program, and read a proclamation naming April 16-18, 2004 Youth Service Days in the City of Bloomington.

Several council members commended the students and staff for their work, and invited them to come back to the council meetings.

Mayor Kruzan said that he and council member Stephen Volan had attended a meeting today with the Solid Waste Management District. He said that fifteen people had to go home today to tell their families that their jobs had been unexpectedly eliminated because the solid waste management district is in crisis. He said if the landfill closes there will be very few options. He added that the root of the problem was

## MESSAGES FROM COUNCILMEMBERS (cont'd)

### MESSAGE FROM THE MAYOR

- Proclamations
- CFR Teen Action Project Report

- Mayor's Solid Waste District Comments

management issues of those on the board and past practices of spending more than revenues and said there was a cost associated with not taking the maximum levy. He is concerned about these past practices, and doesn't want to repeat this at the city level. He said what was happening to the Solid Waste Management District was an example of this hitting home.

Ron Walker, Director of Economic Development, presented the annual tax abatement report to the council. Following the format of the report published in the Council Packet sent on April 2, 2004 he listed all active tax abatements, reviewed their current status, and assessed their compliance with the Statements of Benefits forms. In doing so he stated that compliance must be met by the property owners, and it was up to the council to decide if compliance with the Statement of Benefits was being met.

- Annual Tax Abatement Report

To the question about the meaning of 'substantial compliance,' Walker said that there were several things listed and considered on a Statement of Benefits. He added that each of the goals listed may not be met entirely, but it was up to the council to actually decide whether or not one issue or another negates the abatement or if the compliance with one of the major goals and not others is enough to continue granting the abatement. He added that those who apply for an abatement and do not meet up to the requirements as set forth by their Statement of Benefits due to factors outside of their control could not be held accountable for that. To further explain he added that since there is no way to predict the economy, changes in a particular market, or losing a contract because a customer filed bankruptcy, state law provided this type of protective wording. He said that it was the right of the council to determine whether these and other factors were beyond the control of the owner or not.

Walker stated that if the council found that a tax abatement recipient was not in substantial compliance, the council should make a motion to the effect that it desires to rescind the abatement. He added that the council should then send them a statement stating such and set up a hearing within 45 days where the recipient could make a case as to why they should be found in substantial compliance, or present information about factors beyond their control. The council would then weigh those factors and arrive at a final determination.

Walker highlighted the following tax abatements that he thought might have some special issues:

The Gables was approved in 1994 or a two-story six-unit condo with parking beneath the units. He said the investment was higher than the original estimate, and had changed from the original plan. He said this was now a rental project rather than owner occupied condos, but believed that they were in substantial compliance.

Bloomington Community Foundation had received an abatement for the North Showers Building rehabilitation. They have leased this portion of the building to Indiana University which has no tax liability. IU had submitted a compliance form every year to show that the project was meeting the goals of the abatement.

Rono Corporation redeveloped the former Thickstun Glass building. Their abatement included three affordable rental apartments; however, the owner claimed he was not aware of this stipulation. He had been renting them at market value, which was very close to the affordable rates. Walker said this wasn't the biggest portion of the abatement, and so considered the owner to be in substantial compliance.

Metropolitan Printing's abatement for real estate and equipment had been granted for 10 years. Walker said that investment had exceeded the estimate; however, the company had lost rather than gained employment because of factors beyond their control. He added that the good faith effort had been made to meet their goals as stated in the Statement of Benefits.

Annual Tax Abatement Report  
(cont'd)

Lockerbie Court Condominiums received a ten year tax abatement for owner occupied downtown condominiums. He said that some units were purchased while the units were being built because the owners could customize their unit, however, those owners had not yet moved into the units because of financial and liability reasons and have rented them out. He said the rentals had never been advertised as such, and persons seeking to rent units there have been turned down because they didn't meet the income guidelines and/or credit approval.

Walker noted that there were several abatements that had not filed a CF-1 Form with the legislative body. He said that Print Pack, Habitat for Humanity and Renaissance Rentals, LLC had not submitted the forms, that he was in contact with each of these entities, and that he was working with them to help them get into compliance with the filings.

It was moved and seconded that Ron Walker provide a supplemental report regarding the remaining CF-1 forms for improvements to real estate and investment in new manufacturing equipment on May 19, 2004, that this report be filed with the council office by May 10, 2004, and that after the supplemental report has been presented the council would make an initial determination regarding the status of these tax abatements.

Motion to accept a supplemental report at a later date.

The motion received a roll call vote of Ayes: 9, Nays, 0.

Walker said that one project had not substantially complied with the terms of its tax abatement, that of Winterwood Management, formerly Buyers Only Real Estate with the project located at 2305 Rockport Road. He informed the council that the original developer of the owner occupied affordable housing went bankrupt and was purchased by Winterwood. He reported that they had never filed for the tax abatement assuming that they would not comply with the terms of the abatement.

It was moved and seconded that Pursuant to Indiana Code 6-1.1-12.1-5.9, the Common Council determines that the owner of Winterwood has not substantially complied with the Statement of Benefits and that the failure to do so was not caused by factors beyond their control. Therefore, the Common Council will hold a hearing at the Regular Session of May 19, 2004, to further consider the property owner's compliance with the Statement of Benefits. At the conclusion of the hearing, the common council may adopt a resolution terminating the tax abatement. The Council Attorney is directed to mail the statutorily required written notice to the property owner.

Motion to hold hearing with regards to termination of tax abatement.

The motion received a roll call vote of Ayes: 9, Nays, 0.

It was moved and seconded to accept the tax abatement report as modified by the council.

Motion to accept Tax Abatement Report

Ruff briefly outlined problems with the system of tax abatements and reporting, saying that it wasn't that he didn't support the abatements, but thought the issue was bigger than the council. He said a local tax abatement policy increased the likelihood that real public benefits result and go in large part to people in our community who need and deserve

economic benefits. He added that this would also link to a living wage. Sturbaum said today's market was much different than that of 1994 while citing examples of redevelopment and historic preservation work made possible by some tax abatements. He said that there were pros and cons in deciding on tax abatements, but that perhaps a closer eye should be paid to abatement requests in the future.

Discussion on Motion to Accept the Tax Abatement Report (cont'd)

Gaal said there had been some great comments made in the discussion, however, said that there was a difficulty with terminology used. He said 'substantial compliance' needed to be considered on a case by case basis, and that there were inherent risks in granting tax abatements.

Rollo said that in this deliberation, the council should consider what the community gives up in unrealized tax revenue in determining the usefulness of tax abatements. He said there was an interference with the market with respect to abatements, but the council should determine the benefits to the community as well. He questioned striking a balance between similar companies in the area and said we should review the economic sectors involved to see if abatements are favoring one business sector over another. He agreed that when companies experience a flux with respect to outside or national events the council should be savvy enough about this to give consideration to that enterprise. He said other things to consider with tax abatements were quality construction, design standards, environmental protection and the goals of the GPP.

Sabbagh said that tax abatements were the only tool given to municipal councils to help 21<sup>st</sup> century companies and hoped that the state legislature would create other tools to help local enterprises.

Volan said that the term 'substantial compliance' was confusing, but said that because of the discussion, he had a better understanding of it now.

Mayer thanked Walker for a thorough presentation and said that the council discussion raised good questions and comments.

The motion received a roll call vote of Ayes: 9, Nays, 0.

There were reports from council committees.

COMMITTEE REPORTS

There was no public comment at this time.

PUBLIC INPUT

It was moved and seconded that the following appointments be made:

BOARD AND COMMISSION APPOINTMENTS

Cheri O'Neill Animal Control Commission  
Damon Simms Community and Family Resources Commission  
John Zody Community and Family Resources Commission

All appointments were approved by a voice vote.

There was no legislation for second reading.

LEGISLATION FOR SECOND READING

There was no legislation to be introduced.

LEGISLATION FOR FIRST READING

There was no public comment at this time.

PUBLIC INPUT

It was moved and seconded that the Regular Session on April 14, 2004 be cancelled and that the meeting scheduled for April 21, 2004 be combined with the meeting on April 28, 2004.

Other Business: Meeting Schedule

No one objected to this item being discussed and voted on, therefore the rules were not suspended to do so.

The motion was passed with a voice vote.

The meeting was adjourned at 10:05 pm.

ADJOURNMENT

APPROVE:

ATTEST:

Michael Diekhoff, President  
Bloomington Common Council

Regina Moore, CLERK  
City of Bloomington

Unapproved