In the Council Chambers of the Showers City Hall on Wednesday, September 18, 2013 at 7:29 pm with Council President Darryl Neher presiding over a Regular Session of the Common Council.	COMMON COUNCIL REGULAR SESSION September 18, 2013
Roll Call: Ruff, Sandberg, Granger, Neher, Mayer, Rollo, Volan, Sturbaum Absent: Spechler	ROLL CALL
Council President Neher gave the Agenda Summation	AGENDA SUMMATION
There were no minutes to be approved at this meeting.	APPROVAL OF MINUTES
Steve Volan noted the next weekend was the Lotus Festival and encouraged people to go to their website, consider attending the free events, and to enjoy the weekend. Tim Mayer noted that the next Sunday would be the first day of fall. Darryl Neher noted that at the last session there were comments raised from the gallery and wanted to make sure that the public spoke at the podium and noted that there were several opportunities to speak at the meetings. He also asked them to address the council and not members of the audience or staff.	REPORTS • COUNCIL MEMBERS
There were no reports from the Mayor's office or other city offices at this meeting.	• The MAYOR AND CITY OFFICES
There were no reports from council committees at this meeting.	• COUNCIL COMMITTEES
Scott Wells said he served on the county's Board of Zoning Appeals and the Monroe County Plan Commission. He presented the council with a letter written by the Monroe County Plan Commission to the Indiana Department of Environmental Management regarding a complaint of sedimentation of the Indian Creek Tributaries from the I-69 Corridor Construction. He showed slides of sedimentation, rainwater collected from the area, and Clear Creek after a recent rain event. He asked that the council or anyone in the public to write a letter regarding this siltation leaving the site and choking the waterways. Daniel McMullen said there were problems with rain runoff in his district. He also opposed a food and beverage tax.	• PUBLIC
There were no appointments made at this meeting.	APPOINTMENTS TO BOARDS AND COMMISSIONS
It was moved and seconded that Ordinance 13-11 be introduced and read by title and synopsis. Deputy Clerk Bolden read the legislation and synopsis saying giving the Do Pass Recommendation of 0-8. It was moved and seconded that Ordinance 13-11 be adopted.	LEGISLATION FOR SECOND READING AND RESOLUTIONS Ordinance 13-11 To Amend Title 4 of the Bloomington Municipal Code Entitled "Business Licenses and Regulations" - Re: Chapter 4.04 (Business Licenses Generally *deleted)*; Chapter 4.18 (Pawnbrokers - *revised*); Chapter 4.20 (Secondhand Dealers - *revised*); Chapter 4.22 (Dealers in Valuable Metals - *added*); Chapter 4.24 (Taxicabs - *revised*); Chapter 4.28 (Jitneys - *deleted*); and, Chapter 4.30 (Horse-Drawn Vehicles for Hire - *deleted*)
It was moved and seconded that the council limit public debate by asking the public to speak on a 'question' no more than one time and for no more than five minutes.	Motion to limit debate
The motion to limit debate in the manner noted above received a roll call vote of Ayes: 7, Nays: 1 (Ruff).	
Adam Wason, Communications Director for the Office of the Mayor, asked for council support in passing the ordinance.	Ordinance 13-11

He noted the part of the code regarding business licenses had not been updated since the late 1970s or early 1980s. He said the proposed update largely consisted of deleting sections of the business licensing requirements that were obsolete. He said the regulation of pawn shops, second hand dealers and valuable metal dealers would assist victims of theft and efficiently investigate criminal activity through the use of automated reporting systems that would allow law enforcement officials the opportunity to collect and share transaction information.

He noted that the administration believed that these businesses did not strive to deal with stolen items but stolen property was transferred through them, although occasionally and unwittingly.

He noted that notifications were mailed to the impacted businesses with a copy of the original ordinance as proposed, and with the original schedule for legislative hearings and also included contact information for staff.

He noted that with valuable metal dealers the city had agreed to use scraptheftalert.com to help identify stolen goods before they were purchased, and he noted staff was not willing to compromise on reporting requirements as they felt it was essential in investigating and assisting victims of theft.

He noted the level of scrutiny and research conducted by the city legal department and staff to vet the use of the planned third party vendor, LeadsOnline. He said LeadsOnline had implemented International Standards Organization (ISO) 27002 Security Requirements for information security management. He said they also used SAS Type 2 Compliant Data Centers, used by governmental agencies, financial, educational, and medical institutions who needed data stored in a safe and secure manner. They had also gone through third party testing for vulnerability and data storage breaches. He added that LeadsOnline also complied with the Financial Privacy Rule of the Gramm-Leach-Bliley Act.

Wason noted that the Monroe County Prosecutor, the Monroe County Sheriff, and members of the local business community had written letters of support for this ordinance. He added that the town of Ellettsville would pass a similar ordinance after this one was passed.

Patty Mulvihill, Assistant Attorney with the city Legal Department, said that Wason covered the highlights of the security levels and protections employed by LeadsOnline. She noted a concern regarding identity theft when transferring information to third parties online, and she added that the requirement of using social security numbers was eliminated and government issued ID numbers would suffice.

She noted that the contract with LeadsOnline was included in the council packet. She noted that the contract specified that they would be the specific agent for the Bloomington Police Department, not the City of Bloomington. She addressed concerns from a previous meeting:

- That one of the vice presidents with LeadsOnline said they had never been sued, that she had done extended searches for court of appeals cases at the state and federal levels, and that she had followed up on a case mentioned to her but found it not relevant to the company.
- That companies could upload data, but not access what another company had provided to LeadsOnline. She noted that searches by local police had to be done by case number or suspect, and that they couldn't browse data.
- LeadsOnline being affiliated with a particular businesses that could negatively impact other businesses, Mulvihill reiterated the upload only capacity of the interactions. She noted several large corporations that were not affiliates of LeadsOnline, but used the service.
- Sellers' information needing to be reported as part of narrowing down searches for stolen items from general searches. She said the detective's work would be much more efficient without paperwork.
- A misunderstanding of an Ohio statute regarding reporting information by sellers. She said it was not required by that state, but some business owners provided it to the online service anyway.

- San Francisco's and Minnesota's use of these online reporting systems. She said the cases surrounded state laws about procurement of services and costs incurred. She said if fees increased the city would need to do a cost/benefit analysis for the service. She noted, too, that the ordinance was written so that one particular vendor was not specified. She noted Minnesota didn't have a secure website associated with LeadsOnline, and had problems that were not associated with LeadsOnline. She asked for the council to approve the ordinance with the seven amendments proposed by the administration.

Amendment #9 was considered first because if it passed it would fundamentally change the nature of the underlying ordinance.

Amendment #9 to Ordinance 13-11

This amendment is sponsored by Councilmember Volan and changes the requirement that pawnbrokers, secondhand dealers, and dealers in valuable metals electronically transfer information about the customers who provide articles to those businesses to an online database within two business days of purchasing said articles. Under the amendment, these licensees must still transfer information about the *article of property* to the online database in a timely manner, but would only be required to transfer information about the *customer* in that transaction upon written consent of the customer. The amendment also provides the language for that written consent.

It was moved and seconded to adopt Amendment #9 to Ordinance 13-11 Volan said the amendment provided that a customer of a second hand shop must give written permission for his/her personal data to the dealer before that data was uploaded into the online database. He read the waiver of online privacy included in the text of the amendment:

> *WAIVER OF ONLINE PRIVACY*
> *"I understand that:*
> *1. Indiana statute requires pawnbrokers and valuable metal dealers to obtain and keep information about persons and articles involved in certain purchases and that this information is then made available for any law-enforcement agency to retrieve without a warrant;*
> *2. the City of Bloomington has extended this duty to gather and provide information to certain secondhand dealers and has also contracted with a third-party organization, which is identified on the City's webpage at (insert the web address provided by the City), to collect the aforementioned information and make it available to all law-enforcement agencies via the Internet; and*
> *3. Indiana statute does NOT require these businesses or their customers to participate in such online aggregation of personal information.*
>
> *By signing this form I hereby give my explicit consent for this business to report the details of this transaction into an online database.*
> *[Name of licensee; Full name and signature of customer]"*

Volan talked about levels of network and data security. He said if no data was put on a network there was less danger of insecurity.
He said as a video store owner during the years of the Patriot Act, he would have been required to provide data if asked by the FBI, and he wouldn't have been able to tell anyone about it.

He read from Bloomington Common Council Resolution 03-10 entitled *Resolution Regarding Threats to Fundamental Rights and Liberties Emanating from the USA Patriot Act, Proposals to Extend Portions of the Act and Adopt the Domestic Security Enhancement Act (Patriot II), and Certain Executive Orders and Other Federal Actions* the following:

WHEREAS, the U.S. Constitution and the Bill of Rights guarantee to persons living in the United States fundamental rights, including the presumption of innocence...
WHEREAS, those threats to constitutionally protected rights by the USA Patriot Act include
- •broadening the scope of the government's ability to search for and seize stored communications, such as voice mail and e-mail messages, under an ordinary warrant rather than a wiretap order;
- •enlarging the authority of law enforcement to install "pen register" and "trap and trace" devices without a warrant, and specifying that those devices can be used with Internet communications, all with limited judicial oversight;
- •expanding the list of crimes that may be used as predicates for wiretaps;
- •granting the FBI broad access to sensitive medical, mental health, financial and educational records about individuals without a court order (probable cause);
- •expanding the government's ability to conduct secret searches;

WHEREAS, the City of Bloomington believes that protecting liberty is essential to maintaining national security and that these infringements are not necessary to ensure the public's safety and weaken, rather than strengthen, this nation;
WHEREAS, the City of Bloomington has a tradition of inclusion
WHEREAS, the City of Bloomington believes that it is fitting to honor the memory of those who died or were injured as a result of the September 11, 2001 terrorist attacks, not only by protecting national security ... but by defending the fundamental constitutional freedoms and protections guaranteed to all persons living in the United States;
RESOLVES that we call upon all city officials and employees to respect the civil rights and liberties of all members of this community

Amendment #9 to Ordinance 13-11
(cont'd)

RESOLVES that we call upon all private citizens – including residents, employers, educators, and business owners – to demonstrate similar respect for civil rights and civil liberties....
RESOLVES that we urge our congressional delegation to oppose legislation ... that would further erode fundamental constitutional rights and liberties...

He said he couldn't make the argument that the legislation as proposed was unconstitutional, but could make the argument that in light of the resolution, the city believed in data privacy and the council should think about rejecting the bulk uploading of personal customer data to the internet.

He invited Professor Fred Cate from the IU Law School, an authority on privacy, law and the internet, to speak on the issue. Cate said the last time he spoke before the council was in support of Resolution 03-11. He said the proposal at hand would contravene the resolution that focused on privacy and the impact of restrictive laws on that privacy.
Cate urged the support of this amendment which he said was consistent with the constitutional commitment to privacy but also provided for better security of information by putting it in one centralized location.

Cate said history had proven that small, seemingly trivial incursions had eroded rights, and said we needed to stand up for rights here rather than when we decided it really mattered for privacy.

Volan asked for a response from the administration. Neher asked them to respond.

Mulvihill noted respect for Volan and his amendment, but added that there was a disagreement as to where the balancing of interests would lie. She said the administration balanced the needs and protections of the victims heavier than a possible breach of privacy of customers. She said no social security numbers were to be used.

Mulvihill noted that Chief Diekhoff had voted to approve Resolution 03-10 when he served on the council, but saw it as making a statement that the Patriot Act went too far, and was quite different from requirements of the proposed ordinance.

Mulvihill noted Cate alluded to breaches of information online. She said LeadsOnline had never been breached, even from top-of-the-line security measures.

Mulvihill stressed the purpose of reporting was to help victims get possessions that could be recovered back in addition to properly arresting and prosecuting criminals.

Council questions on Amendment #9.
Rollo asked what the rate of recovery of stolen goods would be with the LeadsOnline service. Mulvihill quoted statistics from the city of Indianapolis which used the reporting tool, and said the high number and value of stolen objects recovered was not miniscule.

Rollo asked Cate why he believed that the proposal at hand contravened Resolution 03-10 which opposed the Patriot Act. Cate read from the resolution *"we call upon all city officials and employees to respect the civil rights and liberties of all members of this community"* and said the call was not just directed to Washington, or to the USA Patriot Act, but to city employees. He said privacy was a right, and that the reporting of personal data cast a wide net for a general search and collecting data about people who have done nothing to warrant suspicion.

Ruff asked if this amendment would create a policy similar to Ohio's. Mulvihill said it was similar, but not one that the administration would like to see enacted. Volan concurred, reiterating that the item sold would be entered into the online database, but the person selling and their data would not. He said he would not be opposed to the uploading of the data if it could be made anonymous.

Sandberg asked Mulvihill to clarify the online database service, and to verify that only law enforcement had access to the data. Mulvihill said that using the database involved entering a case number, or the person who was suspect, not just any name. She said the data clearing house was national in nature so that stolen items could be retrieved from other states.

Granger asked Chief Diekoff to describe the process of using the online database for clarification. Diekhoff said serial numbers of stolen items were entered into an Indiana State police database used by law enforcement in Indiana. He said information entered into LeadsOnline required an active case number, property and possible suspect information. He related that a gun sold to a dealer in the state of Washington was recovered a year after it was stolen in Bloomington.

Neher asked Cate about privacy issues, noting that data had already been collected. Cate said he was troubled with mandatory disclosure of information, even if it was not searched. He said he was troubled with expanded access to that information, from collection to sending it to the database, to allowing national searches on that information and called it eliminating practical obscurity.

Volan asked if a warrant were necessary for searches. Mulvihill said it was not necessary because this was considered a highly regulated industry. Volan asked if it were unreasonable for a customer to take part in a purchase at a pawn shop knowing that their transaction could be searched without a warrant. Mulvihill and Diekhoff noted it was required by law that the information be collected.

Rollo noted that law enforcement agencies had access to this information, but whistleblowers have said that agencies swap data with thousands of firms, and asked if that could happen in this situation.

Cate said there were examples of data that were shared for one purpose and then shared with other agencies and then even more agencies. He noted information collected was considered sensitive data (even though there were no social security numbers) and would require notification to persons about the breaching of that data. He said he didn't share confidence that the data was secure, noting that the database company might not know that the data had been shared by a law enforcement agency with a private entity. He said that the data company might never know about this sharing, and that one should not take their word that their information had not been breached unless the data had been searched for and not found in any other source. He said if it were just a database of products, he wouldn't have any issue, but the information about people was the line of concern.

Volan noted language of the contract:

> *By uploading data, or engaging in any other form of communication utilizing Lead's website, the reporting business hereby grants to Leads a perpetual, worldwide, irrevocable, unrestricted, non-exclusive, royalty-free license to use, copy, distribute, display, reproduce, transmit, modify, edit or otherwise use such data in accordance with and to the extent allowed by the terms of this agreement. The reporting business hereby waives all rights to any claim against Leads for any alleged or actual infringements of any proprietary rights, rights of privacy and publicity, moral rights, ownership rights and rights of attribution and connection with such data.*

Volan said this indicated a perpetual right to the data and wondered if it was of concern to the administration and asked for an expiration date for the data. Mulvihill said the crimes could be solved a year or two later, and it was beneficial to keep that data active. Wason noted there were other portions of the contract that restricted the use of the data. Mulvihill said the contract needed to be read as a whole document.

Volan said that over 99.75% of transactions last year at Bloomington pawn shops were legitimate, and did not involve stolen items, yet the data would permanently be within the LeadsOnline database. Diekhoff said that every law enforcement agency he talked to that used LeadsOnline had had an increase in the number of cases solved when using the service. He said that the local ones may be missed. Volan asked for hard numbers.

Ruff asked if a Rolex watch could have been recovered with just an item identification number, rather than the personal information, or if the personal information was critical to the recovery. Mulvihill said that type of jewelry was not unique and so suspect information was helpful.

Public comment followed:

Cathy Haggerty, owner of Tom Cats Pawn Shop, said she was appreciative

of the spirit of the ordinance, but had issues with profiling her customers and assuming they are criminals. She had issues with addresses being listed saying that that tipped off people as to where valuables were being held because that was information that criminals wanted. She said that LeadsOnline did not just cover the US, and that they were not a law enforcement agency, but a purveyor of information.

She noted this was akin to requiring a law that required a private business to reveal proprietary trade information to a private or third party vendor, including amounts of loans. She said Rolexes had numbers for identity, and she said if there was a 'hit' on an item, she would have the seller's information to share. She asked if the city, police department or her business would be covered by LeadsOnline insurance for breaches of information in case of a lawsuit.

Jack McCrory, pawnshop owner in Bloomington and Bedford, said he was licensed by the state like a bank would be, with the Department of Financial Institutions, and were allowed to write loans using items in their possession as collateral for the loan. He said 80% of the loans he made were repaid, and the items obviously weren't stolen. He said the shop also purchased items outright. He said customers were numerous and varied and included judges, professors, students, and university employees with loans from $5 to $5000.

To illustrate the scope of the data involved, he said he had 13,000 transactions in the last 12 months of loans or purchases, with 10,000 total customers. He said 30 items of those were taken back because they were stolen; one item was identified through LeadsOnline. He also said that known stolen items were usually brought in by someone unassociated with the theft because reporting is commonly known.

Daniel McMullen asked why the state didn't have oversight into these things instead of outsourcing them to a private firm that could make money off this data.

Glen Carter expressed concern for the lowest income people and how this ordinance would affect them. He said the pawnbroker was the 'lender of last resort' for those who had no credit or ability to get a loan at a bank. He expressed concern about the regulation of scrap metal dealers as they were also a resource for those same people. He said he knew people who had salvaged scrap metal across the town for a living, but for lack of an ID and the barriers to getting one (like for voting) for selling the metals they could have an income stream cut off from them.

Carter said he had seen people turned away from pawnbroker transactions if the employee thought the sellers were shady characters, and added that the burden should be on the city, not the business.

Natalie McKamey said she was concerned about privacy in reporting to a third party vendor rather than BPD. She said they already received information on the item, which she said should be sufficient to determine whether or not that item was stolen. She said there were risks of database hacking, identity theft, safety in one's home and an abuse of the right to privacy. She said law enforcement should focus on the item stolen, not each customer. She asked what would happen at the end of the contract.

Ross [Dritvik] said his family was involved in data systems and data mining, and was told that personally identifiable bits of information, such as a driver's license number, was key in this field. He suspected that the company holding the database sold this information at a profit, regardless of what had been told the city. He said private investigators could get this information, also.

Tom Haggerty, co-owner of Tom Cats Pawn Shop, asked just who fell into the category of 'authorized law enforcement' and said he was concerned about the dissemination of lots of information over a wide area. He worried about someone telling where valuable items are located, on purpose or not. He said the police were welcome to call him or come by to look at his records and didn't need a case number to do it.

Scott Wells said he was worried about little steps of freedoms being lost and privacy being invaded. He said this was over reach and should be avoided. He noted that there were two new police officers in the budget this year and asked that they do old fashioned police work and not use this service.

Ruff moved to expand public comment for owners of pawn shops to have more time to speak to their concerns. Rollo seconded the motion.
The motion received a roll call vote of Ayes: 7, Nays: 0 (Mayer was out of the room)

Cathy Haggerty, Tom Cats Pawn Shop, said stolen jewelry could have very specific descriptions with weights of diamonds, types of gold, etc., and not just called 'diamond earrings.' She said that she would be happy to teach the police officers this information so that the reports could be more detailed to help with the identification of stolen items. She added that profiling was going on and noted an article by Andy Jacobs regarding NSA and personal information. She said she appreciated the council members who spoke with her because the administration had not asked for her expertise in this business.

Jack McCrory said 25 years ago another ordinance was passed related to his business, and he was invited to the table to discuss and craft the measure. He said he wasn't contacted by the city at all this time, except for a couple of council members. He said there were 24,000 transactions per year in his two pawn shops, but there were more in other businesses.

He noted that he had only 30 items identified as stolen, and only one of those resulted from the LeadsOnline service.

Additional council questions:

Volan said he found out that the city was already contracting with LeadsOnline, and had been since April 1, 2010. Diekhoff said it had been used sporadically. He said pawn shops were required to turn information in to the police, but sometimes is wasn't readily available. He said that the database would allow the officers to search the data without manually uploading the data into the system. Detective Jason Shaevitz said he was the liaison to the pawn shops, picked up the data from the shops on a weekly basis, and he and another officer worked on entering the data when they could. He clarified that the information given to police was that of sellers, not of the buyers.

Volan said he was concerned with getting the data into LeadsOnline and asked why an officer had to do that work instead of having a part time clerk do it. Diekhoff said he found that an interesting question considering the questions in the whole discussion about security. He questioned why Volan thought a civilian employee without access to confidential information should do that task. Diekhoff said they chose to have the detectives do that work. Volan noted the security issues.

Volan said if the amendment passed, police operations and policy would not change in that they would continue to use LeadsOnline with owners of shops would be uploading the data directly.

Neher asked the administration to react to statements made. Mulvihill said some information was inaccurate.

- She said no other business that uploads to LeadsOnline would have access to any other businesses data.
- She noted statements of credit ratings and security clearances being affected by the information and again noted that only law enforcement agencies would access the information.
- She noted a detective already uploaded the data to LeadsOnline, but it wasn't an effective use of their time and resources, and included a lag time in reporting. She said having the businesses upload the information would be more efficient.
- She said that over 100 law enforcement offices used this service because it worked in helping to recover stolen items. She said without regulations Bloomington would become the place to pawn stolen items.

- She said that there were limitations to all the rights granted in the constitution, and highly regulated industries were allowed to obtain personal information without a warrant. She fundamentally disagreed with the claim that this would violate privacy rights.
- She said that other options were considered but some charged the business owners for uploading the information, which she felt was inappropriate. She also said that this was a national organization that gave a better chance to recover stolen property, and an in-house network wasn't as effective as a broader database.
- She said that Marion County had not experienced a reduction of business for pawn brokers, second hand dealers or scrap metal businesses as a result of the reporting requirement. She noted that the more jurisdictions that used these regulations the less this regulation would impact business.

Concluding she asked the council to support the administration's proposal to help the victims of crimes get their stolen items back. She asked that Amendment #9 not be passed.

Neher asked Diekhoff if the pawnshop owners knew BPD was uploading data. Diekhoff said they did. Neher asked if there had been concerns of privacy expressed from the owners. Diekhoff said no.

Sandberg said that when the council deliberated they took into consideration more than what had been presented in the hearing, including letters and phone calls. She said she considered all of the reams of information presented, and had personally read it all. She added that condescension in statements of 'not working for the people' did not sit well with her. She said this amendment did not assist public safety. She noted that the council had sent messages to the state general assembly about profiling people and that some folks speaking did not really understand the council position on social justice and equity, jobs and the work they did. She said she would vote against the amendment.

Sturbaum said his 92 year old father-in-law had been patted down and searched before a recent flight, and it was a question of national security and greater good that this happen. He said that he had many construction items stolen, and would like to have things back. He appreciated the effort to get things recovered, and would like to help the police get items back for victims.

Granger said she had read many messages, took lots of notes; she needed to know what people were thinking on this issue. She said she would err on the side of victims' rights and would not support this amendment.

Ruff said the larger concern of privacy, what we needed to trade off for liberties, and balance were all items of concern. He pointed out that there could be victims of profiling from the collection of information, also. He noted that it had been pointed out that there was riskiness in the aggregation of data because they were so large and often easier to use. He said the statement that Bloomington would become a haven for stolen goods was speculative.

Ruff said he voted yes on the resolution opposing the Patriot Act, and said there was a conflict as Cates had said. He noted statements that LeadsOnline had not been breached and posited that it may not be about better security, but that the information had not yet been of interest. He said not just criminals wanted this data, and we might not imagine the uses and misuses for this data.

Ruff said the way society should address this issue was through greater economic opportunity and more economic justice and fairness. He said he would support the amendment.

Rollo said he, too, was overwhelmed with information. He thanked Volan for creating the opportunity for the discussion. He said for efficiency sake, as a tool for solving crimes, this information would be necessary and that didn't bother him. He said what did bother him was Cate's statements on breaches of security and continual erosion of civil liberties. He noted his opposition to encroachment on civil liberties, and agreed that incremental

losses were happening. He noted, too, Cate's help in crafting the resolution that opposed the Patriot Act and reread the passage that had been read earlier. He said he would support the amendment.

Amendment #9 to Ordinance 13-11 *(cont'd)*

Mayer said the statements of 'assist victims of crime' and 'make the victims of crime whole' were important to him. He said it would be impossible to live in the world today without data being created and gathered on a person, from drivers' licenses to credit cards. He said he wanted to look at the greater good for the community and said that being able to track objects was important. He would vote no on the amendment.

Neher noted Cate's comment that the first incursion on privacy occurs when the collection of data was enacted by state law. He asked if there was an assumption of secrecy with transactions within these establishments. He said he was not able to support the amendment, but he valued the discussion.

Volan, noting one of his positions had been called disingenuous, said he could find disingenuousness in a host of statements made on behalf of the administration. He said the sustainability of our democracy was important, and civil liberties should not be allowed to be eroded in the names of security.

Volan objected to the BPD policy of having detectives handle all the imputing of data. He said uploading should be easier.

He noted that Prosecutor Chris Gaal had co-sponsored the resolution about the Patriot Act when he was on the council and had yet sent a letter supporting the ordinance being debated at this meeting. He said the victims of theft deserved justice and that didn't include treating all other citizens as leads or crooks. He said staff untutored in pitfalls of putting massive amounts of data online shouldn't be making this request of the council until all possible problems were ironed out. He said data could be leaked by a low level employee, and that Transportation Security Administration (TSA) could also access the LeadsOnline database since they were a law enforcement agency.

Volan challenged the council to repeal the resolution against the Patriot Act if they no longer could hold it to be true. He said the administration should ask the state of Indiana to require this information. He said the almost defunct Telecommunications Council wanted to create legislation for a new mission and purpose for an Information and Communications Technology Council to 'advocate for access to electronic information and communication resources for all, protecting privacy, and supporting free expression.' He said this was a needed resource as the discussion on the ordinance had proven to him that there was a great deal of ignorance about data, the internet, privacy and Bloomington's role in it all. He asked the council to pass Amendment #9 or table the whole ordinance until the language was worked out better. He said Professor Cate was a noted scholar on the issue and asked the council to consider his statement.

Amendment #9 to Ordinance 13-11 received a roll call vote of Ayes: 3 (Ruff, Rollo, Volan), Nays: 5 (Sturbaum, Sandberg, Granger, Neher, Mayer) and thus failed.

It was moved and seconded to adopt Amendment #4 to Ordinance 13-11

Amendment #4 to Ordinance 13-11

- Fixes a numbering error in the heading of the new Chapter 4.22.
- Corrects the definition of "purchase" to exempt rather than include certain transactions.
- Modifies the mandatory hold period for valuable metal dealers from seven (7) days to the same holding period as required by the Indiana Code, five (5) days—with some minor exceptions.

Neher noted this amendment was proposed by the administration. Wason said this proposal arose from discussions with valuable metals dealers, the Indiana State Police, and local officials.

Granger asked if there was support from the dealers on this proposal. Wason said he believed there was.

Michael McBride said he was representing Bloomington Iron and Metal. He thanked Wason, Mulvihill, Alano-Martin and Chief Diekhoff for spending time at the business to understand the model and to accommodate their needs as well as the need to curb theft. He said he understood that Chief Diekhoff would begin to use Scraptheftalert.com as an extra tool for

this purpose. He said that the resource was supported by the scrap metal industry.

Kevin Robling, representing JB Salvage, said they do support the amendment and appreciated the council and administration giving additional time to work to get this right. He said they would support the other amendments as well.

Volan said he was glad to hear the administration and metal dealers were able to work together.

Rollo thanked the administration and businesses for working together to propose this compromise this amendment.

Amendment #4 to Ordinance 13-11 received a roll call vote of Ayes: 8, Nays: 0

Amendment #4 to Ordinance 13-11 *(cont'd)*

It was moved and seconded to adopt Amendment #1 to Ordinance 13-11

Adam Wason said it was intended to include this proposal in the original ordinance and asked the council to pass this housekeeping amendment.

There were no questions, public comments or council comments on this item.

Amendment #1 to Ordinance 13-11 was approved by a roll call vote of Ayes: 8, Nays: 0

Amendment #1 to Ordinance 13-11

Deletes any fee requirement for a taxicab license. The fee is being deleted because the City recognizes that taxi cab companies will face an increased administrative cost by the new requirement that each taxi cab undergo a vehicle safety inspection from an independent third party

It was moved and seconded to adopt Amendment #2 to Ordinance 13-11

Adam Wason said this was the result of feedback from business community. He said it changed the threshold for reporting from a percentage amount to a dollar amount. He said some of the largest second hand dealers in the community were large retail operations and using the percentage amount, the reporting would not capture the pertinent information. He said it also exempted businesses that were engaged primarily in transactions involving CDs and LPs. He said that the second hand market for these items wasn't relevant at this time because of digital music.

There were no questions, public comments or council comments, although Volan was shocked to hear that his collection wasn't worth much.

Amendment #2 to Ordinance 13-11 received a roll call vote of Ayes: 8, Nays: 0

Amendment #2 to Ordinance 13-11

- Changes the exemption for businesses that only occasionally purchase used goods from a percentage basis to a dollar basis. Businesses that purchase more than $5,000.00 worth of used goods in any one calendar year will be subject to the requirements of the Secondhand Dealer Chapter.
- Exempts businesses that primary purchase used CDs and LPs

It was moved and seconded to adopt Amendment #3 to Ordinance 13-11

Adam Wason said this would change the definition of 'pawnbroker' to match what was in the state code.

There were no questions, public comments or council comments on this item.

Amendment #3 to Ordinance 13-11 received a roll call vote of Ayes: 7, Nays: 0 (Volan out of the room)

Amendment #3 to Ordinance 13-11

This amendment changes the definition of pawnbroker to mirror the definition in State law (I.C. 28-7-5-2).

"Pawnbroker" means any person, partnership, association, limited liability company, or corporation lending money on the deposit or pledge of personal property, or who deals in the purchase of personal property on the condition of selling the property back again at a stipulat price, other than choses in action, securities, or printed evidence of indebtedness."

It was moved and seconded to adopt Amendment #5 to Ordinance 13-11

Adam Wason noted this was a change due to the concerns from the businesses involved. He said items from a Saturday would be able to be reported on Monday and Tuesday of the next week.

Volan asked why 24 hours was initially proposed. Detective Jason Shaevitz said that the reporting system was in real time so that the transaction could be investigated, if need be, more quickly. Volan asked if he had concerns with the new time frame. Shaevitz said he did not.

Public comment:
Jack McCrory said the original ordinance was 48 hours and the amendment was now two business days. He wanted clarification if the requirement was for two business days after the transaction.

Neher asked Wason to clarify the requirement. Wason said that the intent was to have two full business days to do the report.

Volan asked if an item came in at 11:00 am on a Monday, could it be reported by the end of the business day on Wednesday. Wason said that was the intent.

Amendment #5 to Ordinance 13-11 received a roll call vote of Ayes: 8, Nays: 0

Amendment #5 to Ordinance 13-11

This amendment changes the reporting requirement for pawnshops, secondhand dealers, and valuable metal dealers from forty-eight hours to two business days.

It was moved and seconded to adopt Amendment #6 to Ordinance 13-11

Wason noted that a customer's government issued ID number would suffice in recording the transaction rather than a social security number or specifically a drivers' license.

There were no questions, public comments or council comments on this item.

Amendment #6 to Ordinance 13-11 received a roll call vote of Ayes: 8, Nays: 0

Amendment #6 to Ordinance 13-11

Changes the requirement that a pawnshop write down the drivers' license number of a customer to writing down the identification number of any government issued photographic identification card. Allows use of military identification cards, state identification cards, and passports.

It was moved and seconded to adopt Amendment #7 to Ordinance 13-11

Granger said her desire was to have language in the entire ordinance that was gender neutral.

There were no questions, public comments on this item.

Mayer thanked Granger for proposing this change.

Volan said that neither Granger nor Sandberg were councilmen, but councilmembers. He said this was a small but important move.

Amendment #7 to Ordinance 13-11 received a roll call vote of Ayes: 8, Nays: 0

Amendment #7 to Ordinance 13-11

This amendment is sponsored by Councilmember Granger and makes changes that create a gender-neutral ordinance. In other words, errant references to "he" and "his" are changed to "he/or she" and "his/her" wherever they appear in Title 4

It was moved and seconded to adopt Amendment #8 to Ordinance 13-11

Adam Wason said this was mainly a housekeeping measure to keep the penalties consistent throughout the chapters of the title.

There were no questions, public comments or council comments on this item.

Amendment #8 to Ordinance 13-11 received a roll call vote of Ayes: 8, Nays: 0

Amendment #8 to Ordinance 13-11

- Makes the penalty provisions of each the relevant chapters discussed in the Ordinance consistent with one another.
- Makes it clear when the Controller will issue business license for each of the relevant chapters discussed in the Ordinance.

There were no additional statements from the administration on Ordinance 13-11 as amended. There were not additional council questions or public comments on the ordinance as amended.

Ordinance 13-11 as amended

Volan said that data of those using credit cards for parking, 40% of all users, was being aggregated. He said the convenience fee was to prevent the city from having access to credit card numbers, and was actually

Ordinance 13-11 as amended *(cont'd)*

protecting the user's privacy. He said if the data was captured, the city would have the ability to just charge people when they got parking tickets. He said this was the type of question that was important in the future. He said it was inappropriate that data privacy measures were not included in this ordinance with the addition of Amendment #9 and would vote against the whole ordinance.

Ruff said that he was glad sections of the ordinance were worked out with conversations and meetings between parties. He said he had made his stand known with earlier comments. He said he wished the ordinance had been broken into sections for separate votes, but rather than make a symbolic no vote over concerns with not adding amendment #9, he would vote yes on the ordinance.

Granger thanked staff for the work and efforts in producing and amending this ordinance. She said not everyone was completely happy, but people had the opportunity to speak and changes were made.

Rollo thanked Mulvihill, Wason, Diekhoff and the detectives who had stayed through the meeting. He said it had been a tremendous amount of work and appreciated the administration's work to compromise with the businesses.

Rollo said he was moved by Professor Cate's firm statement. He said he was also moved by Cate's affirmation that this ordinance contravened the resolution regarding the Patriot Act, one that was near and dear to him. He said he could not vote for this ordinance.

He said that at the time of the Patriot Act, even questioning the Act was held in disregard and it was difficult to debate the issue. He respected his expertise and appreciated his participation in the night's discussion.

Sandberg said she didn't disregard Cate's statement. She said that she hoped to move forward from the resolution and hoped to put things back in the context of living together in a community where social ills existed that needed to be addressed. She said this was little enough to ask in order to assist law enforcement to be able to address victims' rights. She thanked staff for being willing to listen and make compromises.

Sturbaum said this was a balancing act, and that he appreciated all concerns.

Ordinance 13-11 as amended by Amendments 1, 2, 3, 4, 5, 6, 7, and 8, was approved by a roll call vote of Ayes: 6, Nays:2 (Rollo, Volan)

FIRST READINGS

There was no legislation to be introduced at this meeting.

PUBLIC COMMENT

There were no comments at this segment of the meeting.

COUNCIL SCHEDULE

Dan Sherman, Council Attorney/Administrator, noted upcoming meetings of the council would include the budget hearings.

ADJOURNMENT

The meeting was adjourned at 11:42 pm.

APPROVE:

Darryl Neher, PRESIDENT
Bloomington Common Council

ATTEST:

Regina Moore, CLERK
City of Bloomington