

The City Council of the City of Mattoon held a regular meeting in the City Hall Council Chambers on September 7, 2010.

Acting Mayor Gover presided and called the meeting to order at 6:30 p.m.

Acting Mayor Gover led the Pledge of Allegiance.

The following members of the Council answered roll call physically present: YEA Commissioner Randy Ervin, YEA Commissioner Rick Hall, YEA Commissioner Chris Rankin, YEA Acting Mayor Tim Gover.

Also physically present were City personnel: City Administrator Sue McLaughlin; City Attorney & Treasurer J. Preston Owen, Community Development Coordinator Kyle Gill, Public Works Director David Wortman, Fire Chief Tony Nichols, Police Chief Jeff Branson, Library Director Ryan Franklin, and City Clerk Susan O'Brien.

Commissioner Hall seconded by Commissioner Ervin moved to approve the consent agenda consisting of minutes of the regular meeting August 17, 2010; Fire Department Report for the month of August, 2010; bills and payroll for the last half of August and first half of September, 2010.

**Bills and Payroll last half of August, 2010  
and Payroll first part of September, 2010**

**General Fund**

Payroll		\$ 487,670.83
Bills		<u>\$ 107,591.00</u>
	Total	\$ 595,261.83

**Hotel Tax Fund**

Payroll		\$ 3,333.30
Bills		<u>\$ 20,452.72</u>
	Total	\$ 23,786.02

**Festival Management**

Bills		<u>\$ 409.78</u>
	Total	\$ 409.78

**Insurance & Tort fund**

Bills		<u>\$ 199,984.40</u>
	Total	\$ 199,984.40

**Capital Project Fund**

Bills		<u>\$ 45,103.39</u>
	Total	\$ 45,103.39

**South Route 45 TIF  
District**

Bills		<u>\$ 88,652.58</u>
	Total	\$ 88,652.58

**I 57 East TIF District**

Bills		<u>\$ 554.50</u>
	Total	\$ 554.50

**Midtown TIF District**

Bills		<u>\$ 3,675.00</u>
	Total	\$ 3,675.00

**Water Fund**

Payroll		\$ 46,229.02
Bills		<u>\$ 174,747.42</u>
	Total	\$ 220,976.44

	<b><u>Sewer Fund</u></b>	
Payroll		\$ 57,936.87
Bills		<u>\$ 70,058.64</u>
	Total	\$ 127,995.51
	<b><u>Cemetery Fund</u></b>	
Bills		<u>\$ 61.33</u>
	Total	\$ 61.33
	<b><u>Motor Fuel Tax Fund</u></b>	
Bills		<u>\$ 10,574.88</u>
	Total	\$ 10,574.88
	<b><u>Health Insurance</u></b>	
Bills		<u>\$ 123,563.36</u>
	Total	\$ 123,563.36

Acting Mayor Gover opened the floor for discussion with no responders.

Acting Mayor Gover declared the motion to approve the consent agenda carried by the following vote: YEA Commissioner Ervin, YEA Commissioner Hall, YEA Commissioner Rankin, YEA Acting Mayor Gover.

**PUBLIC COMMENTS/PRESENTATION AND NON AGENDA ITEMS:**

Jonathan Kaye reviewed his proposal for a Tree Planting Program. Acting Mayor Gover stated the Council would need time to review.

Mr. Charlie Brown addressed the Council regarding the nuisances at #3 Brown Court, where two vehicles were parked in front of the house and were being used as storage; and requested establishing an ordinance prohibiting this type of nuisance. Acting Mayor Gover stated he would have someone look into the situation.

Mrs. Karen French thanked Director Wortman for having the area of 27<sup>th</sup> Street and Commercial cleared of debris. She requested action to be taken regarding the tall weeds near an open flame oil well.

Mrs. Joyce St. Michael inquired whether mechanics (B & D Auto) were allowed to park cars to be repaired on their lots, and when trees were scheduled to be trimmed around various signs. Coordinator Gill stated auto repair shops were allowed to have vehicles in their lots.

**ITEMS FOR DISCUSSION:**

A. Habitat for Humanity – 10<sup>th</sup> & Richmond

Administrator McLaughlin described the area located at 10<sup>th</sup> and Richmond Avenue as an area for four houses, which could be donated to Habitat for Humanity and improve the appearance of the area not used by the City. Commissioner Rankin noted the vacation of a portion of the area to equalize the lots. Director Wortman noted water and sewer service would have to be established in 80% of the area. Mr. Kirk Swensen, a Mattoon member, stated there would be qualified people, good lots to build on, dual-housing goals, and affordable housing while improving the property. Council with input from Coordinator Gill, Attorney Owen, and Director Wortman discussed the opportunity and asked Administrator McLaughlin to prepare an item for Council consideration.

B. Progress Square Parking Lot

Administrator McLaughlin described the plans and reasons for improvements, issues with lighting and parking, and preparation of new specifications to resolve issues with the re-bid including alternate bids for next week. Council and Administrator McLaughlin discussed parking and the expenditures from Midtown TIF funds to make the improvements. Administrator McLaughlin noted the revised specifications would be on the September 21<sup>st</sup> agenda for consideration.

NEW BUSINESS:

Commissioner Rankin seconded by Commissioner Ervin moved to adopt Ordinance 2010-5309, amending the Municipal Code of the City of Mattoon with the addition Chapter 99.30 establishing standards for the construction of facilities on the rights-of-way.

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**CITY OF MATTOON, ILLINOIS**

**ORDINANCE NO. 2010-5309**

**AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE  
CITY OF MATTOON BY THE ADDITION OF  
CHAPTER 99.30 ESTABLISHING STANDARDS  
FOR THE CONSTRUCTION OF FACILITIES ON THE RIGHTS-OF-WAY**

**WHEREAS**, the City of Mattoon (the “City”) is a non-home rule municipality in accordance with the Constitution of the State of Illinois of 1970; and

**WHEREAS**, the City has the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs and governing the use of public rights-of-way and that protect the public health, safety, and welfare of its citizens; and

**WHEREAS**, the City uses the public rights-of-way within its corporate limits to provide essential public services to its residents and businesses, including traffic control signals, water, sanitary sewer and storm sewer; and

**WHEREAS**, other utility service providers, including electricity, telephone, natural gas and cable television and video service providers have placed, or from time to time may request to place, certain utility facilities in the public rights-of-way within the City; and

**WHEREAS**, legislatures and regulatory agencies at the State and federal levels have implemented changes in the regulatory framework to enhance competition in the providing of various utility services; and

**WHEREAS**, the public rights-of-way within the City are a limited public resource held in trust by the City for the benefit of its citizens and the City has a custodial duty to ensure that the public rights-of-way are used, repaired and maintained in a manner that best serves the public interest; and

**WHEREAS**, the corporate authorities of the City find and determine that it is necessary to and in the best interests of the public health, safety and general welfare to establish uniform standards and regulations for access to and use of the public rights-of-way in the City by utility service providers and other persons and entities that desire to place structures, facilities or equipment in the public rights-of-way, so as to (i) prevent interference with the use of streets, sidewalks, alleys and other public ways and places by the City and the general public, (ii) protect against visual and physical obstructions to vehicular and pedestrian traffic, (iii) prevent interference with the facilities and operations of the City’s utilities and of other utilities lawfully located in public rights-of-way or property, (iv) protect against environmental damage, including damage to trees, from the installation of utility facilities, (v) preserve the character of the neighborhoods in which facilities are installed, (vi) prevent visual blight, and (vii) assure the continued safe use and enjoyment of private properties adjacent to utility facilities locations; and

**WHEREAS**, this Ordinance is enacted in the exercise of the City’s Non-home rule powers, the Corporate Authorities having determined that the regulation of the use of the public rights-of-way in the City is a matter pertaining to the affairs of the City as provided in Article VII, Section 6 of the Constitution of the State of Illinois of 1970; and

**WHEREAS**, this Ordinance establishes generally applicable standards for construction on, over, above, along, upon, under, across, or within the public right-of-way, and for the use of and repair of the public rights-of-way; and

**WHEREAS**, in the enactment of this ordinance, the City has considered a variety of standards for construction on, over, above, along, under, across, or within, use of and repair of the public rights-of-way, including, but not limited to, the

standards relating to Accommodation of Utilities on Right-of-Way of the Illinois State Highway System promulgated by the Illinois Department of Transportation and found at 92 Ill. Adm. Code § 530.10 *et seq.*; and

**WHEREAS**, the City hereby finds that it is in the best interest of the City, the public and the utilities using the public rights-of-way to establish a comprehensive set of construction standards and requirements to achieve various beneficial goals, including, without limitation, enhancing the planning of new utility facilities; minimizing interference with, and damage to, rights-of-way and the streets, sidewalks, and other structures and improvements located in, on, over and above the rights-of-way; and reducing costs and expenses to the public.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Mattoon as follows:

**Section 1. Recitals.** The facts and statements contained in the preambles to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

**Section 2. Adoption.** Chapter 99 of the Municipal Code of the City of Mattoon shall be amended by the addition of Chapter 99.30 that will read as follows:

CHAPTER 99.30. CONSTRUCTION OF  
UTILITY FACILITIES IN THE RIGHTS-OF-WAY

**99.30.1 Purpose and Scope.**

a) **Purpose.** The purpose of this Chapter is to establish policies and procedures for constructing facilities on rights-of-way within the City's jurisdiction, which will provide public benefit consistent with the preservation of the integrity, safe usage, and visual qualities of the City rights-of-way and the City as a whole.

b) **Intent.** In enacting this Chapter, the City intends to exercise its authority over the rights-of-way in the City and, in particular, the use of the public ways and property by utilities, by establishing uniform standards to address issues presented by utility facilities, including without limitation:

- 1) prevent interference with the use of streets, sidewalks, alleys, parkways and other public ways and places;
- 2) prevent the creation of visual and physical obstructions and other conditions that are hazardous to vehicular and pedestrian traffic;
- 3) prevent interference with the facilities and operations of the City's utilities and of other utilities lawfully located in rights-of-way or public property;
- 4) protect against environmental damage, including damage to trees, from the installation of utility facilities;
- 5) protect against increased stormwater run-off due to structures and materials that increase impermeable surfaces;
- 6) preserve the character of the neighborhoods in which facilities are installed;
- 7) preserve open space, particularly the tree-lined parkways that characterize the City's residential neighborhoods;
- 8) prevent visual blight from the proliferation of facilities in the rights-of-way; and
- 9) assure the continued safe use and enjoyment of private properties adjacent to utility facilities locations.

c) **Facilities Subject to This Chapter.** This Chapter applies to all facilities on, over, above, along, upon, under, across, or within the rights-of-way within the jurisdiction of the City. A facility lawfully established prior to the effective date of this Chapter may continue to be maintained, repaired and operated by the utility as presently constructed and located, except as may be otherwise provided in any applicable franchise, license or similar agreement.

d) Franchises, Licenses, or Similar Agreements. The City, in its discretion and as limited by law, may require utilities to enter into a franchise, license or similar agreement for the privilege of locating their facilities on, over, above, along, upon, under, across, or within the City rights-of-way. Utilities that are not required by law to enter into such an agreement may request that the City enter into such an agreement. In such an agreement, the City may provide for terms and conditions inconsistent with this Chapter.

e) Effect of Franchises, Licenses, or Similar Agreements.

- 1) Utilities Other Than Telecommunications Providers. In the event that a utility other than a telecommunications provider has a franchise, license or similar agreement with the City, such franchise, license or similar agreement shall govern and control during the term of such agreement and any lawful renewal or extension thereof.
- 2) Telecommunications Providers. In the event of any conflict with, or inconsistency between, the provisions of this Chapter and the provisions of any franchise, license or similar agreement between the City and any telecommunications provider, the provisions of such franchise, license or similar agreement shall govern and control during the term of such agreement and any lawful renewal or extension thereof.

f) Conflicts with Other Chapters. This Chapter supersedes all Chapters or parts of Chapters adopted prior hereto that are in conflict herewith, to the extent of such conflict.

g) Conflicts with State and Federal Laws. In the event that applicable federal or State laws or regulations conflict with the requirements of this Chapter, the utility shall comply with the requirements of this Chapter to the maximum extent possible without violating federal or State laws or regulations.

h) Sound Engineering Judgment. The City shall use sound engineering judgment when administering this Chapter and may vary the standards, conditions, and requirements expressed in this Chapter when the City so determines. Nothing herein shall be construed to limit the ability of the City to regulate its rights-of-way for the protection of the public health, safety and welfare.

### **99.30.2 Definitions.**

As used in this Chapter and unless the context clearly requires otherwise, the words and terms listed shall have the meanings ascribed to them in this Section. Any term not defined in this Section shall have the meaning ascribed to it in 92 Ill. Adm. Code § 530.30, unless the context clearly requires otherwise.

“AASHTO” - American Association of State Highway and Transportation Officials.

“ANSI” - American National Standards Institute.

“Applicant” - A person applying for a permit under this Chapter.

“ASTM” - American Society for Testing and Materials.

“Backfill” - The methods or materials for replacing excavated material in a trench or pit.

“Bore” or “Boring” - To excavate an underground cylindrical cavity for the insertion of a pipe or electrical conductor.

“Cable operator” - That term as defined in 47 U.S.C. 522(5).

“Cable service” - That term as defined in 47 U.S.C. 522(6).

“Cable system” - That term as defined in 47 U.S.C. 522(7).

“Carrier Pipe” - The pipe enclosing the liquid, gas or slurry to be transported.

“Casing” - A structural protective enclosure for transmittal devices such as: carrier pipes, electrical conductors, and fiber optic devices.

“City” - The City of Mattoon.

“Clear Zone” - The total roadside border area, starting at the edge of the pavement, available for safe use by errant vehicles. This area may consist of a shoulder, a recoverable slope, a non-recoverable slope, and a clear run-out area. The desired width is dependent upon the traffic volumes and speeds, and on the roadside geometry. Distances are specified in the AASHTO Roadside Design Guide.

“Coating” - Protective wrapping or mastic cover applied to buried pipe for protection against external corrosion.

“Code” - The Municipal Code of the City of Mattoon.

“Conductor” - Wire carrying electrical current.

“Conduit” - A casing or encasement for wires or cables.

“Construction” or “Construct” - The installation, repair, maintenance, placement, alteration, enlargement, demolition, modification or abandonment in place of facilities.

“Controlled low-strength material” - a self compacting and self leveling, cement-based backfill material that is used in lieu of compacted fill, commonly called flowable fill.

“Cover” - The depth of earth or backfill over buried utility pipe or conductor.

“Crossing Facility” - A facility that crosses one or more right-of-way lines of a right-of-way.

“Public Works Director” - The City Public Works Director or his or her designee.

“Disrupt the Right-of-Way” - For the purposes of this Chapter, any work that obstructs the right-of-way or causes a material adverse effect on the use of the right-of-way for its intended use. Such work may include, without limitation, the following: excavating or other cutting; placement (whether temporary or permanent) of materials, equipment, devices, or structures; damage to vegetation; and compaction or loosening of the soil, and shall not include the parking of vehicles or equipment in a manner that does not materially obstruct the flow of traffic on a highway.

“Emergency” - Any immediate maintenance to the facility required for the safety of the public using or in the vicinity of the right-of-way or immediate maintenance required for the health and safety of the general public served by the utility.

“Encasement” - Provision of a protective casing.

“Engineer” - The Public Works Director or his or her designee.

“Equipment” - Materials, tools, implements, supplies, and/or other items used to facilitate construction of facilities.

“Excavation” - The making of a hole or cavity by removing material, or laying bare by digging.

“Extra Heavy Pipe” - Pipe meeting ASTM standards for this pipe designation.

“Facility” - All structures, devices, objects, and materials (including, but not limited to, track and rails, wires, ducts, fiber optic cable, antennas, vaults, boxes, equipment enclosures, cabinets, pedestals, poles, conduits, grates, covers, pipes, cables, and appurtenances thereto) located on, over, above, along, upon, under, across, or within rights-of-way under this Chapter— For purposes of this Chapter, the term “facility” shall not include any facility owned or operated by the City.

“Freestanding Facility” - A facility that is not a crossing facility or a parallel facility, such as an antenna, transformer, pump, or meter station.

“Frontage Road” - Roadway, usually parallel, providing access to land adjacent to the highway where it is precluded by control of access to a highway.

“Hazardous Materials” - Any substance or material which, due to its quantity, form, concentration, location, or other characteristics, is determined by the Public Works Director to pose an unreasonable and imminent risk to the life, health or

safety of persons or property or to the ecological balance of the environment, including, but not limited to explosives, radioactive materials, petroleum or petroleum products or gases, poisons, etiology (biological) agents, flammables, corrosives or any substance determined to be hazardous or toxic under any federal or state law, statute or regulation.

“Highway Code” - The Illinois Highway Code, 605 ILCS 5/1-101 et seq., as amended from time to time.

“Highway” - A specific type of right-of-way used for vehicular traffic including rural or urban roads or streets. “Highway” includes all highway land and improvements, including roadways, ditches and embankments, bridges, drainage structures, signs, guardrails, protective structures and appurtenances necessary or convenient for vehicle traffic.

“Holder” - A person or entity that has received authorization to offer or provide cable or video service from the ICC pursuant to the Illinois Cable and Video Competition Law, 220 ILCS 5/21-401.

“IDOT” - Illinois Department of Transportation.

“ICC” - Illinois Commerce Commission.

“Jacking” - Pushing a pipe horizontally under a roadway by mechanical means with or without boring.

“Jetting” - Pushing a pipe through the earth using water under pressure to create a cavity ahead of the pipe.

“Joint Use” - The use of pole lines, trenches or other facilities by two or more utilities.

“J.U.L.I.E.” - The Joint Utility Locating Information for Excavators utility notification program.

“Major Intersection” - The intersection of two or more major arterial highways.

“Occupancy” - The presence of facilities on, over or under right-of-way.

“Parallel Facility” - A facility that is generally parallel or longitudinal to the centerline of a right-of-way.

“Parkway” - Any portion of the right-of-way not improved by street or sidewalk.

“Pavement Cut” - The removal of an area of pavement for access to facility or for the construction of a facility.

“Permittee” - That entity to which a permit has been issued pursuant to Sections 99.30.4 and .5 of this Chapter.

“Practicable” - That which is performable, feasible or possible, rather than that which is simply convenient.

“Pressure” - The internal force acting radially against the walls of a carrier pipe expressed in pounds per square inch gauge (psig).

“Petroleum Products Pipelines” - Pipelines carrying crude or refined liquid petroleum products including, but not limited to, gasoline, distillates, propane, butane, or coal-slurry.

“Prompt” - That which is done within a period of time specified by the City. If no time period is specified, the period shall be 30 days.

“Public Entity” - A legal entity that constitutes or is part of the government, whether at local, state or federal level.

“Restoration” - The repair of a right-of-way, highway, roadway, or other area disrupted by the construction of a facility.

“Right-of-Way” or “Rights-of-Way” - Any street, alley, other land or waterway, dedicated or commonly used for pedestrian or vehicular traffic or other similar purposes, including utility easements in which the City has the right and authority to authorize, regulate or permit the location of facilities other than those of the City. “Right-of-way” or “Rights-of-way” shall not include any real or personal City property that is not specifically described in the previous two sentences and shall not include City buildings, fixtures, and other structures or improvements, regardless of whether they are situated in the right-of-way.

“Roadway” - That part of the highway that includes the pavement and shoulders.

“Sale of Telecommunications at Retail” - The transmitting, supplying, or furnishing of telecommunications and all services rendered in connection therewith for a consideration, other than between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries, when the gross charge made by one such corporation to another such corporation is not greater than the gross charge paid to the retailer for their use or consumption and not for sale.

“Security Fund” - That amount of security required pursuant to Section 99.30.10.

“Shoulder” - A width of roadway, adjacent to the pavement, providing lateral support to the pavement edge and providing an area for emergency vehicular stops and storage of snow removed from the pavement.

“Sound Engineering Judgment” - A decision(s) consistent with generally accepted engineering principles, practices and experience.

“Telecommunications” - This term includes, but is not limited to, messages or information transmitted through use of local, toll, and wide area telephone service, channel services, telegraph services, teletypewriter service, computer exchange service, private line services, mobile radio services, cellular mobile telecommunications services, stationary two-way radio, paging service and any other form of mobile or portable one-way or two-way communications, and any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. “Private line” means a dedicated non-traffic sensitive service for a single customer that entitles the customer to exclusive or priority use of a communications channel, or a group of such channels, from one or more specified locations to one or more other specified locations. “Telecommunications” shall not include value added services in which computer processing applications are used to act on the form, content, code, and protocol of the information for purposes other than transmission. “Telecommunications” shall not include purchase of telecommunications by a telecommunications service provider for use as a component part of the service provided by such provider to the ultimate retail consumer who originates or terminates the end-to-end communications; “Telecommunications” shall not include the provision of cable services through a cable system as defined in the Cable Communications Act of 1984 (47 U.S.C. Sections 521 and following) as now or hereafter amended or cable or other programming services subject to an open video system fee payable to the City through an open video system as defined in the Rules of the Federal Communications Commission (47 C.F.R. §76.1500 and following) as now or hereafter amended.

“Telecommunications Provider” - Means any person that installs, owns, operates or controls facilities in the right-of-way used or designed to be used to transmit telecommunications in any form.

“Telecommunications Retailer” - Means and includes every person engaged in making sales of telecommunications at retail as defined herein.

“Trench” - A relatively narrow open excavation for the installation of an underground facility.

“Utility” - The individual or entity owning or operating any facility as defined in this Chapter.

“Vent” - A pipe to allow the dissipation into the atmosphere of gases or vapors from an underground casing.

“Video Service” - That term as defined in section 21-201 (v) of the Illinois Cable and Video Competition Law of 2007, 220 ILCS 21-201(v).

“Water Lines” - Pipelines carrying raw or potable water.

“Wet Boring” - Boring using water under pressure at the cutting auger to soften the earth and to provide a sluice for the excavated material.

### **99.30.3 Annual Registration Required.**

Every utility that occupies right-of-way within the City shall register on January 1 of each year with the Public Works Director, providing the utility’s name, address and regular business telephone and teletype numbers, the name of one or more contact persons who can act on behalf of the utility in connection with emergencies involving the utility’s facilities in the right-of-way and a 24-hour telephone number for each such person, and evidence of insurance as required in Section 99.30.8 of this Chapter, in the form of a certificate of insurance.

### **99.30.4 Permit Required; Applications and Fees.**

a) Permit Required. No person shall construct (as defined in this Chapter) any facility on, over, above, along, upon, under, across, or within any City right-of-way which (1) changes the location of the facility, (2) adds a new facility, (3) disrupts the right-of-way (as defined in this Chapter), or (4) materially increases the amount of area or space occupied by the facility on, over, above, along, under across or within the right-of-way, without first filing an application with the Public Works Director and obtaining a permit from the City therefor, except as otherwise provided in this Chapter. No permit shall be required for installation and maintenance of service connections to customers' premises where there will be no disruption of the right-of-way.

b) Permit Application. All applications for permits pursuant to this Chapter shall be filed on a form provided by the City and shall be filed in such number of duplicate copies as the City may designate. The applicant may designate those portions of its application materials that it reasonably believes contain proprietary or confidential information as "proprietary" or "confidential" by clearly marking each page of such materials accordingly.

c) Minimum General Application Requirements. The application shall be made by the utility or its duly authorized representative and shall contain, at a minimum, the following:

- 1) The utility's name and address and telephone and telecopy numbers;
- 2) The applicant's name and address, if different than the utility, its telephone, telecopy numbers, e-mail address, and its interest in the work;
- 3) The names, addresses and telephone and telecopy numbers and e-mail addresses of all professional consultants, if any, advising the applicant with respect to the application;
- 4) A general description of the proposed work and the purposes and intent of the facility and the uses to which the facility will be put. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with special emphasis on those matters likely to be affected or impacted by the work proposed;
- 5) Evidence that the utility has placed on file with the City:
  - i) A written traffic control plan demonstrating the protective measures and devices that will be employed consistent with the Illinois Manual on Uniform Traffic Control Devices, to prevent injury or damage to persons or property and to minimize disruptions to efficient pedestrian and vehicular traffic; and
  - ii) An emergency contingency plan which shall specify the nature of potential emergencies, including, without limitation, construction and hazardous materials emergencies, and the intended response by the applicant. The intended response shall include notification to the City and shall promote protection of the safety and convenience of the public. Compliance with ICC regulations for emergency contingency plans constitutes compliance with this Section unless the City finds that additional information or assurances are needed;
- 6) Drawings, plans and specifications showing the work proposed, including the certification of an engineer that such drawings, plans, and specifications comply with applicable codes, rules, and regulations;
- 7) Evidence of insurance as required in Section 99.30.8 of this Chapter;
- 8) Evidence of posting of the security fund as required in Section 99.30.10 of this Chapter;
- 9) Any request for a variance from one or more provisions of this Chapter (See Section 99.30.21); and
- 10) Such additional information as may be reasonably required by the City.

d) Supplemental Application Requirements for Specific Types of Utilities. In addition to the requirements of Subsection c) of this Section, the permit application shall include the following items, as applicable to the specific utility that is the subject of the permit application:

- 1) In the case of the installation of a new electric power, communications, telecommunications, cable television service, video service or natural gas distribution system, evidence that any “Certificate of Public Convenience and Necessity” or other regulatory authorization that the applicant is required by law to obtain, or that the applicant has elected, to obtain, has been issued by the ICC or other jurisdictional authority;
- 2) In the case of natural gas systems, state the proposed pipe size, design, construction class, and operating pressures;
- 3) In the case of water lines, indicate that all requirements of the Illinois Environmental Protection Agency, Division of Public Water Supplies, have been satisfied;
- 4) In the case of sewer line installations, indicate that the land and water pollution requirements of the Illinois Environmental Protection Agency, Division of Water Pollution Control and any other local entities with jurisdiction, have been satisfied; or
- 5) In the case of petroleum products pipelines, state the type or types of petroleum products, pipe size, maximum working pressure, and the design standard to be followed.

e) Applicant’s Duty to Update Information. Throughout the entire permit application review period and the construction period authorized by the permit, any amendments to information contained in a permit application shall be submitted by the utility in writing to the City within thirty (30) days after the change necessitating the amendment.

f) Application Fees. Unless otherwise provided by franchise, license, or similar agreement, all applications for permits pursuant to this Chapter shall be accompanied by a fee in the amount of \$250. No application fee is required to be paid by any electricity utility that is paying the municipal electricity infrastructure maintenance fee pursuant to the Electricity Infrastructure Maintenance Fee Act.

**99.30. 5 Action on Permit Applications.**

a) City Review of Permit Applications. Completed permit applications, containing all required documentation, shall be examined by the City Public Works Director within a reasonable time after filing. If the application does not conform to the requirements of applicable ordinances, codes, laws, rules, and regulations, the City Public Works Director shall reject such application in writing, stating the reasons therefor. If the City Public Works Director is satisfied that the proposed work conforms to the requirements of this Chapter and applicable ordinances, codes, laws, rules, and regulations, the City Public Works Director shall issue a permit therefor as soon as practicable. In all instances, it shall be the duty of the applicant to demonstrate, to the satisfaction of the Public Works Director, that the construction proposed under the application shall be in full compliance with the requirements of this Chapter.

b) Additional City Review of Applications of Telecommunications Retailers.

- 1) Pursuant to Section 4 of the Telephone Company Act, 220 ILCS 65/4, a telecommunications retailer shall notify the City that it intends to commence work governed by this Chapter for facilities for the provision of telecommunications services. Such notice shall consist of plans, specifications, and other documentation sufficient to demonstrate the purpose and intent of the facilities, and shall be provided by the telecommunications retailer to the City not less than ten (10) days prior to the commencement of work requiring no excavation and not less than thirty (30) days prior to the commencement of work requiring excavation. The City Public Works Director shall specify the portion of the right-of-way upon which the facility may be placed, used and constructed.
- 2) In the event that the City Public Works Director fails to provide such specification of location to the telecommunications retailer within either (i) ten (10) days after service of notice to the City by the telecommunications retailer in the case of work not involving excavation for new construction or (ii) twenty-five (25) days after service of notice by the telecommunications retailer in the case of work involving excavation for new construction, the telecommunications retailer may commence work without obtaining a permit under this Chapter.
- 3) Upon the provision of such specification by the City, where a permit is required for work pursuant to Section 99.30.4 of this Chapter the telecommunications retailer shall submit to the City an application for a permit and any and all plans, specifications and documentation available regarding

the facility to be constructed. Such application shall be subject to the requirements of Subsection (a) of this Section.

c) Additional City Review of Applications of Holders of State Authorization Under the Cable and Video Competition Law of 2007. Applications by a utility that is a holder of a State-issued authorization under the Cable and Video Competition Law of 2007 shall be deemed granted forty-five (45) days after submission to the City, unless otherwise acted upon by the City, provided the holder has complied with applicable City codes, ordinances, and regulations.

#### **99.30.6 Effect of Permit.**

a) Authority Granted; No Property Right or Other Interest Created. A permit from the City authorizes a permittee to undertake only certain activities in accordance with this Chapter on City rights-of-way, and does not create a property right or grant authority to the permittee to impinge upon the rights of others who may have an interest in the rights-of-way.

b) Duration. No permit issued under this Chapter shall be valid for a period longer than six (6) months unless construction is actually begun within that period and is thereafter diligently pursued to completion.

c) Pre-construction meeting required. No construction shall begin pursuant to a permit issued under this Chapter prior to attendance by the permittee and all major contractors and subcontractors who will perform any work under the permit at a pre-construction meeting. The pre-construction meeting shall be held at a date, time and place designated by the City with such City representatives in attendance as the City deems necessary. The meeting shall be for the purpose of reviewing the work under the permit, and reviewing special considerations necessary in the areas where work will occur, including, without limitation, presence or absence of other utility facilities in the area and their locations, procedures to avoid disruption of other utilities, use of rights-of-way by the public during construction, and access and egress by adjacent property owners.

d) Compliance with All Laws Required. The issuance of a permit by the City does not excuse the permittee from complying with other requirements of the City and applicable statutes, laws, ordinances, rules, and regulations.

#### **99.30.7 Revised Permit Drawings.**

In the event that the actual locations of any facilities deviate in any material respect from the locations identified in the plans, drawings and specifications submitted with the permit application, the permittee shall submit a revised set of drawings or plans to the City within ninety (90) days after the completion of the permitted work. The revised drawings or plans shall specifically identify where the locations of the actual facilities deviate from the locations approved in the permit. If any deviation from the permit also deviates from the requirements of this Chapter, it shall be treated as a request for variance in accordance with Section 99.30.21 of this Chapter. If the City denies the request for a variance, then the permittee shall either remove the facility from the right-of-way or modify the facility so that it conforms to the permit and submit revised drawings or plans therefor.

#### **99.30.8 Insurance.**

a) Required Coverages and Limits. Unless otherwise provided by franchise, license, or similar agreement, each utility occupying right-of-way or constructing any facility in the right-of-way shall secure and maintain the following liability insurance policies insuring the utility as named insured and naming the City, and its elected and appointed officers, officials, agents, and employees as additional insureds on the policies listed in paragraphs 1 and 2 below:

- 1) Commercial general liability insurance, including premises-operations, explosion, collapse, and underground hazard (commonly referred to as "X," "C," and "U" coverages) and products-completed operations coverage with limits not less than:
  - i) One million dollars (\$1,000,000) for bodily injury or death to each person;
  - ii) One million dollars (\$1,000,000) for property damage resulting from any one accident; and
  - iii) One million dollars (\$1,000,000) for all other types of liability;

- 2) Automobile liability for owned, non-owned and hired vehicles with a combined single limit of one million dollars (\$1,000,000) for personal injury and property damage for each accident;
- 3) Worker's compensation with statutory limits; and
- 4) Employer's liability insurance with limits of not less than one million dollars (\$1,000,000) per employee and per accident.

If the utility is not providing such insurance to protect the contractors and subcontractors performing the work, then such contractors and subcontractors shall comply with this Section.

b) Excess or Umbrella Policies. The coverages required by this Section may be in any combination of primary, excess, and umbrella policies. Any excess or umbrella policy must provide excess coverage over underlying insurance on a following-form basis such that when any loss covered by the primary policy exceeds the limits under the primary policy, the excess or umbrella policy becomes effective to cover such loss.

c) Copies Required. The utility shall provide copies of any of the policies required by this Section to the City within ten (10) days following receipt of a written request therefor from the City.

d) Maintenance and Renewal of Required Coverages. The insurance policies required by this Section shall contain the following endorsement:

"It is hereby understood and agreed that this policy may not be canceled nor the intention not to renew be stated until thirty (30) days after receipt by the City, by registered mail or certified mail, return receipt requested, of a written notice addressed to the City Administrator of such intent to cancel or not to renew."

Within ten (10) days after receipt by the City of said notice, and in no event later than ten (10) days prior to said cancellation, the utility shall obtain and furnish to the City evidence of replacement insurance policies meeting the requirements of this Section.

e) Self-Insurance. A utility may self-insure all or a portion of the insurance coverage and limit requirements required by Subsection a) of this Section. A utility that self-insures is not required, to the extent of such self-insurance, to comply with the requirement for the naming of additional insureds under Subsection a), or the requirements of Subsections b), c) and d) of this Section. A utility that elects to self-insure shall provide to the City evidence sufficient to demonstrate its financial ability to self-insure the insurance coverage and limit requirements required under Subsection a) of this Section, such as evidence that the utility is a "private self insurer" under the Workers Compensation Act.

f) Effect of Insurance and Self-Insurance on Utility's Liability. The legal liability of the utility to the City and any person for any of the matters that are the subject of the insurance policies or self-insurance required by this Section shall not be limited by such insurance policies or self-insurance or by the recovery of any amounts thereunder.

g) Insurance Companies. All insurance provided pursuant to this section shall be effected under valid and enforceable policies, issued by insurers legally able to conduct business with the licensee in the State of Illinois. [All insurance carriers and surplus line carriers shall be rated "A-" or better and of a class size "X" or higher by A.M. Best Company.]

### **99.30.9 Indemnification.**

By occupying or constructing facilities in the right-of-way, a utility shall be deemed to agree to defend, indemnify and hold the City and its elected and appointed officials and officers, employees, agents and representatives harmless from and against any and all injuries, claims, demands, judgments, damages, losses and expenses, including reasonable attorney's fees and costs of suit or defense, arising out of, resulting from or alleged to arise out of or result from the negligent, careless or wrongful acts, omissions, failures to act or misconduct of the utility or its affiliates, officers, employees, agents, contractors or subcontractors in the construction of facilities or occupancy of the rights-of-way, and in providing or offering service over the facilities, whether such acts or omissions are authorized, allowed or prohibited by this Chapter or by a franchise, license, or similar agreement; provided, however, that the utility's indemnity obligations hereunder shall not apply to any injuries, claims, demands, judgments, damages, losses or expenses arising out of or resulting from the negligence, misconduct or breach of this Chapter by the City, its officials, officers, employees, agents or representatives.

**99.30.10 Security.**

a) Purpose. The permittee shall establish a Security Fund in a form and in an amount as set forth in this Section. The Security Fund shall be continuously maintained in accordance with this Section at the permittee's sole cost and expense until the completion of the work authorized under the permit. The Security Fund shall serve as security for:

- 1) The faithful performance by the permittee of all the requirements of this Chapter;
- 2) Any expenditure, damage, or loss incurred by the City occasioned by the permittee's failure to comply with any codes, rules, regulations, orders, permits and other directives of the City issued pursuant to this Chapter; and
- 3) The payment by permittee of all liens and all damages, claims, costs, or expenses that the City may pay or incur by reason of any action or non-performance by permittee in violation of this Chapter including, without limitation, any damage to public property or restoration work the permittee is required by this Chapter to perform that the City must perform itself or have completed as a consequence solely of the permittee's failure to perform or complete, and all other payments due the City from the permittee pursuant to this Chapter or any other applicable law.

b) Form. The permittee shall provide the Security Fund to the City in the form, at the permittee's election, of cash, a surety bond in a form acceptable to the City, or an unconditional letter of credit in a form acceptable to the City. Any surety bond or letter of credit provided pursuant to this Subsection shall, at a minimum:

- 1) Provide that it will not be canceled without prior notice to the City and the permittee;
- 2) Not require the consent of the permittee prior to the collection by the City of any amounts covered by it; and
- 3) Shall provide a location convenient to the City and within the State of Illinois at which it can be drawn.

c) Amount. The dollar amount of the Security Fund shall be sufficient to provide for the reasonably estimated cost to restore the right-of-way to at least as good a condition as that existing prior to the construction under the permit, as determined by the City Public Works Director, and may also include reasonable, directly related costs that the City estimates are likely to be incurred if the permittee fails to perform such restoration. Where the construction of facilities proposed under the permit will be performed in phases in multiple locations in the City, with each phase consisting of construction of facilities in one location or a related group of locations, and where construction in another phase will not be undertaken prior to substantial completion of restoration in the previous phase or phases, the City Public Works Director may, in the exercise of sound discretion, allow the permittee to post a single amount of security which shall be applicable to each phase of the construction under the permit. The amount of the Security Fund for phased construction shall be equal to the greatest amount that would have been required under the provisions of this Subsection (c) for any single phase.

d) Withdrawals. The City, upon fourteen (14) days' advance written notice clearly stating the reason for, and its intention to exercise withdrawal rights under this Subsection, may withdraw an amount from the Security Fund, provided that the permittee has not reimbursed the City for such amount within the fourteen (14) day notice period. Withdrawals may be made if the permittee:

- 1) Fails to make any payment required to be made by the permittee hereunder;
- 2) Fails to pay any liens relating to the facilities that are due and unpaid;
- 3) Fails to reimburse the City for any damages, claims, costs or expenses which the City has been compelled to pay or incur by reason of any action or non-performance by the permittee; or
- 4) Fails to comply with any provision of this Chapter that the City determines can be remedied by an expenditure of an amount in the Security Fund.

e) Replenishment. Within fourteen (14) days after receipt of written notice from the City that any amount has been withdrawn from the Security Fund, the permittee shall restore the Security Fund to the amount specified in Subsection c) of this Section.

f) Interest. The permittee may request that any and all interest accrued on the amount in the Security Fund be returned to the permittee by the City, upon written request for said withdrawal to the City, provided that any such withdrawal does not reduce the Security Fund below the minimum balance required in Subsection c) of this Section.

g) Closing and Return of Security Fund. Upon completion of the work authorized under the permit, the permittee shall be entitled to the return of the Security Fund, or such portion thereof as remains on deposit, within a reasonable time after account is taken for all offsets necessary to compensate the City for failure by the permittee to comply with any provisions of this Chapter or other applicable law. In the event of any revocation of the permit, the Security Fund, and any and all accrued interest therein, shall become the property of the City to the extent necessary to cover any reasonable costs, loss or damage incurred by the City as a result of said revocation, provided that any amounts in excess of said costs, loss or damage shall be refunded to the permittee.

h) Rights Not Limited. The rights reserved to the City with respect to the Security Fund are in addition to all other rights of the City, whether reserved by this Chapter or otherwise authorized by law, and no action, proceeding or exercise of right with respect to said Security Fund shall affect any other right the City may have. Notwithstanding the foregoing, the City shall not be entitled to a double monetary recovery with respect to any of its rights which may be infringed or otherwise violated.

#### **99.30.11 Permit Suspension and Revocation.**

a) City Right to Revoke Permit. The City may revoke or suspend a permit issued pursuant to this Chapter for one or more of the following reasons:

- 1) Fraudulent, false, misrepresenting, or materially incomplete statements in the permit application;
- 2) Non-compliance with this Chapter;
- 3) Permittee's physical presence or presence of permittee's facilities on, over, above, along, upon, under, across, or within the rights-of-way presents a direct or imminent threat to the public health, safety, or welfare; or
- 4) Permittee's failure to construct the facilities substantially in accordance with the permit and approved plans.

b) Notice of Revocation or Suspension. The City shall send written notice of its intent to revoke or suspend a permit issued pursuant to this Chapter stating the reason or reasons for the revocation or suspension and the alternatives available to permittee under this Section 99.30.11.

c) Permittee Alternatives Upon Receipt of Notice of Revocation or Suspension. Upon receipt of a written notice of revocation or suspension from the City, the permittee shall have the following options:

- 1) Immediately provide the City with evidence that no cause exists for the revocation or suspension;
- 2) Immediately correct, to the satisfaction of the City, the deficiencies stated in the written notice, providing written proof of such correction to the City within five (5) working days after receipt of the written notice of revocation; or
- 3) Immediately remove the facilities located on, over, above, along, upon, under, across, or within the rights-of-way and restore the rights-of-way to the satisfaction of the City providing written proof of such removal to the City within ten (10) days after receipt of the written notice of revocation.

The City may, in its discretion, for good cause shown, extend the time periods provided in this Subsection.

d) Stop Work Order. In addition to the issuance of a notice of revocation or suspension, the City may issue a stop work order immediately upon discovery of any of the reasons for revocation set forth within Subsection a) of this Section.

e) Failure or Refusal of the Permittee to Comply. If the permittee fails to comply with the provisions of Subsection c) of this Section, the City or its designee may, at the option of the City: (1) correct the deficiencies; (2) upon not less than twenty (20) days notice to the permittee, remove the subject facilities or equipment; or (3) after not less than thirty (30) days notice to the permittee of failure to cure the non-compliance, deem them abandoned and property of the City. The permittee shall be liable in all events to the City for all costs of removal.

#### **99.30.12 Change of Ownership or Owner's Identity or Legal Status.**

a) Notification of Change. A utility shall notify the City no less than thirty (30) days prior to the transfer of ownership of any facility in the right-of-way or change in identity of the utility. The new owner of the utility or the facility shall have all the obligations and privileges enjoyed by the former owner under the permit, if any, and applicable laws, ordinances, rules and regulations, including this Chapter, with respect to the work and facilities in the right-of-way.

b) Amended Permit. A new owner shall request that any current permit be amended to show current ownership. If the new owner fails to have a new or amended permit issued in its name, the new owner shall be presumed to have accepted, and agreed to be bound by, the terms and conditions of the permit if the new owner uses the facility or allows it to remain on the City's right-of-way.

c) Insurance and Bonding. All required insurance coverage or bonding must be changed to reflect the name of the new owner upon transfer.

#### **99.30.13 General Construction Standards.**

a) Standards and Principles. All construction in the right-of-way shall be consistent with applicable ordinances, codes, laws rules and regulations, and commonly recognized and accepted traffic control and construction principles, sound engineering judgment and, where applicable, the principles and standards set forth in the following IDOT publications, as amended from time to time:

- 1) Standard Specifications for Road and Bridge Construction;
- 2) Supplemental Specifications and Recurring Special Provisions;
- 3) Highway Design Manual;
- 4) Highway Standards Manual;
- 5) Standard Specifications for Traffic Control Items;
- 6) Illinois Manual on Uniform Traffic Control Devices (92 Ill. Adm. Code § 545);
- 7) Flagger's Handbook; and
- 8) Work Site Protection Manual for Daylight Maintenance Operations.

b) Interpretation of Municipal Standards and Principles. If a discrepancy exists between or among differing principles and standards required by this Chapter, the City Public Works Director shall determine, in the exercise of sound engineering judgment, which principles apply and such decision shall be final. If requested, the Public Works Director shall state which standard or principle will apply to the construction, maintenance, or operation of a facility in the future.

#### **99.30.14 Traffic Control.**

a) Minimum Requirements. The City's minimum requirements for traffic protection are contained in IDOT's Illinois Manual on Uniform Traffic Control Devices and this Code.

b) Warning Signs, Protective Devices, and Flaggers. The utility is responsible for providing and installing warning signs, protective devices and flaggers, when necessary, meeting applicable federal, state, and local requirements for protection of the public and the utility's workers when performing any work on the rights-of-way.

c) Interference with Traffic. All work shall be phased so that there is minimum interference with pedestrian and vehicular traffic.

d) Notice When Access is Blocked. At least forty-eight (48) hours prior to beginning work that will partially or completely block access to any residence, business or institution, the utility shall notify the resident, business or institution of the approximate beginning time and duration of such work; provided, however, that in cases involving emergency repairs pursuant to Section 99.30.20 of this Chapter, the utility shall provide such notice as is practicable under the circumstances.

e) Compliance. The utility shall take immediate action to correct any deficiencies in traffic protection requirements that are brought to the utility's attention by the City.

**99.30.15 Location of Facilities.**

a) General Requirements. In addition to location requirements applicable to specific types of utility facilities, all utility facilities, regardless of type, shall be subject to the general location requirements of this subsection.

- 1) No Interference with City Facilities. No utility facilities shall be placed in any location if the City Public Works Director determines that the proposed location will require the relocation or displacement of any of the City's utility facilities or will otherwise interfere with the operation or maintenance of any of the City's utility facilities.
- 2) Minimum Interference and Impact. The proposed location shall cause only the minimum possible interference with the use of the right-of-way and shall cause only the minimum possible impact upon, and interference with the rights and reasonable convenience of property owners who adjoin said right-of-way.
- 3) No Interference with Travel. No utility facility shall be placed in any location that interferes with the usual travel on such right-of-way.
- 4) No Limitations on Visibility. No utility facility shall be placed in any location so as to limit visibility of or by users of the right-of-way.
- 5) Size of Utility Facilities. The proposed installation shall use the smallest suitable vaults, boxes, equipment enclosures, power pedestals, and/or cabinets then in use by the facility owner, regardless of location, for the particular application.

b) Parallel Facilities Located Within Highways.

- 1) Overhead Parallel Facilities. An overhead parallel facility may be located within the right-of-way lines of a highway only if:
  - i) Lines are located as near as practicable to the right-of-way line and as nearly parallel to the right-of-way line as reasonable pole alignment will permit;
  - ii) Where pavement is curbed, poles are as remote as practicable from the curb with a minimum distance of two feet (0.6 m) behind the face of the curb, where available;
  - iii) Where pavement is uncurbed, poles are as remote from pavement edge as practicable with minimum distance of four feet (1.2 m) outside the outer shoulder line of the roadway and are not within the clear zone;
  - iv) No pole is located in the ditch line of a highway; and
  - v) Any ground-mounted appurtenance is located within one foot (0.3 m) of the right-of-way line or as near as possible to the right-of-way line.
- 2) Underground Parallel Facilities. An underground parallel facility may be located within the right-of-way lines of a highway only if:

- i) The facility is located as near the right-of-way line as practicable and not more than eight (8) feet (2.4 m) from and parallel to the right-of-way line;
- ii) A new facility may be located under the paved portion of a highway only if other locations are impracticable or inconsistent with sound engineering judgment (e.g., a new cable may be installed in existing conduit without disrupting the pavement); and
- iii) In the case of an underground power or communications line, the facility shall be located as near the right-of-way line as practicable and not more than five (5) feet (1.5 m) from the right-of-way line and any above-grounded appurtenance shall be located within one foot (0.3 m) of the right-of-way line or as near as practicable.

c) Facilities Crossing Highways.

- 1) No Future Disruption. The construction and design of crossing facilities installed between the ditch lines or curb lines of City highways may require the incorporation of materials and protections (such as encasement or additional cover) to avoid settlement or future repairs to the roadbed resulting from the installation of such crossing facilities.
- 2) Cattle Passes, Culverts, or Drainage Facilities. Crossing facilities shall not be located in cattle passes, culverts, or drainage facilities.
- 3) 90 Degree Crossing Required. Crossing facilities shall cross at or as near to a ninety (90) degree angle to the centerline as practicable.
- 4) Overhead Power or Communication Facility. An overhead power or communication facility may cross a highway only if:
  - i) It has a minimum vertical line clearance as required by ICC's rules entitled, "Construction of Electric Power and Communication Lines" (83 Ill. Adm. Code 305);
  - ii) Poles are located within one foot (0.3 m) of the right-of-way line of the highway and outside of the clear zone; and
  - iii) Overhead crossings at major intersections are avoided.
- 5) Underground Power or Communication Facility. An underground power or communication facility may cross a highway only if:
  - i) The design materials and construction methods will provide maximum maintenance-free service life; and
  - ii) Capacity for the utility's foreseeable future expansion needs is provided in the initial installation.
- 6) Markers. The City may require the utility to provide a marker at each right-of-way line where an underground facility other than a power or communication facility crosses a highway. Each marker shall identify the type of facility, the utility, and an emergency phone number. Markers may also be eliminated as provided in current Federal regulations. (49 C.F.R. §192.707 (1989)).

d) Facilities to be Located Within Particular Rights-of-Way. The City may require that facilities be located within particular rights-of-way that are not highways, rather than within particular highways.

e) Freestanding Facilities.

- 1) The City may restrict the location and size of any freestanding facility located within a right-of-way.
- 2) The City may require any freestanding facility located within a right-of-way to be screened from view.

- f) Facilities Installed Above Ground. Above ground facilities may be installed only if:
- 1) No other existing facilities in the area are located underground;
  - 2) New underground installation is not technically feasible; and
  - 3) The proposed installation will be made at a location, and will employ suitable design and materials, to provide the greatest protection of aesthetic qualities of the area being traversed without adversely affecting safety. Suitable designs include, but are not limited to, self-supporting armless, single-pole construction with vertical configuration of conductors and cable. Existing utility poles and light standards shall be used wherever practicable; the installation of additional utility poles is strongly discouraged.
- g) Facility Attachments to Bridges or Roadway Structures.
- 1) Facilities may be installed as attachments to bridges or roadway structures only where the utility has demonstrated that all other means of accommodating the facility are not practicable. Other means shall include, but are not limited to, underground, underwater, independent poles, cable supports and tower supports, all of which are completely separated from the bridge or roadway structure. Facilities transmitting commodities that are volatile, flammable, corrosive, or energized, especially those under significant pressure or potential, present high degrees of risk and such installations are not permitted.
  - 2) A utility shall include in its request to accommodate a facility installation on a bridge or roadway structure supporting data demonstrating the impracticability of alternate routing. Approval or disapproval of an application for facility attachment to a bridge or roadway structure will be based upon the following considerations:
    - i) The type, volume, pressure or voltage of the commodity to be transmitted and an evaluation of the resulting risk to persons and property in the event of damage to or failure of the facility;
    - ii) The type, length, value, and relative importance of the highway structure in the transportation system;
    - iii) The alternative routings available to the utility and their comparative practicability;
    - iv) The proposed method of attachment;
    - v) The ability of the structure to bear the increased load of the proposed facility;
    - vi) The degree of interference with bridge maintenance and painting;
    - vii) The effect on the visual quality of the structure; and
    - viii) The public benefit expected from the utility service as compared to the risk involved.
- h) Appearance Standards.
- 1) The City may prohibit the installation of facilities in particular locations in order to preserve visual quality.
  - 2) A facility may be constructed only if its construction does not require extensive removal or alteration of trees or terrain features visible to the right-of-way user or to adjacent residents and property owners, and if it does not impair the aesthetic quality of the lands being traversed.

**99.30.16 Construction Methods and Materials.**

- a) Standards and Requirements for Particular Types of Construction Methods.

- 1) Boring or Jacking.
  - i) Pits and Shoring. Boring or jacking under rights-of-way shall be accomplished from pits located at a minimum distance specified by the Director of Public Works from the edge of the pavement. Pits for boring or jacking shall be excavated no more than 48 hours in advance of boring or jacking operations and backfilled within 48 hours after boring or jacking operations are completed. While pits are open, they shall be clearly marked and protected by barricades. Shoring shall be designed, erected, supported, braced, and maintained so that it will safely support all vertical and lateral loads that may be imposed upon it during the boring or jacking operation.
  - ii) Wet Boring or Jetting. Wet boring or jetting shall not be permitted under the roadway.
  - iii) Borings with Diameters Greater Than 6 Inches. Borings over six inches (0.15 m) in diameter shall be accomplished with an auger and following pipe, and the diameter of the auger shall not exceed the outside diameter of the following pipe by more than one inch (25 mm).
  - iv) Borings with Diameters 6 Inches or Less. Borings of six inches or less in diameter may be accomplished by either jacking, guided with auger, or auger and following pipe method.
  - v) Tree Preservation. Any facility located within the drip line of any tree designated by the City to be preserved or protected shall be bored under or around the root system.
- 2) Trenching. Trenching for facility installation, repair, or maintenance on rights-of-way shall be done in accord with the applicable portions of Section 603 of IDOT's "Standard Specifications for Road and Bridge Construction."
  - i) Length. The length of open trench shall be kept to the practicable minimum consistent with requirements for pipe-line testing. Only one-half of any intersection may have an open trench at any time unless special permission is obtained from the Public Works Director.
  - ii) Open Trench and Excavated Material. Open trench and windrowed excavated material shall be protected as required by Chapter 6 of the Illinois Manual on Uniform Traffic Control Devices. Where practicable, the excavated material shall be deposited between the roadway and the trench as added protection. Excavated material shall not be allowed to remain on the paved portion of the roadway. Where right-of-way width does not allow for windrowing excavated material off the paved portion of the roadway, excavated material shall be hauled to an off-road location.
  - iii) Drip Line of Trees. The utility shall not trench within the drip line of any tree designated by the City to be preserved.
- 3) Backfilling.
  - i) Any pit, trench, or excavation within two feet of a paved roadway shall be backfilled with controlled low strength material in accordance with § 99.06 of the City of Mattoon Code of Ordinances.
  - ii) Any pit, trench, or excavation more than two feet beyond a paved roadway created during the installation of facilities shall be backfilled for its full width, depth, and length using methods and materials in accordance with IDOT's "Standard Specifications for Road and Bridge Construction." When excavated material is hauled away or is unsuitable for backfill, suitable granular backfill shall be used.
  - iii) For a period of three years from the date construction of a facility is completed, the utility shall be responsible to remove and restore any backfilled area that has settled due to construction of the facility. If so ordered by the Public Works Director, the utility, at its

expense, shall remove any pavement and backfill material to the top of the installed facility, place and properly compact new backfill material, and restore new pavement, sidewalk, curbs, and driveways to the proper grades, as determined by the Public Works Director.

- 4) Pavement Cuts. Pavement cuts for facility installation or repair shall be permitted on a highway only if that portion of the highway is closed to traffic. If a variance to the limitation set forth in this paragraph 4) is permitted under Section 99.30.21, the following requirements shall apply:
  - i) Any excavation under pavements shall be backfilled with controlled low strength material in accordance with § 99.06 of the City of Mattoon Code of Ordinances.
  - ii) Restoration of pavement, in kind, shall be accomplished as soon as practicable, and temporary repair with compacted aggregate (CA06) shall be provided immediately. Any subsequent failure of either the temporary repair or the restoration shall be rebuilt upon notification by the City.
  - iii) All saw cuts shall be full depth.
  - iv) For all rights-of-way which have been reconstructed with a concrete surface/base in the last seven (7) years, or resurfaced in the last three (3) years, permits shall not be issued unless such work is determined to be an emergency repair or other work considered necessary and unforeseen before the time of the reconstruction or unless a pavement cut is necessary for a J.U.L.I.E. locate.
  
- 5) Encasement. The following rules on encasement shall only apply to highways with an average daily traffic count of 2,000 vehicles per day, as determined by the most recent published count from Illinois Department of Transportation.
  - i) Casing pipe shall be designed to withstand the load of the highway and any other superimposed loads. The casing shall be continuous either by one-piece fabrication or by welding or jointed installation approved by the City.
  - ii) The venting, if any, of any encasement shall extend within one foot (0.3 m) of the right-of-way line. No above-ground vent pipes shall be located in the area established as clear zone for that particular section of the highway.
  - iii) In the case of water main or service crossing, encasement shall be furnished between bore pits unless continuous pipe or City approved jointed pipe is used under the roadway. Casing may be omitted only if pipe is installed prior to highway construction and carrier pipe is continuous or mechanical joints are of a type approved by the City.
  - iv) In the case of gas pipelines of 60 psig or less, encasement may be eliminated.
  - v) In the case of gas pipelines or petroleum products pipelines with installations of more than 60 psig, encasement may be eliminated only if: (1) extra heavy pipe is used that precludes future maintenance or repair and (2) cathodic protection of the pipe is provided;
  - vi) If encasement is eliminated for a gas or petroleum products pipeline, the facility shall be located so as to provide that construction does not disrupt the right-of-way.
  
- 6) Minimum Cover of Underground Facilities. Cover shall be provided and maintained at least in the amount specified in the following table for minimum cover for the type of facility:

TYPE OF FACILITY	MINIMUM COVER
<u>Electric Lines</u>	30 Inches (0.8 m)
<u>Communication, Cable or Video Service Lines</u>	<u>18 to 24 Inches (0.6 m, as determined by City)</u>
Gas or Petroleum Products	30 Inches (0.8 m)
Water Line	Sufficient Cover to Provide Freeze Protection
Sanitary Sewer, Storm Sewer, or Drainage Line	Sufficient Cover to Provide Freeze Protection

b) Standards and Requirements for Particular Types of Facilities.

1) Electric Power or Communication Lines.

- i) Code Compliance. Electric power or communications facilities within City rights-of-way shall be constructed, operated, and maintained in conformity with the provisions of 83 Ill. Adm. Code Part 305 (formerly General Order 160 of the Illinois Commerce Commission) entitled “Rules for Construction of Electric Power and Communications Lines,” and the National Electrical Safety Code.
- ii) Overhead Facilities. Overhead power or communication facilities shall use single pole construction and, where practicable, joint use of poles shall be used. Utilities shall make every reasonable effort to design the installation so guys and braces will not be needed. Variances may be allowed if there is no feasible alternative and if guy wires are equipped with guy guards for maximum visibility.
- iii) Underground Facilities. (1) Cable may be installed by trenching or plowing, provided that special consideration is given to boring in order to minimize damage when crossing improved entrances and side roads. (2) If a crossing is installed by boring or jacking, encasement shall be provided between jacking or bore pits. Encasement may be eliminated only if: (a) the crossing is installed by the use of “moles,” “whip augers,” or other approved method which compress the earth to make the opening for cable installation or (b) the installation is by the open trench method which is only permitted prior to roadway construction. (3) Cable shall be grounded in accordance with the National Electrical Safety Code.
- iv) Burial of Drops. All temporary service drops placed between November 1 of the prior year and March 15 of the current year, also known as snowdrops, shall be buried by May 31 of the current year, weather permitting, unless otherwise permitted by the City. Weather permitting, utilities shall bury all temporary drops, excluding snowdrops, within ten (10) business days after placement.

2) Underground Facilities Other than Electric Power or Communication Lines. Underground facilities other than electric power or communication lines may be installed by:

- i) the use of “moles,” “whip augers,” or other approved methods which compress the earth to move the opening for the pipe;
- ii) jacking or boring with vented encasement provided between the ditch lines or toes of slopes of the highway;
- iii) open trench with vented encasement between ultimate ditch lines or toes of slopes, but only if prior to roadway construction; or
- iv) tunneling with vented encasement, but only if installation is not possible by other means.

3) Gas Transmission, Distribution and Service. Gas pipelines within rights-of-way shall be constructed, maintained, and operated in a City approved manner and in conformance with the Federal Code of the Office of Pipeline Safety Operations, Department of Transportation, Part 192 – Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards (49 CFR

§192), IDOT's "Standard Specifications for Road and Bridge Construction," and all other applicable laws, rules, and regulations.

- 4) Petroleum Products Pipelines. Petroleum products pipelines within rights-of-way shall conform to the applicable sections of ANSI Standard Code for Pressure Piping. (Liquid Petroleum Transportation Piping Systems ANSI-B 31.4).
- 5) Waterlines, Sanitary Sewer Lines, Storm Water Sewer Lines or Drainage Lines. Water lines, sanitary sewer lines, storm sewer lines, and drainage lines within rights-of-way shall meet or exceed the recommendations of the current "Standard Specifications for Water and Sewer Main Construction in Illinois."
- 6) Ground Mounted Appurtenances. Ground mounted appurtenances to overhead or underground facilities, when permitted within a right-of-way, shall be provided with a vegetation-free area extending one foot (305 mm) in width beyond the appurtenance in all directions. The vegetation-free area may be provided by an extension of the mounting pad, or by heavy duty plastic or similar material approved by the Public Works Director. With the approval of the Public Works Director, shrubbery surrounding the appurtenance may be used in place of vegetation-free area. The housing for ground-mounted appurtenances shall be painted a neutral color to blend with the surroundings.

c) Materials.

- 1) General Standards. The materials used in constructing facilities within rights-of-way shall be those meeting the accepted standards of the appropriate industry, the applicable portions of IDOT's "Standards Specifications for Road and Bridge Construction," the requirements of the Illinois Commerce Commission, or the standards established by other official regulatory agencies for the appropriate industry.
- 2) Material Storage on Right-of-Way. No material shall be stored on the right-of-way without the prior written approval of the City Public Works Director. When such storage is permitted, all pipe, conduit, wire, poles, cross arms, or other materials shall be distributed along the right-of-way prior to and during installation in a manner to minimize hazards to the public or an obstacle to right-of-way maintenance or damage to the right-of-way and other property. If material is to be stored on right-of-way, prior approval must be obtained from the City.
- 3) Hazardous Materials. The plans submitted by the utility to the City shall identify any hazardous materials that may be involved in the construction of the new facilities or removal of any existing facilities.

d) Operational Restrictions.

- 1) Construction operations on rights-of-way may, at the discretion of the City, be required to be discontinued when such operations would create hazards to traffic or the public health, safety, and welfare. Such operations may also be required to be discontinued or restricted when conditions are such that construction would result in extensive damage to the right-of-way or other property.
- 2) These restrictions may be waived by the Public Works Director when emergency work is required to restore vital utility services.
- 3) Unless otherwise permitted by the City, the hours of construction are between 7 a.m. and 4 p.m. on weekdays.

e) Location of Existing Facilities. Any utility proposing to construct facilities in the City shall contact J.U.L.I.E. and ascertain the presence and location of existing above-ground and underground facilities within the rights-of-way to be occupied by its proposed facilities. The City will make its permit records available to a utility for the purpose of identifying possible facilities. When notified of an excavation or when requested by the City or by J.U.L.I.E., a utility shall locate and physically mark its underground facilities within 48 hours, excluding weekends and holidays, in accordance with the Illinois Underground Facilities Damage Prevention Act (220 ILCS 50/1 *et seq.*)

**99.30.17 Vegetation Control.**

a) **Electric Utilities – Compliance with State Laws and Regulations.** An electric utility shall conduct all tree-trimming and vegetation control activities in the right-of-way in accordance with applicable Illinois laws and regulations, and additionally, with such local franchise or other agreement with the City as permitted by law.

b) **Other Utilities – Tree Trimming Permit Required.** Tree trimming that is done by any other utility with facilities in the right-of-way and that is not performed pursuant to applicable Illinois laws and regulations specifically governing same, shall not be considered a normal maintenance operation, but shall require the application for, and the issuance of, a permit in accordance with § 99.70 of the Mattoon Code of Ordinances

1) **Application for Tree Trimming Permit.** Applications for tree trimming permits shall include assurance that the work will be accomplished by competent workers with supervision who are experienced in accepted tree pruning practices. Tree trimming permits shall designate an expiration date in the interest of assuring that the work will be expeditiously accomplished.

2) **Damage to Trees.** Poor pruning practices resulting in damaged or misshapen trees will not be tolerated and shall be grounds for cancellation of the tree trimming permit and for assessment of damages. The City will require compensation for trees extensively damaged and for trees removed without authorization. The formula developed by the International Society of Arboriculture will be used as a basis for determining the compensation for damaged trees or unauthorized removal of trees. The City may require the removal and replacement of trees if trimming or radical pruning would leave them in an unacceptable condition.

c) **Specimen Trees or Trees of Special Significance.** The City may require that special measures be taken to preserve specimen trees or trees of special significance. The required measures may consist of higher poles, side arm extensions, covered wire or other means.

d) **Chemical Use.**

1) Except as provided in the following paragraph, no utility shall spray, inject or pour any chemicals on or near any trees, shrubs or vegetation in the City for any purpose, including the control of growth, insects or disease.

2) Spraying of any type of brush-killing chemicals will not be permitted on rights-of-way unless the utility demonstrates to the satisfaction of the Public Works Director that such spraying is the only practicable method of vegetation control.

**99.30. 18 Removal, Relocation, or Modifications of Utility Facilities.**

a) **Notice.** Within ninety (90) days following written notice from the City, a utility shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any utility facilities within the rights-of-way whenever the corporate authorities have determined that such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any City improvement in or upon, or the operations of the City in or upon, the rights-of-way.

b) **Removal of Unauthorized Facilities.** Within thirty (30) days following written notice from the City, any utility that owns, controls, or maintains any unauthorized facility or related appurtenances within the rights-of-way shall, at its own expense, remove all or any part of such facilities or appurtenances from the rights-of-way. A facility is unauthorized and subject to removal in the following circumstances:

1) Upon expiration or termination of the permittee's license or franchise, unless otherwise permitted by applicable law;

2) If the facility was constructed or installed without the prior grant of a license or franchise, if required;

3) If the facility was constructed or installed without prior issuance of a required permit in violation of this Chapter; or

- 4) If the facility was constructed or installed at a location not permitted by the permittee's license or franchise.

c) Emergency Removal or Relocation of Facilities. The City retains the right and privilege to cut or move any facilities located within the rights-of-way of the City, as the City may determine to be necessary, appropriate or useful in response to any public health or safety emergency. If circumstances permit, the municipality shall attempt to notify the utility, if known, prior to cutting or removing a facility and shall notify the utility, if known, after cutting or removing a facility.

d) Abandonment of Facilities. Upon abandonment of a facility within the rights-of-way of the City, the utility shall notify the City within ninety (90) days. Following receipt of such notice the City may direct the utility to remove all or any portion of the facility if the City Public Works Director determines that such removal will be in the best interest of the public health, safety and welfare. In the event that the City does not direct the utility that abandoned the facility to remove it, by giving notice of abandonment to the City, the abandoning utility shall be deemed to consent to the alteration or removal of all or any portion of the facility by another utility or person.

#### **99.30.19 Clean-up and Restoration.**

The utility shall remove all excess material and restore all turf and terrain and other property within ten (10) days after any portion of the rights-of-way are disturbed, damaged or destroyed due to construction or maintenance by the utility, all to the satisfaction of the City. This includes restoration of entrances and side roads. Restoration of roadway surfaces shall be made using materials and methods approved by the Public Works Director. Such cleanup and repair may be required to consist of backfilling, regrading, reseeding, resodding, or any other requirement to restore the right-of-way to a condition substantially equivalent to that which existed prior to the commencement of the project. The time period provided in this Section may be extended by the Public Works Director for good cause shown.

#### **99.30.20 Maintenance and Emergency Maintenance.**

a) General. Facilities on, over, above, along, upon, under, across, or within rights-of-way are to be maintained by or for the utility in a manner satisfactory to the City and at the utility's expense.

b) Emergency Maintenance Procedures. Emergencies may justify non-compliance with normal procedures for securing a permit:

- 1) If an emergency creates a hazard on the traveled portion of the right-of-way, the utility shall take immediate steps to provide all necessary protection for traffic on the highway or the public on the right-of-way including the use of signs, lights, barricades or flaggers. If a hazard does not exist on the traveled way, but the nature of the emergency is such as to require the parking on the shoulder of equipment required in repair operations, adequate signs and lights shall be provided. Parking on the shoulder in such an emergency will only be permitted when no other means of access to the facility is available.
- 2) In an emergency, the utility shall, as soon as possible, notify the Public Works Director or his or her duly authorized agent of the emergency, informing him or her as to what steps have been taken for protection of the traveling public and what will be required to make the necessary repairs. If the nature of the emergency is such as to interfere with the free movement of traffic, the City police shall be notified immediately.
- 3) In an emergency, the utility shall use all means at hand to complete repairs as rapidly as practicable and with the least inconvenience to the traveling public.

c) Emergency Repairs. The utility must file in writing with the City a description of the repairs undertaken in the right-of-way within 48 hours after an emergency repair.

**99.30.21 Variances.**

a) Request for Variance. A utility requesting a variance from one or more of the provisions of this Chapter must do so in writing to the Public Works Director as a part of the permit application. The request shall identify each provision of this Chapter from which a variance is requested and the reasons why a variance should be granted.

b) Authority to Grant Variances. The Public Works Director shall decide whether a variance is authorized for each provision of this Chapter identified in the variance request on an individual basis.

c) Conditions for Granting of Variance. The City Public Works Director may authorize a variance only if the utility requesting the variance has demonstrated that:

- 1) One or more conditions not under the control of the utility (such as terrain features or an irregular right-of-way line) create a special hardship that would make enforcement of the provision unreasonable, given the public purposes to be achieved by the provision; and
- 2) All other designs, methods, materials, locations or facilities that would conform with the provision from which a variance is requested are impracticable in relation to the requested approach.

d) Additional Conditions for Granting of a Variance. As a condition for authorizing a variance, the Public Works Director may require the utility requesting the variance to meet reasonable standards and conditions that may or may not be expressly contained within this Chapter but which carry out the purposes of this Chapter.

e) Right to Appeal. Any utility aggrieved by any order, requirement, decision or determination, including denial of a variance, made by the Public Works Director under the provisions of this Chapter shall have the right to appeal to the City Council, or such other board or commission as it may designate. The application for appeal shall be submitted in writing to the City Clerk within 30 days after the date of such order, requirement, decision or determination. The City Council shall commence its consideration of the appeal at the Council's next regularly scheduled meeting occurring at least seven (7) days after the filing of the appeal. The City Council shall timely decide the appeal.

**99.30.22 Penalties.**

Any person who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this Chapter shall be subject to fine in accordance with the penalty provisions of this Code. There may be times when the City will incur delay or other costs, including third party claims, because the utility will not or cannot perform its duties under its permit and this Chapter. Unless the utility shows that another allocation of the cost of undertaking the requested action is appropriate, the utility shall bear the City's costs of damages and its costs of installing, maintaining, modifying, relocating, or removing the facility that is the subject of the permit. No other administrative agency or commission may review or overrule a permit related cost apportionment of the City. Sanctions may be imposed upon a utility that does not pay the costs apportioned to it.

**99.30.23 Enforcement.**

Nothing in this Chapter shall be construed as limiting any additional or further remedies that the City may have for enforcement of this Chapter.

**99.30.24 Severability.**

If any section, subsection, sentence, clause, phrase or portion of this Chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

**Section 3. Effective Date.** This Ordinance shall take effect ten (10) days after its passage, approval and publication in pamphlet form.

Upon motion by Commissioner Rankin seconded by Commissioner Ervin, adopted this 7th day of September, 2010, by a roll call vote, as follows:

AYES (Names): Commissioner Ervin, Commissioner Hall  
Commissioner Rankin, Acting Mayor Gover  
NAYS (Names): None  
ABSENT (Names): None

Approved this 7th day of September, 2010.

/s/ Tim Gover  
Tim Gover, Acting Mayor  
City of Mattoon, Coles County, Illinois

ATTEST:

APPROVED AS TO FORM:

/s/ Susan J. O'Brien  
Susan J. O'Brien, City Clerk

/s/ J. Preston Owen  
J. Preston Owen, City Attorney & Treasurer

Recorded in the Municipality's Records on September 8, 2010.

ATTESTED, Filed in my office,  
and published in pamphlet form  
this 8th day of September, 2010.

/s/ Susan J. O'Brien, Clerk of the City  
Of Mattoon, Coles County, Illinois

Acting Mayor Gover opened the floor for discussion. Administrator McLaughlin addressed the changes to the code in order to make utility companies accountable for costs associated with utility cuts, to standardize the facilities, and to require a permit to provide better dialogue between the City and utility entities. Director Wortman added the ordinance allows the City to control what is placed on the rights-of-way. Administrator McLaughlin described current utility boxes and sight triangles.

Acting Mayor Gover declared the motion carried by the following vote: YEA Commissioner Ervin, YEA Commissioner Hall, YEA Commissioner Rankin, YEA Acting Mayor Gover.

Acting Mayor Gover seconded by Commissioner Rankin moved to adopt Ordinance 2010-5310, amending Chapter 95 of the Municipal Code to update the nuisance code.

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**CITY OF MATTOON, ILLINOIS**  
**ORDINANCE NO. 2010-5310**

**AN ORDINANCE AMENDING CHAPTER 95 OF THE MUNICIPAL CODE REGARDING NUISANCE VIOLATIONS**

**WHEREAS,** 65 ILCS 5/11-60-2 enables the corporate authorities of each municipality to define, prevent and abate nuisances; and

**WHEREAS,** the City Council desires to sanction altered procedures that are intended to enable more expedient abatement of nuisance conditions.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Mattoon as follows:

**Section 1. Recitals.** The facts and statements contained in the preamble to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

**Section 2. Code Amendment.** Sections §95.01 and §95.03 of Chapter 95 of the Code of Ordinances of the City of Mattoon are hereby amended as follows:

**95.01 Public Nuisance Defined**

**(B)(11)** Any structure or building that is in a state of dilapidation, deterioration or decayed, whose renovation remains unfinished for more than 3 months, is of faulty construction, is open to intrusion, abandoned, damaged by fire to the extent as not to provide shelter, is extremely unsound, in danger of collapse or failure and endangers the health and safety of the public;

**95.03 Filing Complaints; Inspections; Notice to Abate; Failure to Abate; Abatement by City; Appeal**

**(D)** Such notice shall specifically describe the public nuisance and shall direct the owner or the occupant of the private property where the public nuisance exists or the person causing, permitting or maintaining such nuisance to abate or remove such nuisance within ten days of service or posting of the notice, except in regards to vegetation whereby abatement or removal shall be completed within three (3) days of service or posting of the notice. If such owner, occupant or person cannot be located after reasonable inquiry, posting shall be sufficient notice. The notice shall state that unless such nuisance is so abated or removed the city will cause it to be abated or removed, that the cost thereof will be charged to the owner, occupant or person causing, permitting or maintaining the nuisance and that such cost shall be a lien on the real property where the nuisance was abated or removed. Such notice shall also state that the failure of such owner, occupant or person to abate the nuisance as required by such notice shall be deemed an implied consent for the city to abate or remove such nuisance. Such implied consent shall be deemed to form a contract between such owner, occupant or person and the city. If the public nuisance does not constitute a great and immediate danger to the public health, safety or welfare, the Nuisance Enforcement Coordinator or the Coordinator's designee may serve the owner or occupant of such premises or the person in whose name such real estate was last billed for property tax purposes a notice to demand the abatement or removal of the violation within ten days. Service may be had by certified mail or personal service or by posting the notice on the property and mailing notice by first class mail.

**Section 3. Severability.** If any provision of this Ordinance, or the application of any provision of this Ordinance, is held unconstitutional or otherwise invalid, such occurrence shall not affect other provisions of this Ordinance, or their application, that can be given effect without the unconstitutional or invalid provision or its application. Each unconstitutional or invalid provision, or application of such provision, is severable.

**Section 4.** This ordinance shall be effective upon its publication and approval as provided by law.

Upon motion by Acting Mayor Gover, seconded by Commissioner Rankin, adopted this 7<sup>th</sup> day of September, 2010, by a roll call vote, as follows:

AYES (Names): Commissioner Ervin, Commissioner Hall  
Commissioner Rankin, Acting Mayor Gover  
NAYS (Names): None  
ABSENT (Names): None

Approved this 7<sup>th</sup> day of September, 2010.

/s/ Tim Gover  
Tim Gover, Acting Mayor  
City of Mattoon, Coles County, Illinois

ATTEST:

APPROVED AS TO FORM:

/s/ Susan J. O'Brien  
Susan J. O'Brien, City Clerk

/s/ J. Preston Owen  
J. Preston Owen, City Attorney & Treasurer

Recorded in the Municipality's Records on September 8, 2010.

Acting Mayor Gover opened the floor for discussion. Administrator McLaughlin reviewed the changes to the nuisance code providing a stricter definition of a nuisance and a lesser amount of time to comply with mowing issues. Acting Mayor Gover stated common sense should be used when citing nuisances when weather issues occurred.

Acting Mayor Gover declared the motion carried by the following vote: YEA Commissioner Ervin, YEA Commissioner Hall, YEA Commissioner Rankin, YEA Acting Mayor Gover.

Acting Mayor Gover seconded by Commissioner Rankin moved to adopt Special Ordinance 2010-1397, authorizing the Acting Mayor to sign an outright grant agreement by and between the City of Mattoon and Lake Land College reimbursing up to \$13,635 annually from Broadway Avenue East TIF Revenues over a ten-year period for façade improvements to the building located at 301 Richmond Avenue East.

**CITY OF MATTOON, ILLINOIS**

**SPECIAL ORDINANCE NO. 2010-1397**

**AN ORDINANCE APPROVING A GRANT AGREEMENT BY AND BETWEEN THE CITY OF MATTOON, ILLINOIS AND LAKE LAND COLLEGE IN CONNECTION WITH THE MATTOON BROADWAY EAST TIF REDEVELOPMENT PROJECT AREA**

**WHEREAS**, Lake Land College (the “**Grantee**”), has submitted a proposal to the City of Mattoon, Illinois (the “**Municipality**”) for redevelopment of a part of the Municipality’s Mattoon Broadway East Redevelopment Project Area (the “**Redevelopment Project Area**”); and, thereafter, the Municipality and the Grantee have engaged in negotiations related to a Grant Agreement (including all exhibits and attachments in connection therewith, the “**Grant Agreement**”) concerning redevelopment incentives and assistance related to the preservation, development and redevelopment of a part of the Redevelopment Project Area.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MATTOON, COLES COUNTY, ILLINOIS**, as follows:

**Section 1.** The Grant Agreement, in substantially the form thereof presented before the meeting of the City Council at which this ordinance is adopted, shall be and is hereby ratified, confirmed and approved, and the Mayor and City Clerk are authorized to execute and deliver the Grant Agreement for and on behalf of the Municipality; and upon the execution thereof by the Municipality and the Grantee, the appropriate officers, agents, attorneys and employees of the Municipality are authorized to take all supplemental actions, including the execution and delivery of related supplemental opinions, certificates, agreements and instruments not inconsistent with the Grant Agreement, desirable or necessary to implement and otherwise give full effect to the Grant Agreement. Upon full execution thereof, the Grant Agreement shall be attached to this ordinance as EXHIBIT “A”.

**Section 2.** This ordinance shall be deemed published as of the day of its adoption and approval by the City Council.

**Section 3.** This ordinance shall be effective upon its approval as provided by law.

Upon motion by Acting Mayor Gover, seconded by Commissioner Rankin, adopted this 7<sup>th</sup> day of September, 2010, by a roll call vote, as follows:

AYES (Names): Commissioner Hall, Commissioner Rankin,  
Acting Mayor Gover  
NAY (Names): None  
ABSENT (Names): None  
ABSTAIN (Names) Commissioner Ervin

Approved this 7<sup>th</sup> day of September, 2010.

/s/ Acting Mayor Tim Gover  
Acting Mayor Tim Gover  
City of Mattoon, Coles County, Illinois

ATTEST:

APPROVED AS TO FORM:

/s/ Susan J. O’Brien  
Susan J. O’Brien, City Clerk

/s/ J. Preston Owen  
J. Preston Owen, City Attorney

Recorded in the Municipality's Records on September 8, 2010.

Acting Mayor Gover opened the floor for discussion. Administrator McLaughlin noted the pictures of the areas needing improvement and the caveat of no funds in the TIF with reimbursements once funds were available. Lake Land College Vice President Ray Rieck noted the taxes of the area with Lake Land President Scott Lensink extending the appreciation of Lake Land for the Council's consideration.

Acting Mayor Gover declared the motion carried by the following vote: Abstain Commissioner Ervin, YEA Commissioner Hall, YEA Commissioner Rankin, YEA Acting Mayor Gover.

Acting Mayor Gover seconded by Commissioner Hall moved to adopt Special Ordinance 2010-1398, authorizing the Acting Mayor to sign an outright grant agreement by and between the City of Mattoon and Bernard deBuhr reimbursing up to \$32,821 from Midtown TIF Revenues for façade improvements including exterior structure improvements, window and door replacement to the building located at 2001-03 Western Avenue.

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**CITY OF MATTOON, ILLINOIS**

**SPECIAL ORDINANCE NO. 2010-1398**

**AN ORDINANCE APPROVING A GRANT AGREEMENT BY AND BETWEEN THE CITY OF MATTOON, ILLINOIS AND BERNARD deBUHR IN CONNECTION WITH THE MATTOON MIDTOWN TIF REDEVELOPMENT PROJECT AREA**

**WHEREAS**, Bernard deBuhr (the "**Grantee**"), has submitted a proposal to the City of Mattoon, Illinois (the "**Municipality**") for redevelopment of a part of the Municipality's Mattoon Midtown Redevelopment Project Area (the "**Redevelopment Project Area**"); and, thereafter, the Municipality and the Grantee have engaged in negotiations related to a Grant Agreement (including all exhibits and attachments in connection therewith, the "**Grant Agreement**") concerning redevelopment incentives and assistance related to the preservation, development and redevelopment of a part of the Redevelopment Project Area.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MATTOON, COLES COUNTY, ILLINOIS**, as follows:

**Section 1.** The Grant Agreement, in substantially the form thereof presented before the meeting of the City Council at which this ordinance is adopted, shall be and is hereby ratified, confirmed and approved, and the Mayor and City Clerk are authorized to execute and deliver the Grant Agreement for and on behalf of the Municipality; and upon the execution thereof by the Municipality and the Grantee, the appropriate officers, agents, attorneys and employees of the Municipality are authorized to take all supplemental actions, including the execution and delivery of related supplemental opinions, certificates, agreements and instruments not inconsistent with the Grant Agreement, desirable or necessary to implement and otherwise give full effect to the Grant Agreement. Upon full execution thereof, the Grant Agreement shall be attached to this ordinance as EXHIBIT "A".

**Section 2.** This ordinance shall be deemed published as of the day of its adoption and approval by the City Council.

**Section 3.** This ordinance shall be effective upon its approval as provided by law.

Upon motion by Acting Mayor Gover, seconded by Commissioner Hall, adopted this 7th day of September, 2010, by a roll call vote, as follows:

AYES (Names): Commissioner Ervin, Commissioner Hall,  
Commissioner Rankin, Acting Mayor Gover  
NAYS (Names): None  
ABSENT (Names): None

Approved this 7<sup>th</sup> day of September, 2010.

/s/ Acting Mayor Tim Gover  
Acting Mayor Tim Gover  
City of Mattoon, Coles County, Illinois

ATTEST:

APPROVED AS TO FORM:

/s/ Susan J. O'Brien  
Susan J. O'Brien, City Clerk

/s/ J. Preston Owen  
J. Preston Owen, City Attorney

Recorded in the Municipality's Records on September 8, 2010.

Acting Mayor Gover opened the floor for discussion. Administrator McLaughlin described improvements with Coordinator Gill noting the façade to appear the same.

Acting Mayor Gover declared the motion carried by the following vote: YEA Commissioner Ervin, YEA Commissioner Hall, YEA Commissioner Rankin, YEA Acting Mayor Gover.

Commissioner Hall seconded by Commissioner Ervin moved to adopt Special Ordinance 2010-1399, approving of the contract between the City of Mattoon and Mattoon Firefighters Association Local 691, and authorizing the Acting Mayor to sign the document.

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**CITY OF MATTOON, ILLINOIS**  
**SPECIAL ORDINANCE NO. 2010-1399**

**AN ORDINANCE APPROVING A ONE YEAR CONTRACT RENEWAL OF THE COLLECTIVE BARGAINING AGREEMENT WITH THE MATTOON FIREFIGHTERS ASSOCIATION, LOCAL 691, IAFF, AFL-CIO**

**BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF MATTOON, COLES COUNTY, ILLINOIS**, as follows:

**Section 1.** The Council hereby approves a one year contract renewal to the "Collective Bargaining Agreement" dated September 7, 2010 with the Mattoon Firefighters Association, Local 691, IAFF, AFL-CIO, a copy of which is attached and incorporated by reference.

**Section 2.** This ordinance shall be deemed published as of the day of its adoption and approval by the City Council.

**Section 3.** This ordinance shall be effective upon its approval as provided by law.

Upon motion by Commissioner Hall, seconded by Commissioner Ervin, adopted this 7th day of September, 2010, by a roll call vote, as follows:

AYES (Names): Commissioner Rankin  
NAYS (Names): Commissioner Ervin, Commissioner Hall  
Acting Mayor Gover  
ABSENT (Names): None

APPROVED this 7<sup>th</sup> day of September, 2010.

/s/ Tim Gover  
Tim Gover, Acting Mayor  
City of Mattoon, Coles County, Illinois

ATTEST:

APPROVED AS TO FORM:

/s/ Susan J. O'Brien  
Susan J. O'Brien, City Clerk

/s/ J. Preston Owen  
J. Preston Owen, City Attorney & Treasurer

Recorded in the Municipality's Records on September 8, 2010.

Acting Mayor Gover opened the floor for discussion. Administrator McLaughlin stated the contract was a continuation of the agreement for one year, but voiced concerns of sick time payouts, and noted the union's insistence for Council consideration.

Acting Mayor Gover declared the motion defeated by the following vote: NAY Commissioner Ervin, NAY Commissioner Hall, YEA Commissioner Rankin, NAY Acting Mayor Gover.

Acting Mayor Gover seconded by Commissioner Ervin moved to adopt Resolution 2010-2816, approving an application for the Early Retiree Reinsurance Program (ERRP), and authorizing the Acting Mayor to sign the document.

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**CITY OF MATTOON, ILLINOIS**

**RESOLUTION NO. 2010-2816**

**RESOLUTION AUTHORIZING AN APPLICATION FOR THE EARLY RETIREE REINSURANCE PROGRAM (ERRP) UNDER THE US DEPARTMENT OF HEALTH & HUMAN SERVICES**

**WHEREAS**, the Early Retiree Reinsurance Program (ERRP) was established by section 1102 of the Patient Protection & Affordable Care Act. The Congress appropriated \$5 billion in funding for the temporary program.

**WHEREAS**, the program provides reimbursement to participating employment-based plans for a portion of the cost of health benefits for early retirees and their spouses, surviving spouses and dependents. The U.S. Secretary will reimburse plans for certain claims between \$15,000 and \$90,000 (with those amounts being indexed for plan years starting on or after October 1, 2011). The purpose of the reimbursement is to make health benefits more affordable for plan participants and sponsors so that health benefits are accessible to more Americans than they would otherwise be without this program; and,

**WHEREAS**, the program provides needed financial help for employer-based plans to continue to provide valuable coverage to plan participants, and provides financial relief to plan participants; and,

**WHEREAS**, the City of Mattoon ("City") currently offers its employees hired before May 1, 2007 an opportunity to participate in its health plan upon immediate retirement with the City subsidizing a portion of the total monthly cost of its retirees; and,

**WHEREAS**, the City has approximately 80 health insurance retirees who are considered "early retirees" within this program's guidelines, and constitute a large portion of claims within the reimbursement categories; and,

**WHEREAS**, any reimbursement from this program would directly reduce the total monthly cost of the total health insurance cost, resulting in a reduction in participants' premium contributions as well as the considerably subsidized City portion.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MATTOON, ILLINOIS,**

**Section 1.** The recitals set forth above are incorporated herein as part of this Resolution.

**Section 2.** The City Clerk is authorized to file the Early Retiree Reinsurance Program (ERRP) application on behalf of the City of Mattoon, Illinois.

**Section 3.** The City Clerk is hereby authorized to furnish any additional information, assurances, certifications and amendments as maybe required in connection with this application.

**Section 4.** The funds applied for will be expended consistent with the recitals in the application.

**Section 5.** The City Clerk is authorized and directed to take such action as is necessary or appropriate to implement, administer and enforce said applications and all subsequent amendments thereto on behalf of the City of Mattoon, Illinois.

Upon motion by Acting Mayor Gover, seconded by Commissioner Ervin, adopted this 7<sup>th</sup> day of September, 2010, by a roll call vote, as follows:

AYES (Names): Commissioner Ervin, Commissioner Hall,

Commissioner Rankin, Acting Mayor Gover

NAYS (Names): None

ABSENT (Names): None

Approved this 7th day of September, 2010.

/s/ Timothy D. Gover  
Timothy D. Gover, Acting Mayor  
City of Mattoon, Coles County, Illinois

ATTEST:

APPROVED AS TO FORM:

/s/ Susan J. O'Brien  
Susan J. O'Brien, City Clerk

/s/ J. Preston Owen  
J. Preston Owen, City Attorney & Treasurer

Recorded in the Municipality's Records on September 8, 2010.

Acting Mayor Gover opened the floor for discussion with no responders.

Acting Mayor Gover declared the motion carried by the following vote: YEA Commissioner Ervin, YEA Commissioner Hall, YEA Commissioner Rankin, YEA Acting Mayor Gover.

Commissioner Hall seconded by Commissioner Ervin moved to approve Council Decision Request 2010-1134, approving the promotions of Doug Dodson, Sean Junge and Dennis Camfield to Shift Captains in the Fire Department effective September 1, 2010 as recommended by the Board of Fire & Police Commissioners.

Acting Mayor Gover opened the floor for discussion with no responders.

Acting Mayor Gover declared the motion carried by the following vote: YEA Commissioner Ervin, YEA Commissioner Hall, YEA Commissioner Rankin, YEA Acting Mayor Gover.

Acting Mayor Gover seconded by Commissioner Hall moved to approve Council Decision Request 2010-1135, ratifying the appointment of Brian Titus with a term expiring August 17, 2013 to the newly-merged Planning Commission.

Acting Mayor Gover opened the floor for discussion with no responders.

Acting Mayor Gover declared the motion carried by the following vote: YEA Commissioner Ervin, YEA Commissioner Hall, YEA Commissioner Rankin, YEA Acting Mayor Gover.

Acting Mayor Gover seconded by Commissioner Rankin moved to approve Council Decision Request 2010-1136, approving the waiver of the bidding process and authorizing the purchase of flooring in the amount not to exceed \$21,521.50 from Concrete Evolutions for the Police Department.

Acting Mayor Gover opened the floor for discussion. Administrator McLaughlin stated the flooring was to be paid from insurance funds due to the sewer backup, and noted Concrete Evolutions was the only company that performs this type of work with refinishing every five years. Chief Branson confirmed the company was the closest in proximity. Administrator McLaughlin had viewed the product and noted the references were checked. Chief Branson noted the replacement of the flooring depended upon the glue removal.

Acting Mayor Gover declared the motion carried by the following: YEA Commissioner Ervin, YEA Commissioner Hall, YEA Commissioner Rankin, YEA Acting Mayor Gover.

Commissioner Ervin announced an amendment to the bid specification where NET BID AMOUNT (Backhoe, service, and Hydra Hammer minus Trade) was to read NET BID AMOUNT (Backhoe and service minus Trade).

Commissioner Ervin seconded by Commissioner Rankin moved to approve Council Decision Request 2010-1137, approving and authorizing the Acting Mayor to sign the bid specifications for the backhoe, and authorizing the solicitation for competitive bidding.

Acting Mayor Gover opened the floor for discussion with no responders.

Acting Mayor Gover declared the motion carried by the following vote: YEA Commissioner Ervin, YEA Commissioner Hall, YEA Commissioner Rankin, YEA Acting Mayor Gover.

Commissioner Rankin seconded by Commissioner Ervin moved to approve Council Decision Request 2010-1138, approving and authorizing the Acting Mayor to sign the plans and specifications, and authorizing the solicitation for competitive bidding of the new Salt building.

Acting Mayor Gover opened the floor for discussion. Commissioner Rankin questioned the size, purpose and material used in the building. Director Wortman described the construction materials and size of building to be used for salt storage. Council discussed the building.

Acting Mayor Gover declared the motion carried by the following vote: YEA Commissioner Ervin, YEA Commissioner Hall, YEA Commissioner Rankin, YEA Acting Mayor Gover.

Commissioner Hall seconded by Commissioner Ervin moved to approve Council Decision Request 2010-1139, approving a \$3,200 grant by the Tourism Advisory Committee from hotel/motel tax funds to Mattoon High School for hosting the Mattoon High School 2010 Boys Golf Invitational on September 10-11, 2010.

Acting Mayor Gover opened the floor for discussion with no responders.

Acting Mayor Gover declared the motion carried by the following vote: YEA Commissioner Ervin, YEA Commissioner Hall, YEA Commissioner Rankin, YEA Acting Mayor Gover.

Commissioner Hall seconded by Commissioner Ervin moved to approve Council Decision Request 2010-1140, approving a \$1,500 grant by the Tourism Advisory Committee from hotel/motel tax funds to Mattoon High School for hosting the Mattoon High School 2010 Girls Holiday Basketball tournament on December 27-29, 2010.

Acting Mayor Gover opened the floor for discussion with no responders.

Acting Mayor Gover declared the motion carried by the following vote: YEA Commissioner Ervin, YEA Commissioner Hall, YEA Commissioner Rankin, YEA Acting Mayor Gover.

Commissioner Hall seconded by Commissioner Rankin moved to approve Council Decision Request 2010-1141, approving a \$15,000 grant by the Tourism Advisory Committee from hotel/motel tax funds to American Legion for hosting the American Legion Baseball Great Lakes Regional Tournament on August 4-9, 2010.

Acting Mayor Gover opened the floor for discussion with no responders.

Acting Mayor declared the motion carried by the following vote: YEA Commissioner Ervin, YEA Commissioner Hall, YEA Commissioner Rankin, YEA Acting Mayor Gover.

Acting Mayor Gover seconded by Commissioner Hall moved to approve Council Decision Request 2010-1142, allowing Brian's Place to open its facilities to the public at 10 a.m. on October 10, 2010 for the purpose of hosting the APA 2010 Fall 9-ball and 8-ball shootout. Liquor shall not be sold until 12:00 noon and all other liquor ordinances of the City shall remain in full force and effect.

Acting Mayor Gover opened the floor for discussion. Acting Mayor Gover announced his discussion with Chief Branson involving a patrol officer to walkthrough the establishment for a compliance check.

Acting Mayor Gover declared the motion carried by the following vote: YEA Commissioner Ervin, YEA Commissioner Hall, YEA Commissioner Rankin, YEA Acting Mayor Gover.

Acting Mayor Gover seconded by Commissioner Ervin moved to approve Council Decision Request 2010-1143, approving a USDA grant for Library improvements, and authorizing the Mayor to sign the document.

Acting Mayor Gover opened the floor for discussion. Council questioned Director Franklin about the project with Director Franklin stating the Siemens' project would be funded by TIF dollars, explained the costs, and noted the renovations were include salvaging as much of the limestone steps as possible.

Acting Mayor Gover declared the motion carried by the following vote: YEA Commissioner Ervin, YEA Commissioner Hall, YEA Commissioner Rankin, YEA Acting Mayor Gover.

Acting Mayor Gover seconded by Commissioner Hall moved to approve Council Decision Request 2010-1144, approving the request for proposals for broker of record to place property, casualty and workers compensation insurance and administer an insurance program.

Acting Mayor Gover opened the floor for discussion. Administrator McLaughlin stated the broker's contract was up for renewal and local companies wanted to bid.

Acting Mayor Gover declared the motion carried by the following vote: YEA Commissioner Ervin, YEA Commissioner Hall, YEA Commissioner Rankin, YEA Acting Mayor Gover.

#### COMMUNICATIONS - COUNCIL AND CITY STAFF

##### DEPARTMENT REPORTS:

CITY ADMINISTRATOR – noted Siemens was working on the lights and continued work on Progress Square Parking Lot and YMCA Parking Lot. Acting Mayor Gover opened the floor for questions with no responders.

ATTORNEY & TREASURER – noted continued work on the audit; preparation of TIF reports and the Public Financial Report; revisited e-pay for water payments on the website.

CITY CLERK – noted continued work on the ERRP application.

PUBLIC WORKS – noted the completed Moultrie County water line, Lake Paradise re-grading, reseeding, and annual sign inventory, which complied with federal regulations, accounting for sign and light replacements; provided an update on the energy efficiency project with exterior lighting and street lighting; and declared a successful triathlon at the lake. More detail was presented on alternative options for sign regulations.

COMMUNITY DEVELOPMENT – updated the Council on nuisances, title searches, and contact by contractor installing Amtrak signs for no cost to the City at the station. Commissioner Ervin inquired as to a possible violation for a fence at 15<sup>th</sup> and Champaign. Coordinator Gill described a possibility to the citizen's inquiry at 1421 Wabash which was allowed by ordinance.

FIRE – noted the TRT and OBGYN training; RR Donnelley's tour; public service details at the air show; fire extinguisher demos at Lake Land College, continued flow testing, attendance at the emergency operations center in Springfield, and collection of \$1,900 for MDA by firefighters.

POLICE – noted Saturday eligibility testing, an additional officer to attend CSI training, final totals for vehicle sales and weapons at \$13,252.42 profit, and attendance at the emergency STIC (Statewide Tourism Intelligence Center) tour.

Acting Mayor Gover opened the floor for questions with no responders.

#### COMMENTS BY THE COUNCIL

Commissioner Ervin, Commissioner Hall, Commissioner Rankin, and Acting Mayor Gover had no comments at this time.

Acting Mayor Gover seconded by Commissioner Ervin moved to recess to closed session at 7:39 p.m. pursuant to the Illinois Open Meetings Act for the purpose of considering the employment, performance or dismissal of employees of the municipality (5 ILCS 120(2)(c)(1)); litigation affecting or on behalf of the City of Mattoon (5 ILCS 120(2)(c)(11)); and collective negotiating matters between the public body and its employees or their representatives (5 ILCS 120(2)(c)(2)).

Acting Mayor Gover opened the floor for discussion with no responders.

Acting Mayor Gover declared the motion carried by the following vote: YEA Commissioner Ervin, YEA Commissioner Hall, YEA Commissioner Rankin, YEA Acting Mayor Gover.

Acting Mayor Gover announced there would be one motion after closed session.

Council reconvened at 9:20 p.m.

Commissioner Hall seconded by Commissioner Rankin moved to adjourned 9:21 p.m.

Acting Mayor Gover declared the motion carried by the following vote: YEA Commissioner Ervin, YEA Commissioner Hall, YEA Commissioner Rankin, YEA Acting Mayor Gover.

/s/ Susan J. O'Brien  
City Clerk