

AGENDA

Regular Meeting of the

CITY COUNCIL OF THE CITY OF TROY

JULY 10, 2006

CONVENING AT 7:30 P.M.

**Submitted By
The Acting City Manager**

NOTICE: People with disabilities needing accommodations for effective participation in this meeting should contact the City Clerk at (248) 524-3316 or via e-mail at clerk@ci.troy.mi.us at least two working days in advance of the meeting. An attempt will be made to make reasonable accommodations.

TO: The Honorable Mayor and City Council
Troy, Michigan

FROM: John M. Lamerato, Acting City Manager

SUBJECT: Background Information and Reports

Ladies and Gentlemen:

This booklet provides a summary of the many reports, communications and recommendations that accompany your Agenda. Also included are suggested or requested resolutions and/or ordinances for your consideration and possible amendment and adoption.

Supporting materials transmitted with this Agenda have been prepared by department directors and staff members. I am indebted to them for their efforts to provide insight and professional advice for your consideration.

Identified below are goals for the City, which have been advanced by the governing body; and Agenda items submitted for your consideration are on course with these goals.

Goals

1. Minimize cost and increase efficiency of City government.
2. Retain and attract investment while encouraging redevelopment.
3. Effectively and professionally communicate internally and externally.
4. Creatively maintain and improve public infrastructure.
5. Protect life and property.

As always, we are happy to provide such added information as your deliberations may require.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John M. Lamerato". The signature is fluid and cursive, with a large, stylized initial "J" and "L".

John M. Lamerato, Acting City Manager



CITY COUNCIL

AGENDA

July 10, 2006 – 7:30 PM
Council Chambers
City Hall - 500 West Big Beaver
Troy, Michigan 48084
(248) 524-3317

CALL TO ORDER:	1
INVOCATION & PLEDGE OF ALLEGIANCE:	1
ROLL CALL:	1
Proposed Resolution to Excuse Council Members Broomfield and Fleming from the Special City Council Meeting of Thursday, June 29, 2006	1
CERTIFICATES OF RECOGNITION:	1
A-1 Presentations: No Presentations	1
CARRYOVER ITEMS:	1
B-1 No Carryover Items	1
PUBLIC HEARINGS:	1
C-1 Commercial Vehicle Appeal – 1868 Welling Drive	1
C-2 Commercial Vehicle Appeal – 2127 Atlas	2
C-3 Zoning Ordinance Text Amendment (File No: ZOTA 214) – Article X, Group Child Care Homes in the R-1A through R-1E Districts	4

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POSTPONED ITEMS: 4

- D-1 Request for Approval of Cost Participation Agreement for the Reconstruction of Crooks Road, Square Lake to M-59 – Project No. 94.108.6 4
- D-2 Traffic Committee Recommendations – April 19, 2006 4
- D-3 Proposed Revisions to DDA By-Laws 5

CONSENT AGENDA: 5

- E-1a Approval of “E” Items NOT Removed for Discussion 6
 - E-1b Address of “E” Items Removed for Discussion by City Council and/or the Public 6
 - E-2 Approval of City Council Minutes 6
 - E-3 Proposed City of Troy Proclamation: 6
 - a) Proclamation – Ride to Work Day – July 19, 2006 6
 - E-4 Standard Purchasing Resolutions 6
 - a) Standard Purchasing Resolution 9: Membership Renewal – Macomb County Criminal Justice Training Consortium 6
 - b) Standard Purchasing Resolution 8: Best Value Process Award – 2007 Calendar/Annual Report Printing Services 7
 - E-5 Approval of Subcontract with Greenstar & Associates, LLC for Right-of-Way Services for the Reconstruction and Widening of John R from Long Lake to Square Lake – Project No. 02.203.5 7
 - E-6 Approval of Subcontract with Greenstar & Associates, LLC for Right-of-Way Services for the Reconstruction and Widening of John R from Square Lake to South Boulevard – Project No. 02.204.5 7
 - E-7 Addendum No. 1: Contract 04-2 – Maple Road Water Main Replacement, Coolidge to Crooks 8
 - E-8 Request for Acceptance of Three Easements and One Warranty Deed from Quattro Development Company, Inc. – Sidwell #88-20-15-428-012 8
-

E-9	D & K Hannawa, LLC v. City of Troy, et. al	8
E-10	Hooters Lawsuit	8
E-11	Private Agreement for North Hills Christian Reform Church – Project No. 06.915.3	9
E-12	Fireworks Permit – Troy Daze Festival	9
<u>PUBLIC COMMENT: Limited to Items Not on the Agenda</u>		9
<u>REGULAR BUSINESS:</u>		9
F-1	Appointments to Boards and Committees: a) Mayoral Appointments: Economic Development Corporation (EDC); Local Development Finance Authority (LDFA); and Planning Commission b) City Council Appointments: Advisory Committee for Persons with Disabilities; Advisory Committee for Senior Citizens; Cable Advisory Committee; Ethnic Issues Advisory Board; Historic District Commission; Historical Commission; Library Advisory Board; Liquor Advisory Committee; Municipal Building Authority; Parks & Recreation Board; Traffic Committee; and Troy Daze Committee c) Confirmation of City Manager Appointment	10
F-2	Bid Waiver – Contract Extension – Alarm Installation, Monitoring and Maintenance	13
F-3	Preliminary Site Condominium Approval – Tuscan Estates Site Condominium, West Side of Dequindre Road, South of Wattles Road, Section 24 – R-1C	14
F-4	Final Site Condominium Approval – Longfellow Site Condominium, West Side of Rochester Road, North Side of Longfellow, Section 15 – R-1C	14
F-5	Restated and Amended Consent Judgment – K-Mart/Sheffield	14
F-6	Gerback v. City of Troy – Settlement Proposal	15
F-7	Amendment #3 Concrete Pavement Repair	15
F-8	Traffic Committee Recommendations – June 21, 2006	16
F-9	Schedule a Special Meeting for the Purpose of a Big Beaver Corridor Study Presentation	16

MEMORANDUMS AND FUTURE COUNCIL AGENDA ITEMS: **17**

G-1 Announcement of Public Hearings: 17

- a) Street Vacation Application (File Number: SV 187) – A Section of Alley Located North of Big Beaver between Frankton and Troy, Section 22 – July 24, 2006 17
- b) Zoning Ordinance Text Amendment (File Number: ZOTA 219) – Articles II and III, Conditional Rezoning – July 24, 2006 17
- c) Zoning Ordinance Text Amendment (File Number: ZOTA 215-C) – Articles XLIII and XLIV, Pertaining to Commercial Vehicle Parking Appeals – July 24, 2006 17

G-2 Green Memorandums: No Memorandums Submitted 17

COUNCIL REFERRALS: Items Advanced to the City Manager by Individual City Council Members for Placement on the Agenda **17**

H-1 No Council Referrals Advanced 17

COUNCIL COMMENTS: **17**

I-1 No Council Comments Advanced 17

REPORTS: **17**

J-1 Minutes – Boards and Committees: 17

- a) Retiree Health Care Benefits Plan & Trust/Final – March 8, 2006..... 17
- b) Advisory Committee for Persons with Disabilities/Draft – May 3, 2006 17
- c) Advisory Committee for Persons with Disabilities/Final – May 3, 2006 17
- d) Employees’ Retirement System Board of Trustees/Final – May 10, 2006..... 17
- e) Troy Daze Advisory Committee/Final – May 23, 2006..... 17
- f) Downtown Development Authority/Final – June 1, 2006 17
- g) Planning Commission Special/Study/Draft – June 6, 2006..... 17
- h) Planning Commission Special/Study/Final – June 6, 2006..... 17
- i) Building Code Board of Appeals/Final – June 7, 2006 17
- j) Liquor Advisory Committee/Draft – June 12, 2006 17
- k) Employees’ Retirement System Board of Trustees/Draft – June 13, 2006..... 17
- l) Planning Commission/Draft – June 13, 2006..... 17
- m) Planning Commission/Final – June 13, 2006..... 17
- n) Retiree Health Care Benefits Plan & Trust/Draft – June 13, 2006..... 17
- o) Troy Daze Advisory Committee/Draft – June 27, 2006..... 17

J-2 Department Reports: 18

a)	City of Troy Monthly Financial Report – May 31, 2006	18
b)	City Council Expense Report – June, 2006	18
c)	Council Member Robin Beltramini’s Travel Expense Report – NLC FAIR and Public Finance Panel – Joint Meeting.....	18
d)	City Attorney’s Office – 2006 Second Quarter Litigation Report.....	18
e)	Troy Fire Department – 2005 Annual Report.....	18
f)	City Manager’s Office – Receipt of 2006-07Annual Budget (Document will be handed out at the Council Meeting).....	18
J-3	Letters of Appreciation: None Submitted	18
J-4	Proposed Proclamations/Resolutions from Other Organizations:	18
a)	Resolution from the City of Lathrup Village Opposing the Ballot Proposal to Ban Affirmative Action	18
J-5	Calendar	18
J-6	Communication from Public Works Director Timothy Richnak Regarding 2006 Community Development Block Grant Funds	18
J-7	Communication from Council Member Robin Beltramini Regarding Meetings of National League of Cities FAIR Steering Committee and City Futures Panel on Public Finance, Cambridge MA, June 15-17, 2006	18
J-8	Communication from City Attorney Lori Grigg Bluhm Regarding Williams et. al v. City of Troy and Ken Freund	18
J-9	Communication from Assistant City Manager/Services Brian Murphy Regarding Summary of City Council’s Comments on Blight Reduction Strategies	18
J-10	Communication from International City/County Management Association (ICMA) and National Research Center (NRC) Regarding the City of Troy Winning the 2005 Voice of the People Award	18
<u>STUDY ITEMS:</u>		18
K-1	Disposal/Sale of Excess Property	18
K-2	Troy City Code Chapter 18 (Water Utility)	18

PUBLIC COMMENT: Address of "K" Items **18**

CLOSED SESSION: **19**

L-1 Closed Session: 19

ADJOURNMENT **19**

SCHEDULED CITY COUNCIL MEETINGS: **19**

Monday, July 24, 2006 Regular City Council.....	19
Monday, August 14, 2006 Regular City Council.....	19
Monday, August 28, 2006 Regular City Council.....	19
Monday, September 11, 2006 Regular City Council	19
Monday, September 18, 2006 Regular City Council	19
Monday, September 25, 2006 Regular City Council	19
Monday, October 2, 2006 Regular City Council	19
Monday, October 16, 2006 Regular City Council	19
Monday, October 23, 2006 Regular City Council	19

CALL TO ORDER:

INVOCATION & PLEDGE OF ALLEGIANCE:

ROLL CALL:

Mayor Louise E. Schilling
Robin Beltramini
Cristina Broomfield
Wade Fleming
Martin F. Howrylak
David A. Lambert
Jeanne M. Stine

Proposed Resolution to Excuse Council Members Broomfield and Fleming from the Special City Council Meeting of Thursday, June 29, 2006

Resolution #2006-07-
Moved by
Seconded by

RESOLVED, That the Troy City Council hereby **EXCUSES** the absence of Council Member Broomfield at the Special City Council Meeting of June 29, 2006 due to _____ and the absence of Council Member Fleming at the Special City Council Meeting of June 29, 2006 due to _____.

Yes:
No:

CERTIFICATES OF RECOGNITION:

A-1 Presentations: No Presentations

CARRYOVER ITEMS:

B-1 No Carryover Items

PUBLIC HEARINGS:

C-1 Commercial Vehicle Appeal – 1868 Welling Drive

Suggested Resolution
Resolution #2006-07-
Moved by
Seconded by

Proposed Resolution A (For Approval)

WHEREAS, Section 44.02.02 of Chapter 39, Zoning, of the Code of the City of Troy provides that actions to grant appeals to the restrictions on outdoor parking of commercial vehicles in residential districts pursuant to Section 40.66.00 of Chapter 39 of the Code of the City of Troy "shall be based upon at least one of the following findings by the City Council:

- A. The occurrence of the subject commercial vehicle on the residential site involved is compelled by parties other than the owner or occupant of the subject residential site (e.g. employer).
- B. Efforts by the applicant have determined that there are no reasonable or feasible alternative locations for the parking of the subject commercial vehicle.
- C. A garage or accessory building on the subject residential site cannot accommodate, or cannot reasonably be constructed or modified to accommodate, the subject commercial vehicle.
- D. The location available on the residential site for the outdoor parking of the subject commercial vehicle is adequate to provide for such parking in a manner which will not negatively impact adjacent residential properties, and will not negatively impact pedestrian and vehicular movement along the frontage street(s); and

WHEREAS, The City Council of the City of Troy has found that the petitioner has demonstrated the presence of the following condition(s), justifying the granting of a variance:_____

_____;

THEREFORE, BE IT RESOLVED, That the request from Dave Werner, 1868 Welling Drive, for waiver of Chapter 39, Section 40.66.00, of the Code of the City of Troy, to permit outdoor parking of a Chevrolet dump truck in a residential district is hereby **APPROVED** for _____ (not to exceed two years).

Or Proposed Resolution B (For Denial)

WHEREAS, The City Council of the City of Troy has not found that the petitioner has demonstrated the presence of condition(s), justifying the granting of a variance pursuant to Section 44.02.02 of Chapter 39 of the Code of the City of Troy;

THEREFORE, BE IT RESOLVED, That the request from Dave Werner, 1868 Welling Drive, for waiver of Chapter 39, Section 40.66.00, of the Code of the City of Troy, to permit outdoor parking of a Chevrolet dump truck in a residential district is hereby **DENIED**.

Yes:
No:

C-2 Commercial Vehicle Appeal – 2127 Atlas

Suggested Resolution
Resolution #2006-07-
Moved by

Seconded by

Proposed Resolution A (For Approval)

WHEREAS, Section 44.02.02 of Chapter 39, Zoning, of the Code of the City of Troy provides that actions to grant appeals to the restrictions on outdoor parking of commercial vehicles in residential districts pursuant to Section 40.66.00 of Chapter 39 of the Code of the City of Troy "shall be based upon at least one of the following findings by the City Council:

- A. The occurrence of the subject commercial vehicle on the residential site involved is compelled by parties other than the owner or occupant of the subject residential site (e.g. employer).
- B. Efforts by the applicant have determined that there are no reasonable or feasible alternative locations for the parking of the subject commercial vehicle.
- C. A garage or accessory building on the subject residential site cannot accommodate, or cannot reasonably be constructed or modified to accommodate, the subject commercial vehicle.
- D. The location available on the residential site for the outdoor parking of the subject commercial vehicle is adequate to provide for such parking in a manner which will not negatively impact adjacent residential properties, and will not negatively impact pedestrian and vehicular movement along the frontage street(s)"; and

WHEREAS, The City Council of the City of Troy has found that the petitioner has demonstrated the presence of the following condition(s), justifying the granting of a variance:_____

_____;

NOW, THEREFORE, BE IT RESOLVED, That the request from Kevin Ferguson, 2127 Atlas, for waiver of Chapter 39, Section 40.66.00, of the Code of the City of Troy, to permit outdoor parking of a GMC cube van in a residential district is hereby **APPROVED** for _____ (not to exceed two years).

Or Proposed Resolution B (For Denial)

WHEREAS, The City Council of the City of Troy has not found that the petitioner has demonstrated the presence of condition(s), justifying the granting of a variance pursuant to Section 44.02.02 of Chapter 39 of the Code of the City of Troy;

THEREFORE, BE IT RESOLVED, That the request from Kevin Ferguson, 2127 Atlas, for waiver of Chapter 39, Section 40.66.00, of the Code of the City of Troy, to permit outdoor parking of a GMC cube van in a residential district is hereby **DENIED**.

Yes:
No:

C-3 Zoning Ordinance Text Amendment (File No: ZOTA 214) – Article X, Group Child Care Homes in the R-1A through R-1E DistrictsSuggested Resolution

Resolution #2006-07-

Moved by

Seconded by

RESOLVED, That Article X (ONE-FAMILY RESIDENTIAL DISTRICTS) of the City of Troy Zoning Ordinance, be **AMENDED** to read as written in the proposed Zoning Ordinance Text Amendment (ZOTA 214), City Council Consensus version Public Hearing Draft.

Yes:

No:

POSTPONED ITEMS:

D-1 Request for Approval of Cost Participation Agreement for the Reconstruction of Crooks Road, Square Lake to M-59 – Project No. 94.108.6Suggested Resolution

Resolution #2006-07-

Moved by

Seconded by

RESOLVED, That the Cost Participation Agreement between the City of Troy and the Board of Road Commissioners for the County of Oakland for Crooks Road, Square Lake to M-59, Project No. 94.108.6, is hereby **APPROVED** and the Mayor and City Clerk are **AUTHORIZED TO EXECUTE** the Agreement.

Yes:

No:

D-2 Traffic Committee Recommendations – April 19, 2006**No Changes to Traffic Control Devices at Ivanhoe and Sweet**Pending Resolution

Resolution #2006-07-

Moved by Beltramini

Seconded by Fleming

RESOLVED, That **NO CHANGES** be made to traffic control devices at Ivanhoe and Sweet.

Yes:

No:

Substitute Amendment

Resolution #2006-07-
 Moved by
 Seconded by

RESOLVED, That the preceding resolution for *Traffic Control Devices at Ivanhoe and Sweet* be **SUBSTITUTED** with the following:

RESOLVED, That Traffic Control Order No. _____ be **ISSUED** for the installation of YIELD sign at Ivanhoe and Sweet.

Yes:
 No:

Amended Main Motion

Resolution #2006-07-
 Moved by Beltramini
 Seconded by Fleming

RESOLVED, That Traffic Control Order No. _____ be **ISSUED** for the installation of YIELD sign at Ivanhoe and Sweet.

Yes:
 No:

D-3 Proposed Revisions to DDA By-Laws**Pending Resolution**

Resolution #2006-07-
 Moved by Beltramini
 Seconded by Broomfield

RESOLVED, That the proposed revisions to the City of Troy Downtown Development Authority By-Laws and Rules of Procedure are **APPROVED** as recommended by City Administration, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

Yes:
 No:

CONSENT AGENDA:

The Consent Agenda includes items of a routine nature and will be approved with one motion. That motion will approve the recommended action for each item on the Consent Agenda. Any Council Member may ask a question regarding an item as well as speak in opposition to the recommended action by removing an item from the Consent Agenda and have it considered as a separate item. Any item so removed from the Consent Agenda shall be considered after other items on the consent portion of the agenda have

been heard. Public comment on Consent Agenda Items will be permitted under Agenda Item 9 "E".

E-1a Approval of "E" Items NOT Removed for Discussion

Suggested Resolution

Resolution #2006-07-

Moved by

Seconded by

RESOLVED, That all items as presented on the Consent Agenda are hereby **APPROVED** as presented with the exception of Item(s) _____, which shall be considered after Consent Agenda (E) items, as printed.

Yes:

No:

E-1b Address of "E" Items Removed for Discussion by City Council and/or the Public

E-2 Approval of City Council Minutes

Suggested Resolution

Resolution #2006-07-

RESOLVED, That the Minutes of the 7:30 PM Regular City Council Meeting of June 19, 2006 and the Minutes of the 7:30 PM Special City Council Meeting of June 29, 2006 be **APPROVED** as submitted.

E-3 Proposed City of Troy Proclamation:

Suggested Resolution

Resolution #2006-07-

RESOLVED, That the following City of Troy Proclamation be **APPROVED**:

- a) Proclamation – Ride to Work Day – July 19, 2006

E-4 Standard Purchasing Resolutions

- a) **Standard Purchasing Resolution 9: Membership Renewal – Macomb County Criminal Justice Training Consortium**

Suggested Resolution

Resolution #2006-07-

WHEREAS, Macomb Community College has provided the City of Troy Police Department with training at their Criminal Justice Training Facility; and

WHEREAS, It is desirable to continue re-certification of police officers in Emergency Vehicle Operations and utilize the state of the art computerized simulated shooting system, FATS;

THEREFORE, BE IT RESOLVED, That a one-year membership renewal is hereby **APPROVED** with Macomb Community College to continue the membership in the Macomb County Criminal Justice Training Consortium at an estimated annual cost of \$21,920.00, and approval is hereby **GRANTED** to use all other training services provided through Consortium membership on a reduced cost basis.

b) Standard Purchasing Resolution 8: Best Value Process Award – 2007 Calendar/Annual Report Printing Services

Suggested Resolution
Resolution #2006-07-

RESOLVED, That a contract to provide printing and design services to mail 40,000 copies of the 2007 City calendar with an option to renew for the 2008 calendar year is hereby **AWARDED** to University Lithoprinters, Inc. of Ann Arbor, MI, the vendor with the highest final weighted score, as a result of a Best Value process which the Troy City Council determines as being in the public interest at an estimated cost of \$33,825.00 per year, at unit prices contained in the tabulation opened May 17, 2006, plus \$2,310.00 for the reply card insert; and

BE IT FURTHER RESOLVED, That City Management **INTENDS** to sell advertising in excess of \$11,000.00 to help offset the costs to produce the calendar/annual report; and

BE IT FINALLY RESOLVED, That the City is **AUTHORIZED TO ACCEPT** an increase in paper prices for the 2008 calendar/annual report not to exceed the CPI for the Detroit /Ann Arbor area base year June 2006 or the CPI Inflation Calculator, whichever is lower.

E-5 Approval of Subcontract with Greenstar & Associates, LLC for Right-of-Way Services for the Reconstruction and Widening of John R from Long Lake to Square Lake – Project No. 02.203.5

Suggested Resolution
Resolution #2006-07-

RESOLVED, That Subcontract No. 05-5109/S1, between the City of Troy and Greenstar & Associates, LLC for right-of-way services for the reconstruction of John R, between Long Lake and Square Lake is hereby **APPROVED** at an estimated cost to the City of Troy not to exceed \$50,000.00, and the Mayor and City Clerk are **AUTHORIZED TO EXECUTE** the subcontract, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

E-6 Approval of Subcontract with Greenstar & Associates, LLC for Right-of-Way Services for the Reconstruction and Widening of John R from Square Lake to South Boulevard – Project No. 02.204.5

Suggested Resolution
Resolution #2006-07-

RESOLVED, That Subcontract No. 05-5110/S1, between the City of Troy and Greenstar & Associates, LLC for right-of-way services for the reconstruction of John R, between Square Lake and South Boulevard is hereby **APPROVED** at an estimated cost to the City of Troy not to exceed \$50,000.00, and the Mayor and City Clerk are **AUTHORIZED TO EXECUTE** the subcontract, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

E-7 Addendum No. 1: Contract 04-2 – Maple Road Water Main Replacement, Coolidge to Crooks

Suggested Resolution

Resolution #2006-07-

RESOLVED, That Addendum No. 1 to Contract No. 04-2, Maple Road Water Main Replacement from Coolidge to Crooks, is hereby **APPROVED** to Aielli Construction Co., 36609 Groesbeck Hwy., Clinton Township, MI 48035 at unit prices contained in the contract, the total amount authorized is \$1,024,847.41 and includes the previous authorized amount of \$887,740.10, 10% contingency as per the contract award resolution and the \$48,333.30 amount for which Addendum No. 1 exceeds the 10% contingency.

E-8 Request for Acceptance of Three Easements and One Warranty Deed from Quattro Development Company, Inc. – Sidwell #88-20-15-428-012

Suggested Resolution

Resolution #2006-07-

RESOLVED, That the three easements and one warranty deed received from Quattro Development Company, Inc., owners of property having Sidwell #88-20-15-428-012 are hereby **ACCEPTED**; and

BE IT FURTHER RESOLVED, That the City Clerk is hereby **DIRECTED TO RECORD** said documents with the Oakland County Register of Deeds Office, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

E-9 D & K Hannawa, LLC v. City of Troy, et. al

Suggested Resolution

Resolution #2006-07-

BE IT RESOLVED, That the Consent Judgment in the matter of D & K Hannawa, LLC v. City of Troy, et. al is hereby **APPROVED**, and the Assistant City Attorney is **AUTHORIZED TO EXECUTE** the document on behalf of the City of Troy, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

E-10 Hooters Lawsuit

Suggested Resolution

Resolution #2006-07-

RESOLVED, That the City Attorney is hereby **AUTHORIZED** and **DIRECTED** to represent the City of Troy in any and all claims and damages in the matter of *In re Hooters of Troy Inc.*, and to **RETAIN** any necessary expert witnesses and outside legal counsel to adequately represent the City.

E-11 Private Agreement for North Hills Christian Reform Church – Project No. 06.915.3

Suggested Resolution
Resolution #2006-07-

RESOLVED, That the Contract for the Installation of Municipal Improvements (Private Agreement) between the City of Troy and North Hills Christian Reform Church, is hereby **APPROVED** for the installation of water main and paving on the site and in the adjacent right of way, and the Mayor and City Clerk are **AUTHORIZED TO EXECUTE** the documents, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

E-12 Fireworks Permit – Troy Daze Festival

Suggested Resolution
Resolution #2006-07-

RESOLVED, That a fireworks permit be **ISSUED** to Mad Bomber Fireworks Productions, of Kingsbury, IN for the display of fireworks at the conclusion of the 2006 Troy Daze Festival.

PUBLIC COMMENT: Limited to Items Not on the Agenda

Public comment limited to items not on the Agenda in accordance with the Rules of Procedure of the City Council, Article 16 - Members of the Public and Visitors.

REGULAR BUSINESS:

Persons interested in addressing the City Council on items, which appear on the printed Agenda, will be allowed to do so at the time the item is discussed upon recognition by the Chair in accordance with the Rules of Procedure of the City Council, Article 16, during the Public Comment section under item 11“F” of the agenda. Other than asking questions for the purposes of gaining insight or clarification, Council shall not interrupt or debate with members of the public during their comments. Once discussion is brought back to the Council table, persons from the audience will be permitted to speak only by invitation by Council, through the Chair. Council requests that if you do have a question or concern, to bring it to the attention of the appropriate department(s) whenever possible. If you feel that the matter has not been resolved satisfactorily, you are encouraged to bring it to the attention of the City Manager, and if still not resolved satisfactorily, to the Mayor and Council.

NOTE: Any item selected by the public for comment from the Regular Business Agenda shall be moved forward before other items on the regular business portion of the agenda have been heard. Public comment on Regular Agenda Items will be permitted under Agenda Item 11 “F”.

F-1 Appointments to Boards and Committees: a) Mayoral Appointments: Economic Development Corporation (EDC); Local Development Finance Authority (LDFA); and Planning Commission b) City Council Appointments: Advisory Committee for Persons with Disabilities; Advisory Committee for Senior Citizens; Cable Advisory Committee; Ethnic Issues Advisory Board; Historic District Commission; Historical Commission; Library Advisory Board; Liquor Advisory Committee; Municipal Building Authority; Parks & Recreation Board; Traffic Committee; and Troy Daze Committee c) Confirmation of City Manager Appointment

The appointment of new members to all of the listed board and committee vacancies will require only one motion and vote by City Council. Council members submit recommendations for appointment. When the number of submitted names exceed the number of positions to be filled, a separate motion and roll call vote will be required (current process of appointing). Any board or commission with remaining vacancies will automatically be carried over to the next Regular City Council Meeting Agenda.

The following boards and committees have expiring terms and/or vacancies. Bold black lines indicate the number of appointments required:

(a) Mayoral Appointments

Suggested Resolution

Resolution #2006-07-

Moved by

Seconded by

RESOLVED, That the following persons are hereby **APPOINTED BY THE MAYOR** to serve on the Boards and Committees as indicated:

Economic Development Corporation (EDC)

Appointed by Mayor (9) – 6 Year Terms

Unexpired Term 04/30/2011

Local Development Finance Authority (LDFA)

Appointed by Mayor (5) – 4 Year Terms

Unexpired Term 06/30/2007

Planning Commission

Appointed by Mayor (9) – 3 Year Terms

Term Expires 07/01/07 **(Student)**

Yes:

No:

(b) City Council Appointments

Suggested Resolution

Resolution #2006-07-

Moved by

Seconded by

RESOLVED, That the following persons are hereby **APPOINTED BY THE CITY COUNCIL** to serve on the Boards and Committees as indicated:

Advisory Committee for Persons with Disabilities

Appointed by Council (9 Regular Members; 3 Alternates) – 3 Year Terms

(Alternate) Unexpired Term Expires 11/01/06

(Alternate) Unexpired Term Expires 11/01/06

Term Expires 07/01/07 **(Student)**

Term Expires 07/01/07 **(Student)**

Advisory Committee for Senior Citizens

Appointed by Council (9) – 3 Year Terms

Term Expires 04/30/09

Cable Advisory Committee

Appointed by Council (7) – 3 Year Terms

Term Expires 07/01/07 **(Student)**

Ethnic Issues Advisory Board

Appointed by Council (9) – 2 & 3 Year Terms

Unexpired Term 09/30/07

Unexpired Term 09/30/08

Term Expires 07/01/07 **(Student)**

Historic District Commission

Appointed by Council (7) – 3 Year Terms

One member, an architect if available

Two members, chosen from a list submitted by a duly organized history group or groups

Term Expires 07/01/07 **(Student)**

Term Expires 05/16/09

Term Expires 05/16/09

Historical Commission

Appointed by Council (7) – 3 Year Terms

Term Expires 07/01/07 (Student)

Term Expires 07/31/09

Term Expires 07/31/09

Library Advisory Board

Appointed by Council (5) – 3 Year Terms

Term Expires 07/01/07 (Student)

Term Expires 07/01/07 (Student)

Liquor Advisory Committee

Appointed by Council (7) – 3 Year Terms

Term Expires 07/01/07 (Student)

Municipal Building Authority

Appointed by Council (5) – 3 Year Terms

Term Expires 01/31/09

Parks & Recreation Board

Appointed by Council (10) – 3 Year Terms

Term Expires 07/01/07 (Student)

***Troy School District Rep** Term Expires 07/01/07

***NOTE: Troy School Board is scheduled to select P&R Rep at their July 11, 2006 organizational meeting.**

Traffic Committee

Appointed by Council (7) – 3 Year Terms

Term Expires 07/01/07 (Student)

Term Expires 07/01/07 (Student)

Troy Daze Committee

Appointed by Council (9) – 3 Year Terms

Term Expires 07/01/07 (Student)

Term Expires 07/01/07 (Student)

Term Expires 07/01/07 (Student)

Yes:

No:

(c) Confirmation of City Manager Appointment to Employee Retirement System Board of Trustees and Retiree Health Care Benefits Plan & Trust

Suggested Resolution

Resolution #2006-07-

Moved by

Seconded by

RESOLVED, That the appointment of the City Manager, Phillip Nelson is hereby **CONFIRMED BY THE CITY COUNCIL** to serve on the Boards and Committees as indicated below:

Employee Retirement System Board of Trustees and Retiree Health Care Benefits Plan & Trust

Confirmation of Appointment by Council – Chapter 10 of the Troy City Code

Phillip Nelson

(City Manager)

Ordinance – Chapter 10

Yes:

No:

F-2 Bid Waiver – Contract Extension – Alarm Installation, Monitoring and Maintenance

Suggested Resolution

Resolution #2006-07-

Moved by

Seconded by

WHEREAS, On July 25, 1994 City Council approved a five (5) year contract to provide alarm installation, monitoring, and maintenance with an option to renew for an additional two (2) year period to Vigilante Security, Inc. as the result of a 1994 RFP process (Resolution #94-624), and extended yearly administratively under the same prices, terms and conditions; and

WHEREAS, Vigilante Security, Inc. has offered to extend their contract until December 31, 2007 under the same prices, terms, and conditions with the exception of the call-out hourly rate which will increase in accordance with the CPI Inflation Calculator and include any changes to alarm installations required;

THEREFORE, BE IT RESOLVED, That a contract to provide alarm installation, monitoring, and maintenance is hereby **APPROVED** with Vigilante Security, Inc. of Lathrup Village, MI, under the prices, terms, and conditions as outlined expiring December 31, 2007.

Yes:

No:

F-3 Preliminary Site Condominium Approval – Tuscany Estates Site Condominium, West Side of Dequindre Road, South of Wattles Road, Section 24 – R-1C

Suggested Resolution

Resolution #2006-07-

Moved by

Seconded by

RESOLVED, That the Preliminary Plan as submitted under Section 34.30.00 of the Zoning Ordinance (Unplatted One-Family Residential Development) for the development of a One-Family Residential Site Condominium known as Tuscany Estates Site Condominium, as recommended for approval by City Management, located on the west side of Dequindre, south of Wattles, including 11 home sites, within the R-1C zoning district, being 4.3 acres in size, is hereby **APPROVED**.

Yes:

No:

F-4 Final Site Condominium Approval – Longfellow Site Condominium, West Side of Rochester Road, North Side of Longfellow, Section 15 – R-1C

Suggested Resolution

Resolution #2006-07-

Moved by

Seconded by

RESOLVED, That the Final Plan as submitted under Section 34.30.00 of the Zoning Ordinance (Unplatted One-Family Residential Development) for the development of a One-Family Residential Site Condominium known as Longfellow Site Condominium, as recommended for approval by City Management, located on the west side of Rochester, north of Longfellow, including 5 home sites, within the R-1C zoning district, being 1.85 acres in size, is hereby **APPROVED**.

Yes:

No:

F-5 Restated and Amended Consent Judgment – K-Mart/Sheffield

Suggested Resolution

Resolution #2006-07-

Moved by
Seconded by

BE IT RESOLVED, That the Troy City Council hereby **APPROVES** the proposed Consent Judgment in the matter of Sheffield Development Company, A Michigan Co-Partnership, Predecessor to Diamond Troy JV, LLC, a Delaware Limited Liability Company, GM Equities LLC, A Michigan Limited Liability Company, and Sheffield Office L.P., a Delaware Partnership, and K-Mart Corporation, a Michigan Corporation v City Of Troy and the City Attorney is **AUTHORIZED TO EXECUTE** the document on behalf of the City of Troy, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

Yes:
No:

F-6 Gerback v. City of Troy – Settlement Proposal

Suggested Resolution

Resolution #2006-07-

Moved by
Seconded by

BE IT RESOLVED, That the proposed Consent Judgment in the matter of James L. Gerback, Successor Trustee Under the Amended Robert S. Binder Trust Agreement dated March 1, 2004 v. City of Troy is hereby **APPROVED** by the City of Troy, and the Assistant City Attorney is **AUTHORIZED TO EXECUTE** the document on behalf of the City of Troy, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

Yes:
No:

F-7 Amendment #3 Concrete Pavement Repair

Suggested Resolution

Resolution #2006-07-

Moved by
Seconded by

WHEREAS, On June 5, 2006, Troy City Council approved to amend the contract to provide additional concrete pavement repair for two of the low bidders: Major Cement Company – Proposal A and Hard Rock Concrete, Inc. – Proposal B, not to exceed \$1,250,000.00 and \$750,000.00, respectively for completion of work by June 30, 2006, at the same unit prices, terms and condition as the original contract (Resolution #2006-06-245); and

WHEREAS, City management completed locals road repairs under Proposal B in Section 11 and on Randall Drive which exceeded the approved amounts by \$25,000.00;

THEREFORE, BE IT RESOLVED, That the contract for concrete pavement repair under Proposal B is hereby **AMENDED** and **CONFIRMED** with Hard Rock Concrete, Inc. for an

additional \$25,000.00 for a total approved contract amount of \$775,000.00, which are within budgeted amounts for the fiscal year ended June 30, 2006.

Yes:

No:

F-8 Traffic Committee Recommendations – June 21, 2006Suggested Resolution

Resolution #2006-07-

Moved by

Seconded by

(a) Establishment of Fire Lanes at 3129-3149 Crooks Road

RESOLVED, That Traffic Control Order No. _____ be **ISSUED** for the establishment of fire lanes at 3129-3149 Crooks Road.

Yes:

No:

F-9 Schedule a Special Meeting for the Purpose of a Big Beaver Corridor Study PresentationSuggested Resolution

Resolution #2006-07-

Moved by

Seconded by

RESOLVED, That City Council **SCHEDULE** a special meeting on Monday, July 24, 2006 at 6:00 PM in the Council Chambers at 500 W. Big Beaver, Troy, Michigan to review a presentation of the Big Beaver Corridor Study, and that City Council **INVITES** members of the Planning Commission, Downtown Development Authority, Chamber of Commerce, Road Commission for Oakland County and other stakeholders.

Yes:

No:

MEMORANDUMS AND FUTURE COUNCIL AGENDA ITEMS:

G-1 Announcement of Public Hearings:

- a) Street Vacation Application (File Number: SV 187) – A Section of Alley Located North of Big Beaver between Frankton and Troy, Section 22 – July 24, 2006
 - b) Zoning Ordinance Text Amendment (File Number: ZOTA 219) – Articles II and III, Conditional Rezoning – July 24, 2006
 - c) Zoning Ordinance Text Amendment (File Number: ZOTA 215-C) – Articles XLIII and XLIV, Pertaining to Commercial Vehicle Parking Appeals – July 24, 2006
-

G-2 Green Memorandums: No Memorandums Submitted**COUNCIL REFERRALS: Items Advanced to the City Manager by Individual City Council Members for Placement on the Agenda**

H-1 No Council Referrals Advanced**COUNCIL COMMENTS:**

I-1 No Council Comments Advanced**REPORTS:**

J-1 Minutes – Boards and Committees:

- a) Retiree Health Care Benefits Plan & Trust/Final – March 8, 2006
 - b) Advisory Committee for Persons with Disabilities/Draft – May 3, 2006
 - c) Advisory Committee for Persons with Disabilities/Final – May 3, 2006
 - d) Employees' Retirement System Board of Trustees/Final – May 10, 2006
 - e) Troy Daze Advisory Committee/Final – May 23, 2006
 - f) Downtown Development Authority/Final – June 1, 2006
 - g) Planning Commission Special/Study/Draft – June 6, 2006
 - h) Planning Commission Special/Study/Final – June 6, 2006
 - i) Building Code Board of Appeals/Final – June 7, 2006
 - j) Liquor Advisory Committee/Draft – June 12, 2006
 - k) Employees' Retirement System Board of Trustees/Draft – June 13, 2006
 - l) Planning Commission/Draft – June 13, 2006
 - m) Planning Commission/Final – June 13, 2006
 - n) Retiree Health Care Benefits Plan & Trust/Draft – June 13, 2006
 - o) Troy Daze Advisory Committee/Draft – June 27, 2006
-

J-2 Department Reports:

- a) City of Troy Monthly Financial Report – May 31, 2006
 - b) City Council Expense Report – June, 2006
 - c) Council Member Robin Beltramini's Travel Expense Report – NLC FAIR and Public Finance Panel – Joint Meeting
 - d) City Attorney's Office – 2006 Second Quarter Litigation Report
 - e) Troy Fire Department – 2005 Annual Report
 - f) City Manager's Office – Receipt of 2006-07 Annual Budget (Document will be handed out at the Council Meeting)
-

J-3 Letters of Appreciation: None Submitted

J-4 Proposed Proclamations/Resolutions from Other Organizations:

- a) Resolution from the City of Lathrup Village Opposing the Ballot Proposal to Ban Affirmative Action
-

J-5 Calendar

J-6 Communication from Public Works Director Timothy Richnak Regarding 2006 Community Development Block Grant Funds

J-7 Communication from Council Member Robin Beltramini Regarding Meetings of National League of Cities FAIR Steering Committee and City Futures Panel on Public Finance, Cambridge MA, June 15-17, 2006

J-8 Communication from City Attorney Lori Grigg Bluhm Regarding Williams et. al v. City of Troy and Ken Freund

J-9 Communication from Assistant City Manager/Services Brian Murphy Regarding Summary of City Council's Comments on Blight Reduction Strategies

J-10 Communication from International City/County Management Association (ICMA) and National Research Center (NRC) Regarding the City of Troy Winning the 2005 Voice of the People Award

STUDY ITEMS:

K-1 Disposal/Sale of Excess Property

K-2 Troy City Code Chapter 18 (Water Utility)

PUBLIC COMMENT: Address of "K" Items

Persons interested in addressing the City Council on items, which appear on the printed Agenda, will be allowed to do so at the time the item is discussed upon recognition by the Chair in accordance with the Rules of Procedure of the City Council, Article 16,

during the Public Comment section under item 18 of the agenda. Other than asking questions for the purposes of gaining insight or clarification, Council shall not interrupt or debate with members of the public during their comments. Once discussion is brought back to the Council table, persons from the audience will be permitted to speak only by invitation by Council, through the Chair. City Council requests that if you do have a question or concern, to bring it to the attention of the appropriate department(s) whenever possible. If you feel that the matter has not been resolved satisfactorily, you are encouraged to bring it to the attention of the City Manager, and if still not resolved satisfactorily, to the Mayor and Council.

CLOSED SESSION:

L-1 Closed Session:

ADJOURNMENT

Respectfully submitted,



John M. Lamerato, Acting City Manager

SCHEDULED CITY COUNCIL MEETINGS:

- Monday, July 24, 2006 Regular City Council
- Monday, August 14, 2006 Regular City Council
- Monday, August 28, 2006 Regular City Council
- Monday, September 11, 2006 Regular City Council
- Monday, September 18, 2006 Regular City Council
- Monday, September 25, 2006 Regular City Council
- Monday, October 2, 2006..... Regular City Council
- Monday, October 16, 2006..... Regular City Council
- Monday, October 23, 2006..... Regular City Council

DATE: June 26, 2006

TO: John M. Lamerato, Acting City Manager

FROM: Brian P. Murphy, Assistant City Manager/Services
Mark Stimac, Director of Building & Zoning

SUBJECT: Agenda Item - Public Hearing
Commercial Vehicle Appeal
1868 Welling Drive

On May 12, 2006, information was sent to the owner of the property at 1868 Welling that identified restrictions related to a commercial vehicle located on that residential property. As part of that information, she was advised that the Chevrolet dump truck parked on the property did not comply with the exceptions found in Chapter 39, Section 40.66.00. She was given the option to remove the vehicle or appeal to City Council for relief of the Ordinance.

In response to our letters, Mr. Dave Werner has filed an appeal. The appeal requests that a public hearing date be held in accordance with the ordinance. A public hearing has been scheduled for your meeting of July 10, 2006.

The property in question is just under 9,600 square feet in area. There is an existing 1,517 square foot ranch with a 380 square foot attached garage and a 120 square foot shed. The Zoning Ordinance would permit 1,178 square feet of attached garage and an additional 522 square feet of detached buildings on the site.

Should you have any questions or require additional information, kindly advise.

Attachments

Prepared by: Mark Stimac, Director of Building and Zoning

**COMMERCIAL VEHICLE
APPEAL APPLICATION**

Request is hereby made for permission to keep a commercial vehicle(s) as described below, on the following residential zoned site:

NAME: DAVE WERNER

ADDRESS: 1868 WELLING DRIVE

CITY: Troy MI. ZIP: 48085 PHONE: 248 689-1857

ADDRESS OF SITE: 1868 WELLING DRIVE

NUMBER OF VEHICLES: 1

VEHICLE IDENTIFICATION NUMBER(S)
1GBM7H1555106741

LICENSE PLATE NUMBER(S) 2541BB

DESCRIPTION OF VEHICLE(S) CHEVY DUMP TRUCK

NOTE: PHOTOGRAPHS WERE NOT AVAILABLE FROM PHOTO PROCESSING.

A, B) U.S. DEPARTMENT OF TRANSPORTATION REQUIRE M
REASON FOR APPEAL (see A - D below) TO STOP AND PARK VEHICLE AFTER 11 HRS OF
DRIVE TIME OR AFTER WORKING MORE THAN 14 HOURS. CAN NOT DRIVE
C) TO TALL TO FIT INTO GARAGE, HAVE A SHED IN BACK YARD
D) WHEN VEHICLE IS PARKED ON DRNEWAY, DOES NOT EFFECT SIDE WALK
TRAFFIC OR VEHICULAR MOVEMENT ON WELLING

THE APPLICANT IS AWARE OF THE REQUIRED FINDINGS WHICH ARE STATED IN THE FOLLOWING:

44.02.01 ACTIONS TO GRANT APPEALS ... SHALL BE BASED UPON AT LEAST ONE OF THE FOLLOWING FINDINGS BY THE CITY COUNCIL:

- A. The occurrence of the subject commercial vehicle on the residential site involved is compelled by parties other than the owner or occupant of the subject residential site (e.g. employer).
- B. Efforts by the applicant have determined there are no reasonable or feasible alternative locations for parking of the subject commercial vehicle.
- C. A garage or accessory building on the subject site cannot accommodate, or cannot reasonably be constructed or modified to accommodate the subject commercial vehicle
- D. The location available on the residential site for the outdoor parking of the subject commercial vehicle is adequate to provide for such parking in a manner that will not negatively impact adjacent residential properties, and will not negatively impact pedestrian and vehicular movement along the frontage street(s).

COMMERCIAL VEHICLE APPEAL APPLICATION

40.02.2. The City Council may grant appeals in relation to the type, character or number of commercial vehicles to be parked outdoors in Residential Districts for an initial period not to exceed two (2) years, and may thereafter extend such actions for a similar period.

Supporting data, attached to the application, shall include: a plot plan, drawn to scale, a description and location of the vehicle(s) and a photo of the vehicle on-site..

David M Werner

(signature of applicant)

STATE OF MICHIGAN

COUNTY OF Macomb

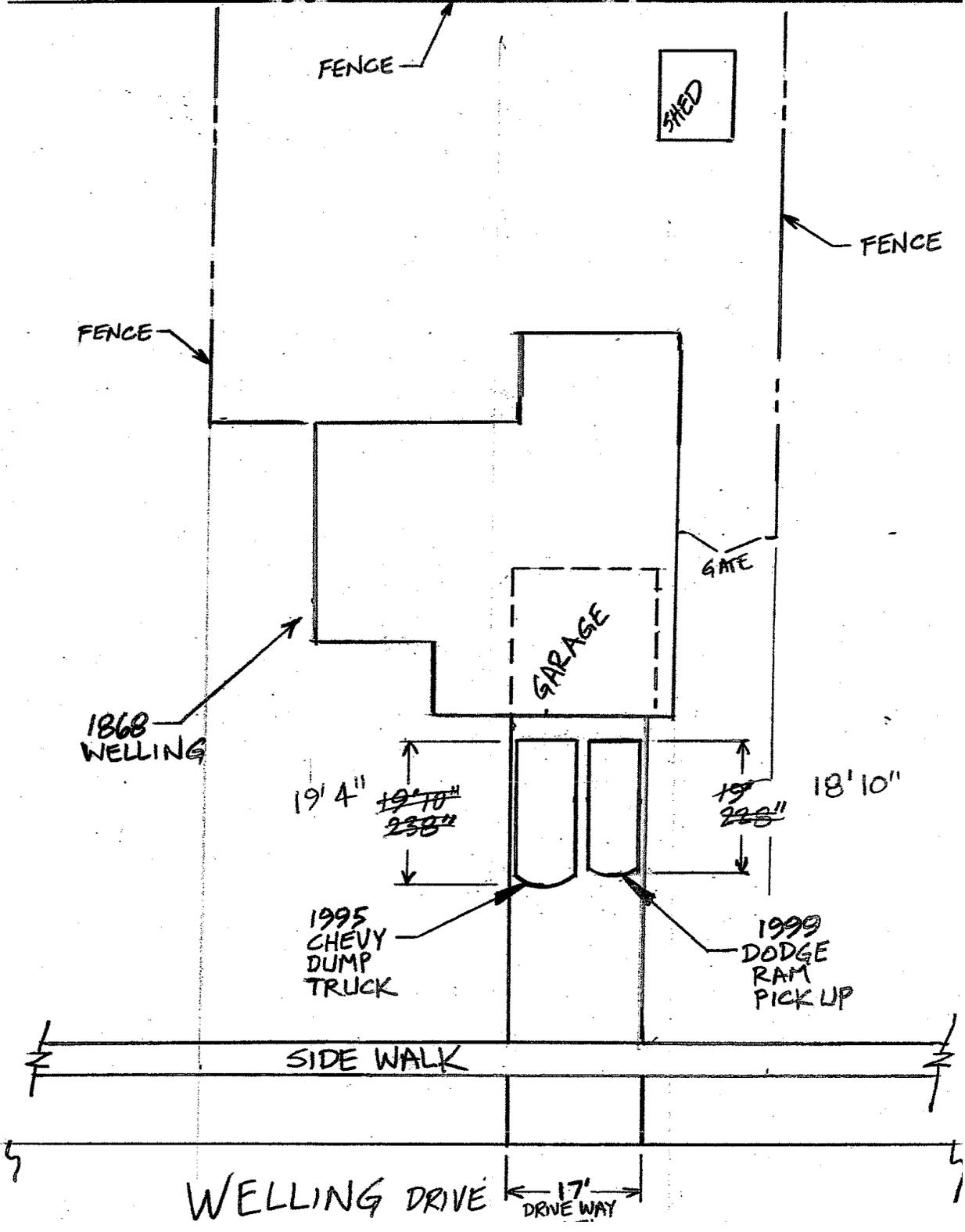
On this 25 day of May, 2006 before me personally appeared the above named person who depose and sayeth that he/she signed this application with full knowledge of its contents and that all matters stated therein are true.

Jennifer L Cataldo

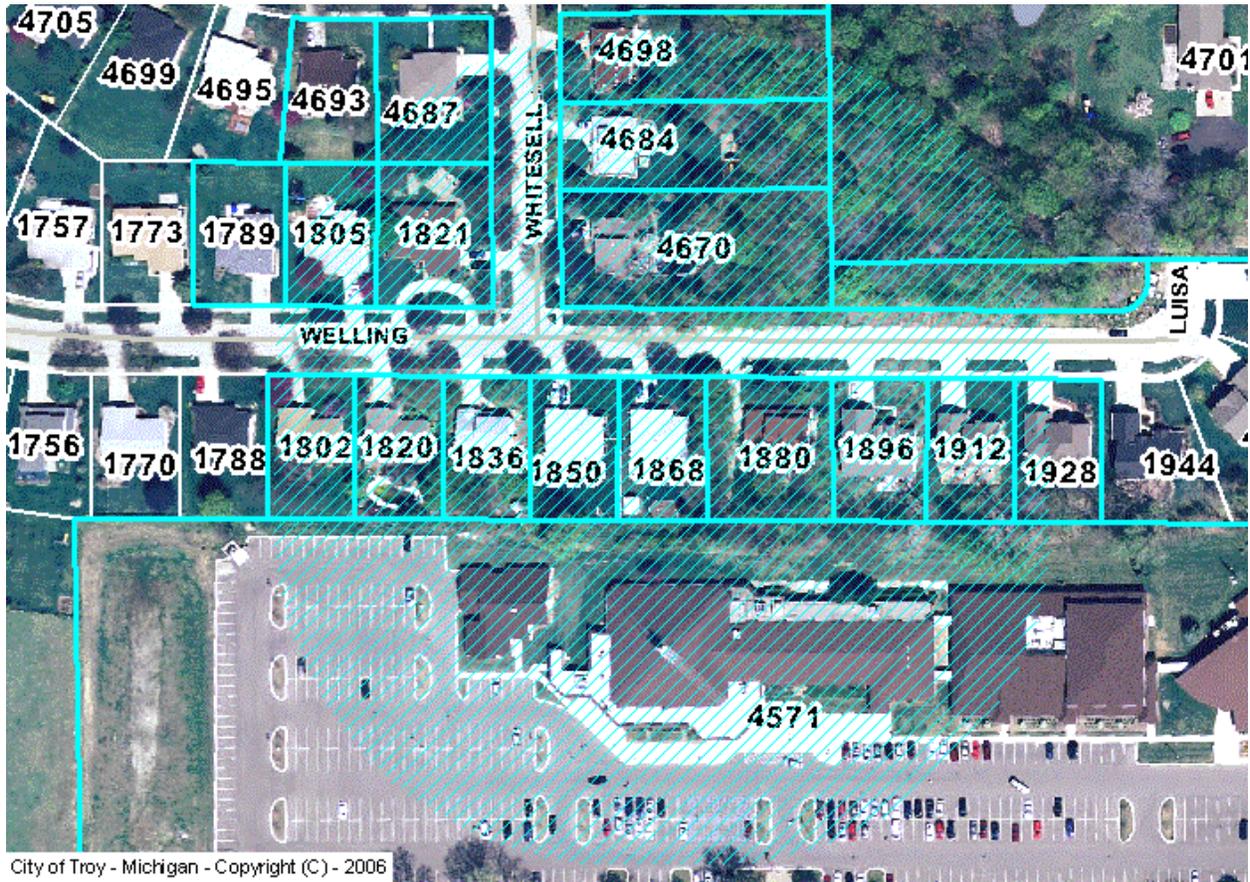
Notary Public, County, Michigan

My Commission Expires: JENNIFER L. CATALDO
NOTARY PUBLIC MACOMB CO., MI
MY COMMISSION EXPIRES Nov 10, 2007

ST ANISTASIA CHURCH







City of Troy - Michigan - Copyright (C) - 2006

DATE: June 26, 2006

TO: John M. Lamerato, Acting City Manager

FROM: Brian P. Murphy, Assistant City Manager/Services
Mark Stimac, Director of Building & Zoning

SUBJECT: Agenda Item - Public Hearing
Commercial Vehicle Appeal
2127 Atlas

On May 19, 2006, information was sent that identified restrictions related to a commercial vehicle located on residential property. As part of that information, the owner of the vehicle was advised that the GMC cube van parked on the property did not comply with the exceptions found in Chapter 39, Section 40.66.00. He was given the option to remove the vehicle or appeal to City Council for relief of the Ordinance.

In response to our letters, Mr. Kevin Ferguson has filed an appeal. The appeal requests that a public hearing date be held in accordance with the ordinance. A public hearing has been scheduled for your meeting of July 10, 2006.

The property in question is 8,080 square feet in area and contains an existing 1,077 square foot ranch home with a 440 square foot detached garage. The zoning ordinance would permit up to 808 square feet of attached garage and up to 612 square feet of detached garage to be built on the site.

Should you have any questions or require additional information, kindly advise.

Attachments

Prepared by: Mark Stimac, Director of Building and Zoning

RECEIVED

JUN 01 2006

COMMERCIAL VEHICLE
APPEAL APPLICATION

BUILDING DEPT.

Request is hereby made for permission to keep a commercial vehicle(s) as described below, on the following residential zoned site:

NAME: Kevin Ferguson

ADDRESS: 2127 Atlas Drive

CITY: Troy MI. ZIP: 48083 PHONE: 586-864-7451

ADDRESS OF SITE: Same

NUMBER OF VEHICLES: 1

VEHICLE IDENTIFICATION NUMBER(S)
260J632U632225095

LICENSE PLATE NUMBER(S) 6724 LS

DESCRIPTION OF VEHICLE(S) Cube van

REASON FOR APPEAL (see A - D below) D

VERIFIED
BY THE CITY CLERK
ON 06/01/06

THE APPLICANT IS AWARE OF THE REQUIRED FINDINGS WHICH ARE STATED IN THE FOLLOWING:

44.02.01 ACTIONS TO GRANT APPEALS ... SHALL BE BASED UPON AT LEAST ONE OF THE FOLLOWING FINDINGS BY THE CITY COUNCIL:

- A. The occurrence of the subject commercial vehicle on the residential site involved is compelled by parties other than the owner or occupant of the subject residential site (e.g. employer).
- B. Efforts by the applicant have determined there are no reasonable or feasible alternative locations for parking of the subject commercial vehicle.
- C. A garage or accessory building on the subject site cannot accommodate, or cannot reasonably be constructed or modified to accommodate the subject commercial vehicle
- D. The location available on the residential site for the outdoor parking of the subject commercial vehicle is adequate to provide for such parking in a manner that will not negatively impact adjacent residential properties, and will not negatively impact pedestrian and vehicular movement along the frontage street(s).

COMMERCIAL VEHICLE APPEAL APPLICATION

40.02.2. The City Council may grant appeals in relation to the type, character or number of commercial vehicles to be parked outdoors in Residential Districts for an initial period not to exceed two (2) years, and may thereafter extend such actions for a similar period.

Supporting data, attached to the application, shall include: a plot plan, drawn to scale, a description and location of the vehicle(s) and a photo of the vehicle on-site..

Kevin Ferguson

(signature of applicant)

STATE OF MICHIGAN

COUNTY OF Wayne

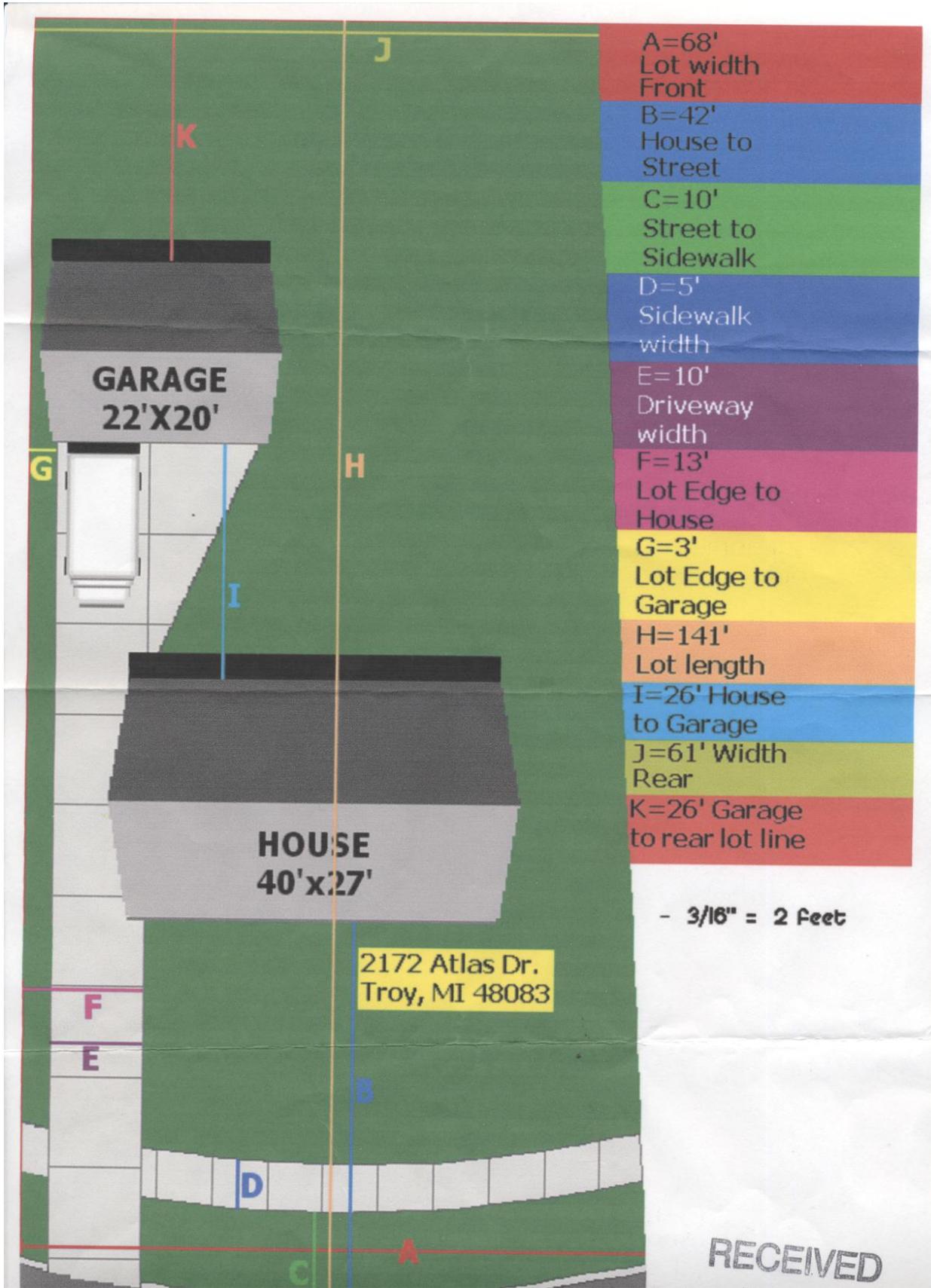
On this 26 day of May, 2006 before me personally appeared the above named person who depose and sayeth that he/she signed this application with full knowledge of its contents and that all matters stated therein are true.

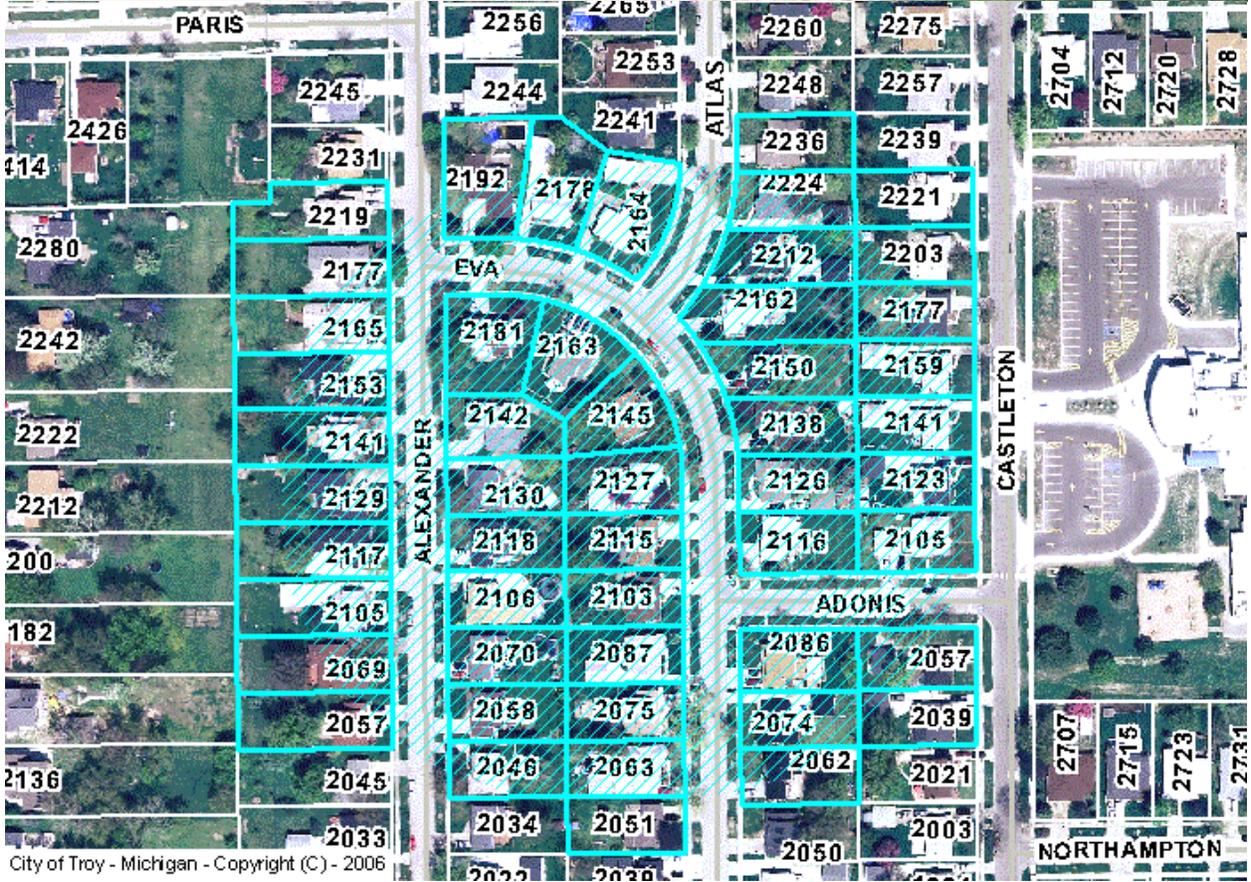
Deanna Irej
Notary Public,

Wayne
County, Michigan

DEANNA IREY
NOTARY PUBLIC WAYNE CO., MI
MY COMMISSION EXPIRES Nov 25, 2008

My Commission Expires: 11-25-08





DATE: June 26, 2006

TO: John M. Lamerato, Acting City Manager

FROM: Brian P. Murphy, Assistant City Manager/Services
Mark S. Stimac, Building and Zoning Director
Mark F. Miller, Planning Director

SUBJECT: Agenda Item – Public Hearing – Zoning Ordinance Text Amendment
(File No: ZOTA 214) – Article X, Group Child Care Homes in the R-1A
through R-1E Districts

RECOMMENDATION

City Management has not taken a position on the issue of group child care homes, based on an understanding that the regulation of group child care homes within single-family residential neighborhoods is a community values issue. Decisions regarding community values should be made by City Council, following consideration of a recommendation by the Planning Commission and considerable input from City Council, providers and residents. City Management has a responsibility to identify options, issues and primary and secondary impacts on the surrounding environment.

BUILDING CODE IMPLICATIONS

Under the Michigan Building Code, a child care facility providing care for five or fewer children is classified as an occupancy group R-3 (Residential). A child care facility providing care for more than five children is classified as an occupancy group E (Educational) and is held to a higher construction standard than R-3 (Residential). If there are children cared for in the home that are under 2 ½ years of age, the code places the facility into the I-4 (Institutional) use group, and must meet even higher construction standards. Many of these standards cannot be met without very expensive structural alterations to the home, including fire suppression and exterior stairways leading from the basement to the ground.

If City Council approves the proposed text amendment, Group Child Care Home license holders will need to comply with the requirements of the Zoning Ordinance, Michigan Building Code and the Americans With Disabilities Act. Following approval of ZOTA 214, each license holder will need to go through the following process:

- Existing license holders will be sent an additional notice that they need to comply with the newly adopted rules.

- If they are not in compliance with the technical requirements of the Zoning Ordinance, they will need to revise their homes to comply or seek variances from the Board of Zoning Appeals.
- If they are successful in acquiring variances or do not need variances they will need to apply for building permits for a change of occupancy
- If they cannot comply with the building code provisions they will need to modify their homes to comply or can apply for a variance with the Building Code Board of Appeals.
- If they cannot comply with the accessibility requirements they can modify their home to comply or apply for an exception to the Barrier Free Design Board at the State of Michigan
- Once all plan review approvals are obtained, a permit will be issued.
- Once any work is completed, and all inspections are approved, a new certificate of occupancy would be issued.
- If they cannot comply or are unsuccessful in obtaining approvals or variances they will either need to change their license to Family Child Care Home or keep the existing Group Child Care Home License and certify that they will not care for more than six children, or eliminate the child care facility.

BACKGROUND

On March 27, 2006, City Council recommended that group child care homes be permitted by right subject to special conditions. Furthermore, City Council directed City Administration to prepare draft ordinance language for group child care homes in the R-1A through R-1E districts that incorporates City Council, City staff and group child care home comments.

On April 24, 2006, City staff conducted a meeting with group and family child care home providers. The purpose of the meeting was to get input from the child care providers in the drafting of an ordinance that will permit group child care homes in the R-1A through R-1E districts within the City of Troy. On May 1, 2006, City staff conducted a meeting with neighbors of family and group child care homes to obtain their input. Input from the two meetings is attached.

The fee structure for Group Child Care Home registration will be included in Chapter 60 and can be determined at a later date. City Management recommends a fee of \$150 for initial registration and \$75 for annual re-registration.

Attachments:

1. City Council Consensus Version Public Hearing Draft.
2. Neighbor comments from May 1, 2006 meeting.
3. Provider comments from April 24, 2006 meeting.
4. Admincode R 400.1801-R.400.1963, Licensing Rules for Family and Group Child Care Homes.

5. Miscellaneous public comment (13).
6. Memo prepared by Director of Building and Zoning, dated February 14, 2006.
7. Michigan Building Code Excerpts.
8. ADA Excerpts Regarding Child Care.

Prepared by RBS/MFM

G:\ZOTAs\ZOTA 214 Group Day Care Homes\CC Public Hearing ZOTA 214 07 10 06.doc

CITY OF TROY
AN ORDINANCE TO AMEND
CHAPTER 39 OF THE CODE
OF THE CITY OF TROY

CITY COUNCIL CONSENSUS VERSION
PUBLIC HEARING DRAFT

The City of Troy ordains:

Section 1. Short Title

This Ordinance shall be known and may be cited as an amendment to Chapter 39 of the Code of the City of Troy.

Section 2. Amendment to Article X of Chapter 39

Article X of Chapter 39 of the Code of the City of Troy is amended to permit group child care homes by special condition in the R-1A through R-1E One Family Residential Districts subject to specific standards.

(Underlining, except for major section titles, denotes changes.)

10.25.05 Group Child Care Homes, as defined in Section 04.20.69, subject to the following conditions:

- A) The number of children so cared for who are not a part of the family residing in the subject dwelling unit shall not exceed twelve (12).
- B) The resident-operator of the Group Child Care Home shall be licensed in accordance with applicable State Law.
- C) No structural changes or exterior alterations shall be made which would alter the residential character of the dwelling except as required by the State of Michigan licensing rules.
- D) No sign shall be used on the premises to identify the Group Child Care Home.
- E) Group Child Care Homes with vehicular access on a major thoroughfare shall be required to have a circular drive or an unobstructed turnaround area to allow for the safe egress of vehicles.

- F) Licensed providers shall register with the City on or before September 1, 2006 or prior to commencement of operation and on an annual basis each January thereafter, and the licensed premises shall be subject to a fire and building department inspection and shall otherwise comply with applicable building and fire codes.
- G) The applicant shall identify the entrance(s) for drop-offs and pickups. The parking and drop-off areas shall be designed to maximize safety and privacy for the neighboring properties.
- H) The conditions applicable to Home Occupations, as defined in Section 04.20.71 and as listed in Section 10.25.01, shall not apply to Group Child Care Homes, provided:
 - 1. A nuisance to the surrounding neighborhood is not created, pursuant to Chapter 88.
 - 2. The operator of the Group Child Care Home shall reside within the home.
 - 3. The use as a Group Child Care Home is incidental to the principal use as a single family residence.
- I) The state licensed child care home shall not be located closer than 750 feet from another licensed child care home. This requirement shall not apply to any state licensed day care home existing as of the date of enactment of this ordinance.

Section 3. Savings

All proceedings pending, and all rights and liabilities existing, acquired or incurred, at the time this Ordinance takes effect, are hereby saved. Such proceedings may be consummated under and according to the ordinance in force at the time such proceedings were commenced. This ordinance shall not be construed to alter, affect, or abate any pending prosecution, or prevent prosecution hereafter instituted under any ordinance specifically or impliedly repealed or amended by this ordinance adopting this penal regulation, for offenses committed prior to the effective date of this ordinance; and new prosecutions may be instituted and all prosecutions pending at the effective date of this ordinance may be continued, for offenses committed prior to the effective date of this ordinance, under and in accordance with the provisions of any ordinance in force at the time of the commission of such offense.

Section 4. Severability Clause

Should any word, phrase, sentence, paragraph or section of this Ordinance be held invalid or unconstitutional, the remaining provision of this ordinance shall remain in full force and effect.

Section 5. Effective Date

This Ordinance shall become effective on August 1, 2006.

This Ordinance is enacted by the Council of the City of Troy, Oakland County, Michigan, at a regular meeting of the City Council held at City Hall, 500 W. Big Beaver, Troy, MI, on the _____ day of _____, 2006.

Louise Schilling, Mayor

Tonni Bartholomew, City Clerk

**POTENTIAL GROUP CHILD CARE HOME PROVISIONS
RECOMMENDED BY CITY COUNCIL**

NEIGHBOR COMMENTS

<p>(1) The number of children so cared for who are not a part of the family residing in the subject dwelling unit shall not exceed twelve (12). <i>Current State of Michigan requirement.</i></p>	<ul style="list-style-type: none"> • Excessive. • Too many.
<p>(2) The resident-operator of the Group Child Care Home shall be licensed in accordance with applicable State Law. <i>Current State of Michigan requirement.</i></p>	<p>No comment.</p>
<p>(3) No structural changes or exterior alterations shall be made which would alter the residential character of the dwelling except as required by the State of Michigan licensing rules.</p>	<ul style="list-style-type: none"> • Excessive play equipment. • No more than one swing set (2 to 3 swings per) or playscape or sandbox or etc.
<p>(4) No sign shall be used on the premises to identify the Group Child Care Home. <i>Current Zoning Ordinance requirement – no action necessary.</i></p>	<p>Agree.</p>
<p>(5) Group Child Care Homes with vehicular access on a major thoroughfare shall be required to have a circular drive or an unobstructed turnaround area to allow for the safe egress of vehicles.</p>	<p>Agree.</p>

**POTENTIAL GROUP CHILD CARE HOME PROVISIONS
RECOMMENDED BY CITY COUNCIL**

NEIGHBOR COMMENTS

<p>(7) The licensee shall register with the City upon commencing operation and on an annual basis each January thereafter, and the licensed premises shall be subject to a fire and building department inspection and shall provide a smoke detector in all daytime sleeping areas and otherwise comply with applicable building and fire codes.</p>	<ul style="list-style-type: none"> • Agree. • Carbon monoxide detector needed.
<p>(8) The applicant shall identify the entrance(s) for drop-offs and pickups. The parking and drop-off areas shall be designed to maximize safety and privacy for the neighboring properties.</p>	<p>Agree.</p>
<p>(9) The conditions applicable to Home Occupations, as defined in Section 04.20.71 and as listed in Section 10.25.01, shall not apply to Group Child Care Homes, provided:</p> <ul style="list-style-type: none"> • A nuisance to the surrounding neighborhood is not created. • The use of the dwelling for residential purposes is not more than an incidental function. 	<ul style="list-style-type: none"> • Unacceptable to exempt GCCH from home occupation rules. • Noise is a potential nuisance.
<p>(10) The state licensed child care home shall not be located closer than 750 feet from another licensed child care home. This requirement shall not apply to any state licensed day care home existing as of the date of enactment of this ordinance.</p>	<ul style="list-style-type: none"> • Traffic and parking will impact neighborhood. • Should be 1,500 feet like State law. • Should apply to existing GCCH. • No grandfathering.

**POTENTIAL GROUP CHILD CARE HOME PROVISIONS
NO CONCURRENCE BY CITY COUNCIL**

NEIGHBOR COMMENTS

<p>(1) For homes that have side yards on main roads, require 4-foot chain link fence.</p>	<p>Good idea, perhaps a taller fence.</p>
<p>(2) Fence and screening same as required for pools.</p>	<p>(Comments split)</p> <p>6 foot solid fences. No privacy fence requirement.</p> <p>Like fencing. Like pool requirements. Play area within containment.</p>
<p>(3) Grandfather all existing day care homes in Troy as currently operating.</p>	<p>No grandfathering.</p>
<p>(4) Location of children’s play equipment should be the furthest area from neighbors.</p>	<p>Agree.</p>
<p>(5) Hours of operation.</p> <ul style="list-style-type: none"> • Hours of operation shall be between 6 AM to 10 PM. • The group child care home shall not operate for more than 16 hours in a 24-hour period. 	<p>Should be a limitation of hours. 6 am to 10 pm, too late in the evening. Suggest 6 am to 8 pm, or 14 or 16 hours within 24-hour period.</p>

POTENTIAL GROUP CHILD CARE HOMES PROVISIONS

NEIGHBOR COMMENTS

Additional comments:	<ol style="list-style-type: none">1) Parking will use up the on-street parking.2) Blocking of sidewalks at pick-up and drop-off times.3) Parking should have sufficient spaces located on GCCH property.4) GCCH is a business.5) Neighbor notification greater than 300 feet or up to 1,500 feet.6) Commercial business in single family will reduce property values.7) GCCH adhere to Troy Zoning Ordinance Section 10.30.03 B.8) Do not locate within internal residential blocks. Locate next to office, business and multi-family zoning districts.
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G:\ZOTAs\ZOTA 214 Group Day Care Homes\GCCH Neighbor Checklist Chart.doc

All neighbors of residential child care providers in Troy (Group Child Care Homes and Family Child Care Homes) were notified by mail of the meeting. A total of 3,468 notices were mailed.

Attendees at May 1, 2006 Neighbors of Child Care Providers Meeting:

1. Mark Miller, Planning Director, City of Troy
2. Sandra Cyplik, 3375 Alpine, Troy
3. Elfridie Hobgood, 2259 Cumberland, Troy
4. Gerald Rosicky, 2232 Rutgers Drive, Troy
5. Fernando Quattro, 5145 Bayside Drive, Troy
6. Mary Ann Donnelly, 1844 Flemington, Troy
7. Tom Krent, 3184 Alpine, Troy
8. Britt Anderson, 1525 Heatherwood, Troy
9. Janet Marshall, 2049 Burdic Drive, Troy
10. Leah Williams, 1040 Norwich Drive, Troy
11. Mary Steinhilper, 1807 Fleetwood, Troy

**POTENTIAL GROUP CHILD CARE HOME PROVISIONS
RECOMMENDED BY CITY COUNCIL**

PROVIDER COMMENTS

<p>(1) The number of children so cared for who are not a part of the family residing in the subject dwelling unit shall not exceed twelve (12). <i>Current State of Michigan requirement.</i></p>	<p>No problem.</p>
<p>(2) The resident-operator of the Group Child Care Home shall be licensed in accordance with applicable State Law. <i>Current State of Michigan requirement.</i></p>	<p>No problem.</p>
<p>(3) No structural changes or exterior alterations shall be made which would alter the residential character of the dwelling except as required by the State of Michigan licensing rules.</p>	<p>No problem.</p>
<p>(4) No sign shall be used on the premises to identify the Group Child Care Home. <i>Current Zoning Ordinance requirement – no action necessary.</i></p>	<p>No problem.</p>
<p>(5) Group Child Care Homes with vehicular access on a major thoroughfare shall be required to have a circular drive or an unobstructed turnaround area to allow for the safe egress of vehicles.</p>	<p>Expense, minor opinion.</p>
<p>(6) The Planning Director may waive any required site plan information provided it can be determined that the application meets the Group Child Care Home requirements of Section 10.30.10 and the general Special Use Approval standards of Section 03.31.05. <i>Not applicable because a public hearing is not required.</i></p>	<ul style="list-style-type: none"> • Not applicable. • No problem.

**POTENTIAL GROUP CHILD CARE HOME PROVISIONS
RECOMMENDED BY CITY COUNCIL**

PROVIDER COMMENTS

<p>(7) The licensee shall register with the City upon commencing operation and on an annual basis each January thereafter, and the licensed premises shall be subject to a fire and building department inspection and shall provide a smoke detector in all daytime sleeping areas and otherwise comply with applicable building and fire codes.</p>	<ul style="list-style-type: none"> • Cost of registration and inspection. • MI Building Code enforcement. • Fire code enforcement. • Fees. • Lack of certainty of how this would really effect. • Expense for inspection. • Don't want fire code inspection duplication. • Duplication of inspection. • Duplication of rules. • Very few businesses are singled out for registration and inspection. • One of the smallest of small businesses. • Inspections are unnecessary cost to city and provider. • Don't want the MI Building Code to apply to GCCH/FCCH.
<p>(8) The applicant shall identify the entrance(s) for drop-offs and pickups. The parking and drop-off areas shall be designed to maximize safety and privacy for the neighboring properties.</p>	<ul style="list-style-type: none"> • Focus should hone in on safety of children and parents who are dropping off. • Not necessary because of R 400.1932 of the Licensing Rules for Family and Group Child Care Homes.
<p>(9) The conditions applicable to Home Occupations, as defined in Section 04.20.71 and as listed in Section 10.25.01, shall not apply to Group Child Care Homes, provided:</p> <ul style="list-style-type: none"> • A nuisance to the surrounding neighborhood is not created. • The use of the dwelling for residential purposes is not more than an incidental function. 	<ul style="list-style-type: none"> • Generally okay. • Should address a major nuisance. • Clarify what is a nuisance. • Residential change to "GCCH".
<p>(10) The state licensed child care home shall not be located closer than 750 feet from another licensed child care home. This requirement shall not apply to any state licensed day care home existing as of the date of enactment of this ordinance.</p>	<ul style="list-style-type: none"> • Group. • Clarify measure, crow flies or along street. • Prefer along street. • Clarify spacing.

**POTENTIAL GROUP CHILD CARE HOME PROVISIONS
NO CONCURRENCE BY CITY COUNCIL**

PROVIDER COMMENTS

<p>(1) For homes that have side yards on main roads, require 4-foot chain link fence.</p>	<ul style="list-style-type: none"> • Not needed always. • Why, especially no play area. • Parents decide and choose provider with safe play area. • What about other fence material. • What about a landscape buffer. • Homeowners / subdivision / condo association does not permit fence.
<p>(2) Fence and screening same as required for pools.</p>	<ul style="list-style-type: none"> • Why. • What about existing fences, cost. • Same as provision item #1. • Overkill of provision item #1.
<p>(3) Grandfather all existing day care homes in Troy as currently operating.</p>	<p>Yes. All in favor.</p> <ul style="list-style-type: none"> • Existing inspections by State, would it be yearly inspection requirement. • What would be required.
<p>(4) Location of children’s play equipment should be the furthest area from neighbors.</p>	<ul style="list-style-type: none"> • Which neighbors. • Create safety issue, not necessary on larger lot. • Impractical for lawn maintenance, unsafe. • Better with space between them. • Normal, can have playground such as toys, sandbox, tables with no restrictions. • Leave it to provider to decide safety. • State requires unobstructed areas between equipment. • Emphasis on children. • Position of equipment for safety of child and proximity to neighbors.
<p>(5) Hours of operation.</p> <ul style="list-style-type: none"> • Hours of operation shall be between 6 AM to 10 PM. • The group child care home shall not operate for more than 16 hours in a 24-hour period. 	<ul style="list-style-type: none"> • They are licensed to 24 hours. • Very few children between 10 pm and 6 am, very rare. • What’s the point. • Why regulate if no problem. • What about vacation. • Emergencies.

**POTENTIAL GROUP CHILD CARE HOME PROVISIONS
NO CONCURRENCE BY CITY COUNCIL**

PROVIDER COMMENTS

Grandfather	<ul style="list-style-type: none">• There was consensus to provide full and complete grandfathering to provision items #3, #5, #7, and #10.
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All residential child care providers in Troy were notified by mail of the meeting. This includes 20 Group Child Care Home providers and 43 Family Child Care Home providers.

Attendees at April 24, 2006 Child Care Provider Meeting

1. Mark Miller, Planning Director, City of Troy
2. Dave and Sharon Schafer, 5593 Mandale Drive, Troy 48085 (group)
3. Jim and Caroline Dunleavy, 1866 Sutton Place Drive, Troy 48098 (family)
4. Syed and Talat Haque, 1033 Redding Drive, Troy 48098 (group)
5. Nichol Childs, 1931 Atlas Court, Troy 48083 (group)
6. Judith M. Collins, 5410 Hertford Drive, Troy 48085 (group)
7. Kathleen Peterson, 1175 Garwood Drive, Troy 48085 (group)
8. Bonnie and John Johnston, 1510 Boulan, Troy 48084 (group)
9. Karen and John Krisconick-Mukalla, 3784 Forge Drive, Troy 48083 (group)
10. Sharon Manning, 2651 E. Square Lake, Troy 48085 (group)
11. Barb Webb, 787 Marengo Drive, Troy 48085 (family)
12. Joyce Doyle, 1834 Farmbrook, Troy 48098 (group)



DEPARTMENT OF HUMAN SERVICES

DIRECTOR'S OFFICE

LICENSING RULES FOR FAMILY AND GROUP CHILD CARE HOMES

(By authority conferred on the director of the Department of Human Services by Section 2 of 1973 PA 116, Executive Reorganization Order Nos. 1996-1, 1996-2, 2003-1, and 2004-4, MCL 722.112, 330.3101, 445.2001, 445.2011, and 400.226.)

PART 1. GENERAL PROVISIONS

R 400.1801 Rescinded.

History: 1989 MR 9, Eff. Oct. 3, 1989; rescinded 2005 MR 19, Eff. Jan. 1, 2006.

R 400.1802 Rescinded.

History: 1989 MR 9, Eff. Oct. 3, 1989; rescinded 2005 MR 19, Eff. Jan. 1, 2006.

R 400.1803 Rescinded.

History: 1989 MR 9, Eff. Oct. 3, 1989; rescinded 2005 MR 19, Eff. Jan. 1, 2006.

R 400.1804 Rescinded.

History: 1989 MR 9, Eff. Oct. 3, 1989; rescinded 2005 MR 19, Eff. Jan. 1, 2006.

R 400.1805 Rescinded.

History: 1989 MR 9, Eff. Oct. 3, 1989; rescinded 2005 MR 19, Eff. Jan. 1, 2006.

R 400.1806 Rescinded.

History: 1989 MR 9, Eff. Oct. 3, 1989; rescinded 2005 MR 19, Eff. Jan. 1, 2006.

R 400.1807 Rescinded.

History: 1989 MR 9, Eff. Oct. 3, 1989; rescinded 2005 MR 19, Eff. Jan. 1, 2006.

R 400.1808 Rescinded.

History: 1989 MR 9, Eff. Oct. 3, 1989; rescinded 2005 MR 19, Eff. Jan. 1, 2006.

R 400.1809 Rescinded.

History: 1989 MR 9, Eff. Oct. 3, 1989; rescinded 2005 MR 19, Eff. Jan. 1, 2006.

R 400.1810 Rescinded.

History: 1989 MR 9, Eff. Oct. 3, 1989; rescinded 2005 MR 19, Eff. Jan. 1, 2006.

R 400.1811 Rescinded.

History: 1989 MR 9, Eff. Oct. 3, 1989; rescinded 2005 MR 19, Eff. Jan. 1, 2006.

R 400.1812 Rescinded.

History: 1989 MR 9, Eff. Oct. 3, 1989; rescinded 2005 MR 19, Eff. Jan. 1, 2006.

R 400.1813 Rescinded.

History: 1989 MR 9, Eff. Oct. 3, 1989; rescinded 2005 MR 19, Eff. Jan. 1, 2006.

R 400.1814 Rescinded.

History: 1989 MR 9, Eff. Oct. 3, 1989; rescinded 2005 MR 19, Eff. Jan. 1, 2006.

R 400.1815 Rescinded.

History: 1989 MR 9, Eff. Oct. 3, 1989; rescinded 2005 MR 19, Eff. Jan. 1, 2006.

R 400.1816 Rescinded.

History: 1989 MR 9, Eff. Oct. 3, 1989; rescinded 2005 MR 19, Eff. Jan. 1, 2006.

R 400.1817 Rescinded.

History: 1989 MR 9, Eff. Oct. 3, 1989; rescinded 2005 MR 19, Eff. Jan. 1, 2006.

R 400.1818 Rescinded.

History: 1989 MR 9, Eff. Oct. 3, 1989; rescinded 2005 MR 19, Eff. Jan. 1, 2006.

R 400.1819 Rescission.

Rule 19. R 400.1301 to R 400.1321 of the Michigan Administrative Code, appearing on pages 3051 to 3056 of the 1979 Michigan Administrative Code, are rescinded.

History: 1989 MR 9, Eff. Oct. 3, 1989.

R 400.1821 Rescinded.

History: 1989 MR 9, Eff. Oct. 3, 1989; rescinded 2005 MR 19, Eff. Jan. 1, 2006.

R 400.1822 Rescinded.

History: 1989 MR 9, Eff. Oct. 3, 1989; rescinded 2005 MR 19, Eff. Jan. 1, 2006.

R 400.1831 Rescinded.

History: 1989 MR 9, Eff. Oct. 3, 1989; rescinded 2005 MR 19, Eff. Jan. 1, 2006.

R 400.1832 Rescinded.

History: 1989 MR 9, Eff. Oct. 3, 1989; rescinded 2005 MR 19, Eff. Jan. 1, 2006.

R 400.1833 Rescinded.

History: 1989 MR 9, Eff. Oct. 3, 1989; rescinded 2005 MR 19, Eff. Jan. 1, 2006.

R 400.1834 Rescinded.

History: 1989 MR 9, Eff. Oct. 3, 1989; rescinded 2005 MR 19, Eff. Jan. 1, 2006.

R 400.1835 Rescinded.

History: 1989 MR 9, Eff. Oct. 3, 1989; rescinded 2005 MR 19, Eff. Jan. 1, 2006.

R 400.1841 Rescinded.

History: 1989 MR 9, Eff. Oct. 3, 1989; rescinded 2005 MR 19, Eff. Jan. 1, 2006.

R 400.1842 Rescinded.

History: 1989 MR 9, Eff. Oct. 3, 1989; rescinded 2005 MR 19, Eff. Jan. 1, 2006.

R 400.1851 Rescinded.

History: 1989 MR 9, Eff. Oct. 3, 1989; rescinded 2005 MR 19, Eff. Jan. 1, 2006.

R 400.1901 Definitions.

Rule 1. (1) As used in these rules:

(a) "Act" means 1973 PA 116, MCL 722.111.

- (b) "Adult" means a person 18 years of age and older.
- (c) "Approved" means having been reviewed and accepted by a designated inspecting authority or an agency that has jurisdiction.
- (d) "Assistant caregiver" means a person or family member who is under the supervision of the caregiver and who provides direct care, supervision, and protection to children in care.
- (e) "Basement" means a story of a building or structure having $\frac{1}{4}$ or more of its clear height below average grade for at least 50% of the perimeter.
- (f) "Caregiver" means the family child care home registrant or group child care home licensee who provides direct care, supervision, and protection of children in care.
- (g) "Caregiving staff" means the caregiver and any assistant caregiver.
- (h) "Child care home family" means all persons, including minors, living, on an ongoing or intermittent basis, in the family or group child care home.
- (i) "Child passenger restraint device" means a device that is used to restrain a child weighing 50 pounds or less that meets the requirements of federal motor vehicle safety standard no. 213, child seating systems, 49 C.F.R. 571, which is hereby adopted by reference.
- (j) "Child-use space" means the rooms and floor levels of the home approved by the department for child care.
- (k) "Combustible" means materials that will ignite and burn when subjected to a fire or excessive heat.
- (l) "Department" means the department of human services that is the organizational unit of Michigan government responsible for the enforcement of these rules.
- (m) "Field trip" means children and caregiving staff leaving the child care family or group home premises for an excursion, trip, or program activity.
- (n) "Fire alarm" means a device that is used to alert all persons in the home of fire conditions. The device shall be heard in all parts of the home that are used by children.
- (o) "Foster child" means a person who resides in a foster home, who was placed in the foster home by a placing agent, who is not living with a parent or legal guardian, who is less than 18 years of age or becomes 18 years of age while residing in the foster home and continues to reside in the foster home as a dependent adult, and who is not related to an adult member of the foster family by blood, adoption, or marriage.
- (p) "Heat detector" means a single or multiple station alarm responsive to heat.
- (q) "Licensee" means an adult who lives in the licensed home and has been issued a license to operate a group child care home for up to 12 unrelated children.
- (r) "Means of egress" means the exit route from any point in the home to the outside at ground level.
- (s) "Minor" means a person less than 18 years of age.
- (t) "Nonprescription medication" means any over-the-counter medication that may be orally ingested or applied to the skin, including, but not limited, to aspirin, acetaminophen, cold and flu medicines, mosquito repellants, antiseptics, ointments, powders, and diaper rash products.
- (u) "Parent" means a child's natural or adoptive parent who is legally responsible for the child or means the child's legal guardian.
- (v) "Premises" means the location of the child care home wherein the caregiver and family reside and includes the attached yard, garage, basement, and any other outbuildings.
- (w) "Registrant" means an adult who lives in the registered home and has been issued a certificate of registration to operate a family child care home for up to 6 unrelated children.
- (x) "Related" means a parent, grandparent, brother, sister, stepparent, stepsister, stepbrother, uncle, aunt, great aunt, great uncle, or step-grandparent related to the caregiver by marriage, blood, or adoption. Cousins include those related to the caregiver by marriage, blood, or adoption within the second degree of consanguinity (up to and including second cousins).
- (y) "Safety belt" means an automobile lap belt or lap-shoulder belt combination designed to restrain and protect a passenger or driver of a

vehicle from injury.

(z) "Transportation" means the taking of children by means of a vehicle to or from a family or group child care home and to and from all other activities planned by or through the family or group child care home.

(aa) "Vehicle" means an automobile, truck, or van that transports persons upon a highway.

History: 2005 MR 19, Eff. Jan 1, 2006.

R 400.1902 Caregiver and child care home family.

Rule 2. (1) An applicant shall meet all of the following provisions:

(a) Be 18 years of age or older.

(b) Have a high school diploma, general educational development (GED) certificate, or equivalent. This subdivision applies only to applicants registered/licensed after the effective date of these rules.

(c) Reside in the child care home.

(d) Have proof of valid infant/child/adult cardiopulmonary resuscitation (CPR) and first aid training.

(e) Attend an orientation provided by the department.

(2) An applicant or the caregiver shall be of responsible character and shall be suitable and able to meet the needs of children and provide for their care, supervision, and protection.

(3) All persons, including minors, residing in the child care home shall be of good moral character and be suitable to assure the welfare of children.

History: 2005 MR 19, Eff. Jan 1, 2006.

R 400.1903 Caregiver responsibilities.

Rule 3. (1) A caregiver shall be responsible for all of the following provisions:

(a) Be present in the home on a daily basis and provide direct care and supervision for the majority of time children are in care, except for any of the following circumstances:

(i) When the child care home is in operation, vacation or personal leave shall not exceed 20 days within a calendar year.

(ii) Medical treatment and subsequent recovery.

(b) The exceptions in subrule (1)(a) of this rule do not include other part-time or full-time employment that occurs during the hours of operation of the child care home.

(c) Provide an adult assistant caregiver with valid cpr and first aid to act as the caregiver when the caregiver is unable or unavailable to provide direct care.

(d) Shall inform parents when an assistant caregiver is providing care in the absence of the caregiver.

(e) Maintain a record of the dates of caregiver absences and the full names, addresses and telephone numbers of the assistant caregivers. These records shall be maintained for a minimum of 4 years after the last date of the person's involvement with the child care home.

(f) Have a written and signed agreement with a responsible person who is 18 years of age or older to provide care and supervision for children during an emergency situation.

(g) Post the current license or certificate of registration in a conspicuous place.

(h) Report to the department, within 7 working days, any changes in the household composition or when any new or existing member of the household has any of the following:

(i) Arrests or convictions.

(ii) Involvement in substantiated abuse or neglect of children.

(iii) Court-supervised parole or probation of the caregiver or any member of the household.

(iv) Been admitted to, or released from, a correctional facility, or hospital, institution, or facility for the treatment of an emotional, mental, or substance abuse problem.

(i) Provide the department with a written statement verifying a person's

personal fitness to care for, or to be associated with, children for any person who lives in a home or who cares for children and who has been treated on an inpatient or outpatient basis for an emotional, mental, or substance abuse problem during the last 2 years. Such statement shall be obtained from the medical or mental health professional who is directly involved in the treatment plan or the administrative director of the mental hospital or mental institution.

(j) Shall immediately report to children's protective services any suspected child abuse or neglect.

(2) The caregiver shall assure that a child is released only to persons authorized by the parent.

(3) The caregiver shall permit parents of enrolled children to visit anytime during hours of operation.

(4) The caregiver shall cooperate with the department in connection with an inspection or investigation. Cooperation shall include, but not be limited to, both of the following:

(a) Provide access to the assistant caregivers, all records, and materials, to enable the department to conduct a thorough investigation.

(b) Information provided to the department shall be accurate and truthful.

(5) The caregiver shall assure that all assistant caregivers shall be of good moral character and be suitable to assure the welfare of children.

(6) The caregiver shall have present at all times at least 1 person who can accurately comprehend all of the following information:

(a) In child care home rules, 1973 PA 116, MCL 722.111, and any additional licensing division communications.

(b) On child information cards.

(c) In written directions about the child's care.

(d) On food, cleaning, and chemical labels that can impact a child's well-being.

(e) On written medication directions for any given child.

(f) Needed to effectively implement emergency procedures.

(7) The caregiver shall authorize the department to conduct a criminal history and protective service background check to assess the good moral character and suitability of the child care home family.

(8) The caregiver shall assure that smoking does not occur in the child care home and on the premises while children are in care.

(9) The caregiver shall notify parents if smoking occurs in the child care home and on the premises when children are not in care.

History: 2005 MR 19, Eff. Jan 1, 2006.

R 400.1904 Assistant caregivers.

Rule 4. (1) An assistant caregiver shall meet all of the following requirements:

(a) Be 14 years of age or older.

(b) An assistant caregiver under 18 years of age shall always work under the supervision of the caregiver or adult assistant caregiver at the site where care is being provided.

(c) Have proof of valid infant/child/adult cpr and first aid training within 90 days of hire.

(d) Be of responsible character, suitable, and able to meet the needs of children and provide for their care, supervision, and protection.

(2) An adult assistant caregiver, 18 years of age or older, may substitute for the caregiver in accordance with R 400.1903(1)(c).

History: 2005 MR 19, Eff. Jan 1, 2006.

R 400.1905 Training.

Rule 5. (1) The caregiver shall complete not less than 10 clock hours of training each year related to child development, program planning, and administrative management for a child care business, not including CPR and first aid training.

(2) Each assistant caregiver shall complete not less than 5 clock hours of training each year related to child development and caring for children, not

including CPR and first aid training.

(3) The caregiver shall assure that assistant caregivers have training that includes information regarding sudden infant death syndrome and shaken baby syndrome.

(4) Training hours may include participation in any of the following:

(a) Sessions offered by community groups, faith-based organizations, and child care home associations.

(b) Trainings, workshops, seminars, and conferences on early childhood, child development or child care administration, and practices offered by early childhood organizations.

(c) Workshops and courses offered by local or intermediate school districts, colleges, and universities.

(d) Online courses.

(5) Verification of participation in the required training, signed by the trainer or an authorized individual, shall be kept on file.

(6) CPR and first aid training shall be maintained in the following manner:

(a) Each year for CPR.

(b) Every 36 months for first aid.

History: 2005 MR 19, Eff. Jan 1, 2006.

R 400.1906 Records of caregiving staff and child care home family; record maintenance.

Rule 6. (1) The caregiver shall maintain a file for the caregiver and each assistant caregiver including all of the following:

(a) The name, address, and telephone number.

(b) A statement signed by a licensed physician or his or her designee and which attests to the individual's mental and physical health.

(i) For the caregiver, within 1 year before issuance of the certificate of registration or initial license and at the time of subsequent renewals.

(ii) For the assistant caregivers, within 1 year prior to caring for children and at the time of subsequent renewals.

(c) Written evidence of freedom from communicable tuberculosis (TB):

(i) For the caregiver, before issuance of the certificate of registration or initial license.

(ii) For the assistant caregivers, prior to caring for children.

(d) Training records, as defined in R 400.1905(5).

(e) A statement signed by each assistant caregiver that he or she has not been convicted of either of the following:

(i) Child abuse or child neglect.

(ii) A felony involving harm or threatened harm to an individual within the 10 years immediately preceding the date of hire.

(f) Documentation from the department of human services that the assistant caregiver has not been involved in substantiated child abuse or neglect.

(g) A written statement signed and dated by the assistant caregiver at the time of hiring indicating all of the following information:

(i) The individual is aware that abuse and neglect of children is unlawful.

(ii) The individual knows that he or she is mandated by law to report child abuse and neglect.

(iii) The individual has received a copy of the discipline policy.

(2) Child care home family members 14 years of age or older shall have written evidence of freedom from communicable TB.

(3) If immunizations, as recommended by the department of community health, have not been given or completed for all minors who live in the home, then the caregiver shall inform the parent of each child in care and all assistant caregivers.

(4) The records in this rule shall be retained for the duration of employment and a minimum of 4 years thereafter.

History: 2005 MR 19, Eff. Jan 1, 2006.

R 400.1907 Children's records.

Rule 7. (1) At the time of initial attendance, the caregiver shall obtain the following documents:

(a) A completed child information card on a form provided by the department or a comparable substitute approved by the department.

(b) A child in care statement/receipt using a form provided by the department and signed by the parent certifying the following:

(i) Receipt of a written discipline policy.

(ii) Condition of the child's health.

(iii) Receipt of a copy of the family and group child care home rules.

(iv) Agreement as to who will provide food for the child.

(v) Acknowledgement that the assistant caregiver is 14 to 17 years of age, if applicable.

(vi) Acknowledgement that firearms are on the premises, if applicable.

(c) Documentation that immunizations and boosters, as recommended by the department of community health, are any of the following:

(i) Have been completed.

(ii) Are in progress.

(iii) Are not being administered due to religious, medical, or other reasons based on a waiver signed by the parent.

(d) If a parent objects to emergency medical treatment on religious grounds, the parent shall provide a signed statement that he or she assumes responsibility for all emergency care.

(2) Records in subrule (1) of this rule shall be reviewed and updated annually or when information changes.

(3) Daily attendance records of children in care shall be maintained and shall include the child's name and the time of arrival and departure.

(4) Children's records required by the department shall be accessible and stored in a location known to all assistant caregivers.

(5) The records in this rule shall be retained for a minimum of 4 years.

History: 2005 MR 19, Eff. Jan 1, 2006.

R 400.1908 Capacity.

Rule 8. (1) The family child care registrant shall assure that the actual number of unrelated children in care at any 1 time does not exceed the number of children for which the home is registered, not to exceed a total of 6.

(2) The group child care licensee shall assure that the actual number of unrelated children in care at any 1 time does not exceed the number of children for which the home is licensed, not to exceed a total of 12.

(3) This rule is not subject to the variance specified in R 400.1963.

History: 2005 MR 19, Eff. Jan 1, 2006.

R 400.1909 Concurrent licensing.

Rule 9. (1) The caregiver who is concurrently licensed as a children's foster home provider shall so inform the parents of the children in care.

(2) The caregiver who provides care for both child care and foster care children shall not care for more than 8 children, including all of the following:

(a) Children who are under 17 years of age and who are related to the caregiver by blood, marriage, adoption, or legal guardianship.

(b) The capacity of foster children identified on the foster care license.

(c) All other children who are cared for on a part-time or full-time basis.

(3) The caregiver shall notify the department when applying for a foster care license.

History: 2005 MR 19, Eff. Jan 1, 2006.

R 400.1910 Ratio of caregiving staff to children.

Rule 10. (1) The ratio of caregiving staff to children present in the home at any 1 time shall be not less than 1 caregiving staff person to 6 children. The ratio shall include all unrelated children in care and any of the following children who are less than 7 years of age:

(a) Children of the caregiver.

(b) Children of the assistant caregiver.

(c) Children related to any member of the child care home family by blood, marriage, or adoption.

(2) For each caregiving staff person, not more than 4 children shall be under the age of 30 months, with not more than 2 of the 4 children under the age of 18 months.

History: 2005 MR 19, Eff. Jan 1, 2006.

R 400.1911 Supervision.

Rule 11. (1) The caregiver shall assure appropriate care and supervision of children at all times.

(2) A caregiver or adult assistant caregiver shall be present in the home at all times when children are in care.

(3) Caregiving staff shall be up and awake at all times when children are in care except as provided in R 400.1922(2) of these rules.

(4) Caregiving staff shall know the location of each child at all times.

(5) Caregiving staff shall never leave a child unattended or with a minor in a vehicle.

(6) A caregiver or adult assistant caregiver shall at all times directly supervise children who are engaged in water activities or are near collections or bodies of water.

History: 2005 MR 19, Eff. Jan 1, 2006.

R 400.1912 Infant supervision and sleeping.

Rule 12. (1) Infants, birth to 12 months of age, shall be placed on their backs for resting and sleeping.

(2) Infants unable to roll from their stomachs to their backs, and from their backs to their stomachs, when found facedown, shall be placed on their backs.

(3) If infants can easily turn over from their backs to their stomachs, then they shall be initially placed on their backs, but allowed to adopt whatever position they prefer for sleeping.

(4) For an infant who cannot rest or sleep on her/his back due to disability or illness, the caregiver shall have written instructions, signed by a physician, detailing an alternative safe sleep position and/or other special sleeping arrangements for the infant. The caregiver/assistant caregiver shall rest/sleep children in accordance with a physician's written instructions.

(5) Caregiving staff shall maintain supervision and monitor infants' breathing, sleep position, bedding, and possible signs of distress except as provided in R 400.1922.

(6) Video surveillance equipment and baby monitors shall not be used in place of subrule (5) of this rule.

History: 2005 MR 19, Eff. Jan 1, 2006.

R 400.1913 Discipline and child handling.

Rule 13. (1) The caregiver shall develop and have on file a written policy regarding the discipline of children.

(2) Developmentally appropriate positive methods of discipline which encourage self-control, self-direction, self-esteem, and cooperation shall be used.

(3) Caregiving staff shall not do any of the following:

(a) Hit, spank, shake, bite, pinch, or inflict other forms of corporal punishment.

(b) Restrict a child's movement by binding or tying him or her.

(c) Inflict mental or emotional stress, such as humiliating, shaming, threatening a child, or using derogatory remarks.

(d) Deprive a child of meals, snacks, rest, or necessary toilet use.

(e) Confine a child in an enclosed area such as a closet, locked room, box, or similar cubicle.

(4) Non-severe and developmentally appropriate discipline or restraint may

be used when reasonably necessary to prevent a child from harming himself or herself, or to prevent a child from harming other persons or property, or to allow a child to gain control of himself or herself excluding those forms of punishment prohibited by subrule (3) of this rule.

(5) This rule is not subject to the variance specified in R 400.1963.

History: 2005 MR 19, Eff. Jan 1, 2006.

R 400.1914 Daily activity program.

Rule 14. (1) Caregiving staff shall engage in positive interactions with children.

(a) For infants and toddlers, interactions may include, but not be limited to, the following:

(i) Nurturing contact, such as talking to, smiling, holding, rocking, cuddling, and giving eye contact throughout the day and during daily routines such as feeding and diapering.

(ii) Promptly responding to a child's cries and other signs of distress.

(2) The caregiver shall plan daily activities so that each child may do the following:

(a) Have opportunities to feel successful and feel good about himself or herself and develop independence.

(b) Develop and use language.

(c) Develop and use large and small muscles.

(d) Use materials and take part in activities which encourage creativity.

(e) Learn new ideas and skills.

(f) Participate in imaginative play.

(g) Rest or sleep, or both.

(3) All of the following developmentally appropriate opportunities shall be provided daily:

(a) A balance of active and quiet play, group, and individual activities.

(b) Indoor and outdoor play, except during inclement or extreme weather, or unless otherwise ordered by a health care provider.

(c) Early language and literacy experiences throughout the day accumulating for not less than 30 minutes.

(d) Early math and science experiences.

(4) Television, video tapes, and movies shall be limited to not more than 2 hours per day and to programs designed for children's education and/or enjoyment. Other activities shall be available to children during television/movie viewing.

(5) Programs/movies with violent or adult content, including soap operas, shall not be permitted in child-use space while children are in care.

(6) The use of electronic devices and computers by children in care shall be suitable to the age of the child in terms of content and length of use.

(7) The caregiver shall, for children with special needs, work with the parents, medical personnel, and/or other relevant professionals to provide care in accordance with the child's identified needs and learning supports.

History: 2005 MR 19, Eff. Jan 1, 2006.

R 400.1915 Indoor space; play equipment and materials.

Rule 15. (1) A child care home shall provide not less than 35 square feet per child of safe, usable, accessible indoor floor space, not including bathrooms and storage areas.

(2) Only space that has received prior approval for child use by the department may be used for child care.

(3) A variety and number of easily accessible activity choices shall be available to the child, shall be safe and appropriate for a child at his or her stage of development, and shall be based on the licensed/ registered number of children. All of the following apply to activity choices available:

(a) Materials may include, books, art supplies, blocks and accessories, large muscle equipment, manipulative toys, musical equipment, and dramatic play materials.

(b) All materials and equipment shall be kept clean and free of hazards.

(c) Toys and other play equipment soiled by secretion or excretion shall

be cleaned with soap and water, rinsed and sanitized before being used by a child.

(4) The caregiver shall not use any equipment, materials, and furnishings recalled or identified by the U.S. Consumer Product Safety Commission (<http://www.cpsc.gov/>) as being hazardous.

(5) All children shall be protected from materials that could be swallowed and/or present a choking hazard. Toys or objects with removable parts less than 1¼ inches in diameter and less than 2¼ inches in length, as well as balls smaller than 1¾ inches in diameter are prohibited for children under 3 years of age.

(6) Trampolines shall not be used indoors by children in care.

History: 2005 MR 19, Eff. Jan 1, 2006.

R 400.1916 Bedding and sleeping equipment.

Rule 16. (1) All bedding and equipment shall be in accordance with U.S. Consumer Product Safety Commission (<http://www.cpsc.gov/>) standards as approved for the age of the child using the equipment and shall be clean, comfortable, safe, and in good repair.

(2) All bedding and sleeping equipment shall be cleaned and sanitized before being used by another person.

(3) All bedding used by children shall be washed when soiled or weekly at a minimum.

(4) All cribs or porta-cribs shall be equipped with a firm, tight-fitting mattress with a waterproof, washable covering, as recommended and approved by the U.S. Consumer Product Safety Commission.

(5) Infants, birth to 12 months of age, shall rest or sleep alone in an approved crib or porta-crib. A crib shall have all of the following:

(a) A firm, tight-fitting mattress.

(b) No loose, missing, or broken hardware or slats.

(c) Not more than 2 3/8" between the slats.

(d) No corner posts over 1/16" high.

(e) No cutout designs in the headboard or footboard.

(f) A tightly fitted bottom sheet shall cover a firm mattress with no additional padding placed between the sheet and mattress.

(6) An infant's head shall remain uncovered during sleep.

(7) Soft objects, bumper pads, stuffed toys, quilts or comforters, pillows, and other objects that could smother an infant shall not be placed with or under a resting or sleeping infant.

(a) Blankets, when used, shall be thin, lightweight, and tucked in along the sides and foot of the mattress and shall not come up higher than the infant's chest.

(8) Blankets shall not be draped over cribs or porta-cribs.

(9) Children 12 to 24 months of age shall rest or sleep alone in an approved crib, porta-crib, or on a cot or mat sufficient for the child's length, size, and movement.

(10) Infant car seats, infant seats, infant swings, bassinets, highchairs, waterbeds, adult beds, soft mattresses, sofas, beanbags, or other soft surfaces are not approved sleeping equipment for children 24 months of age or younger.

(11) Children 24 months or younger who fall asleep in a space that is not approved for sleeping shall be moved to approved sleeping equipment appropriate for their size and age.

(12) Children over 24 months of age shall have an individual, age appropriate, clean, comfortable and safe place to sleep or rest. The floor shall be used only when padded, warm, and free from drafts and when there is a mat, sleeping bag, blanket, or similar piece of bedding between the floor and the child.

(13) If nighttime care is provided, then children shall sleep in age appropriate cribs and beds.

History: 2005 MR 19, Eff. Jan 1, 2006.

R 400.1917 Telephone.

Rule 17. A land-line telephone, excluding a cordless or cell phone, shall be available, operable, and accessible during child care hours. An operable land-line telephone is one that does not require electricity to operate. Cordless or cell phones may be used in addition to the land-line telephone.

History: 2005 MR 19, Eff. Jan 1, 2006.

R 400.1918 Medication; administrative procedures.

Rule 18. (1) Medication, prescription or nonprescription, shall be given to a child in care by adult caregiving staff only.

(2) Medication, prescription or nonprescription, shall be given or applied only with prior written permission from a parent.

(3) All medication shall be in the original container, stored according to instructions, and clearly labeled for a named child.

(4) Prescription medication shall have the pharmacy label indicating the physician's name, child's name, instructions, and name and strength of the medication and shall be given in accordance with those instructions.

(5) All medication shall be kept out of the reach of children and shall be returned to the child's parent when the parent determines it is no longer needed or when it has expired.

(6) Adult caregiving staff shall give or apply prescription or non-prescription medication according to the directions on the original container unless otherwise authorized by a written order of the child's physician.

(7) A record of the date, time, and the amount of all medication given or applied shall be maintained on a form provided by the department or a comparable substitute approved by the department.

(8) Topical nonprescription medication, including but not limited to sunscreen, insect repellent, and diaper rash ointment, shall be exempt from subrule (7) of this rule.

(9) The records required in this rule shall be retained for a minimum of 4 years.

History: 2005 MR 19, Eff. Jan 1, 2006.

R 400.1919 Communicable disease.

Rule 19. A person who lives in a home or cares for children who has a suspected or a confirmed case of a communicable disease shall not come into contact with children in care.

History: 2005 MR 19, Eff. Jan 1, 2006.

R 400.1920 Outdoor play area and equipment.

Rule 20. (1) A child care home shall provide a clean, safe, and hazard free outdoor play area, on the premises or within a reasonable walking distance of the home.

(2) The play area size shall be the following:

(a) Not less than 400 square feet for a family child care home.

(b) Not less than 600 square feet for a group child care home.

(3) A child care home shall provide an adequate and varied supply of outdoor play equipment, materials, and furniture, that is all of the following:

(a) Appropriate to the developmental needs and interests of children.

(b) Appropriate to the number of children.

(c) Safe and in good repair.

(4) The outdoor play area and equipment shall be organized:

(a) To separate active and quiet activities.

(b) For a clear and unobstructed view of the whole play area.

(c) To assure that there are safe distances between equipment.

(5) When swings, climbers, slides, and other similar play equipment with a designated play surface above 30 inches are used, they shall:

(a) Not be placed over concrete, asphalt, or a similar surface, such as hard-packed dirt or grass.

- (b) Be safe, in good repair, and age-appropriate.
- (c) Be placed at least 6 feet from the perimeter of other play structures or obstacles.
- (6) Trampolines shall not be used outdoors by children in care.
- (7) Children in care shall not be permitted to ride all terrain vehicles, motor bikes, go-carts, recreational, and other motorized vehicles.

History: 2005 MR 19, Eff. Jan 1, 2006.

R 400.1921 Water hazards and water activities.

Rule 21. (1) The caregiver shall ensure that barriers exist to prevent children from gaining access to any swimming pool, drainage ditch, well, natural or constructed pond or other body of open water located on or adjacent to the property where the child care home is located. Such barriers shall be of a minimum of 4 feet in height and appropriately secured to prevent children from gaining access to such areas.

(2) Spa pools and hot tubs shall not be used when children are in care.

(3) Hot tubs and spas, whether indoors or outdoors, shall be inaccessible to children in care and have a locked hard cover.

(4) Wading pools may be used when the following requirements are met:

(a) The pools are clean and free of debris.

(b) The pools are emptied and cleaned after each play period or immediately when they become dirty or contaminated.

(c) The pools shall remain empty at all times they are not in use.

(5) Before use of a residential pool or any other body of water by children in care, a caregiver shall assure that the water is clean, safe, and sanitary, and the children will be appropriately and adequately supervised.

(6) Public swimming areas may be used only if a lifeguard is present.

(7) If there are 2 groups of children, 1 group in the water and 1 group out of the water, then the adult/child ratios, as required in R 400.1910, shall be maintained for each group, with the exception that the in-the-water adult/child ratio for children under 3 years of age shall be 1-to-1 at all times.

(8) Rescue equipment shall be readily accessible at all times.

(9) A working telephone shall be immediately accessible in the water activity area.

(10) A caregiver shall obtain, and keep on file, written permission from a child's parent for the child's participation in either of the following:

(a) Before each outdoor water activity at a swimming pool, lake, or other body of water off the child care home premises.

(b) Seasonally for water activities occurring on the child care premises.

(11) The emergency plan in R 400.1945 shall include procedures for water emergencies.

History: 2005 MR 19, Eff. Jan 1, 2006.

R 400.1922 Nighttime care.

Rule 22. (1) In a home where children are in care between the hours of midnight and 6 a.m., not more than 2 adjoining floor levels shall be used at any 1 time to sleep children.

(2) If the caregiving staff and children in care are sleeping, then at least 1 caregiving staff shall be on the same floor level as the sleeping children.

(3) Homes shall not use a third or higher floor as a resting or sleeping area for children in care unless there are 2 stairways to ground level.

History: 2005 MR 19, Eff. Jan 1, 2006.

R 400.1923 Diapering and toilet learning.

Rule 23. (1) Diapering of infants and toddlers shall only occur in a designated changing area.

(2) The designated changing area shall comply with all of the following:

(a) Be used exclusively for changing wet or soiled diapers or underwear.

- (b) Be located away from food preparation and meal service areas.
 - (c) Have access to a hand washing sink that is not used for food preparation.
 - (d) Have a nonabsorbent, easily sanitized surface with a changing pad between the child and the surface.
 - (e) Be cleaned and sanitized after each use.
 - (f) Have diapering/changing supplies within easy reach.
 - (g) Have a plastic-lined, tightly covered container exclusively for disposable diapers and diapering supplies that shall be emptied and sanitized at the end of each day.
- (3) Diapers or training pants shall be changed when wet or soiled.
- (4) Only single use disposable wipes or other single use cleaning cloths shall be used to clean a child during the diapering or toileting process.
- (5) If cloth diapers/training pants are provided by the parent, then soiled diapers/training pants shall be placed in an individual, securely tied plastic bag and returned to the parent at the end of the day.
- (6) Toilet learning shall be planned cooperatively between the parent and the caregiver so that the toilet routine established is consistent.
- (7) If toilet learning equipment, such as potty chairs and modified toilet seats, are used, then the following shall apply:
- (a) They shall be able to be easily cleaned and sanitized.
 - (b) Potty chairs shall be emptied, rinsed, and sanitized after each use.
- (8) If disposable gloves are used, then they shall only be used once for a specific child and be removed and disposed of in a safe and sanitary manner immediately after each diaper change.

History: 2005MR 19, Eff. Jan 1, 2006.

R 400.1924 Hand washing.

Rule 24. (1) All caregiving staff shall wash their hands appropriately and in the following manner:

- (a) Before and after all of the following:
 - (i) Preparing and serving food, eating, and feeding.
 - (ii) Giving medication.
 - (b) After all of the following:
 - (i) Diapering.
 - (ii) Using the toilet or helping a child use the toilet.
 - (iii) Handling bodily fluids, such as mucus, blood, vomit, from sneezing, wiping, and blowing noses, from mouths, or from sores.
 - (iv) Handling animals and pets.
 - (v) Cleaning or handling garbage.
- (2) Caregiving staff shall assure that children wash their hands at the following times:
- (a) Before and after meals, snacks, or food preparation experiences.
 - (b) After toileting or diapering.
 - (c) After contact with any bodily fluids.
 - (d) After playing in sand or water.
 - (e) After handling animals and pets.
 - (f) When soiled.
- (3) Hand sanitizers and wipes may be used as a temporary measure during outings, such as field trips and outdoor activities, until soap and running water are available.

History: 2005 MR 19, Eff. Jan 1, 2006.

R 400.1931 Food preparation and service.

Rule 31. (1) Each child shall be provided with nutritional and sufficient food as required by the minimum meal requirements of the child care food program, as administered by the Michigan department of education, based on the national research council's recommended dietary allowances for appropriate age groups, unless parents provide the food.

- (2) Children shall be offered food at intervals as individually appropriate, but not to exceed more than 4 hours unless the child is asleep.
- (3) Drinking water shall be available at all times.

(4) Food shall be prepared, served, and stored in a safe and sanitary manner.

(a) Food served to children individually or family style shall be discarded at the end of the meal if not eaten.

(b) Prepared food that has not been served to individuals or placed in family-style containers shall be promptly covered after preparation and stored appropriately.

(c) Infants and toddlers shall not be served or allowed to eat foods that may easily cause choking including, but not limited to, popcorn and uncut round foods such as grapes, seeds, nuts, hard candy, and hot dogs.

(5) If a parent has agreed to provide the food, then the caregiver shall have a written agreement from the parent and shall be responsible for providing adequate food if the parent does not.

(6) Food brought by parents shall be labeled with the child's name and, if perishable, shall be refrigerated.

(7) If home canned foods are served, then parents shall be informed.

(8) Unpasteurized products shall not be used.

(9) Children shall be encouraged to taste new foods, but shall not be required to eat anything they do not want.

(10) Bottles used for feeding shall be labeled with the child's name and date, and refrigerated.

(11) The contents of a bottle that has been used for feeding for a period that exceeds 1 hour from the beginning of the feeding, or has been unrefrigerated for 1 hour or more shall be discarded.

(12) Children shall not have beverage containers while they are in bed or while they are walking around or playing. The propping of bottles shall be prohibited.

History: 2005 MR 19, Eff. Jan 1, 2006.

R 400.1932 Home maintenance and safety.

Rule 32. (1) The structure, premises, and furnishings of a child care home shall be in good repair and maintained in a clean, safe, and comfortable condition.

(2) All dangerous and hazardous materials or items shall be stored securely and out of the reach of children.

(3) All steps, stairs, porches, and elevated structures to which children in care have access shall be protected to prevent falls and shall be free of ice and snow accumulation.

(4) Three or more steps, or a total rise of 24 inches or more, shall require a handrail.

(5) Parents shall be notified before pesticide or fertilizer treatments.

(6) There shall be no flaking or deteriorating paint on interior and exterior surfaces, equipment, and toys accessible to children.

(7) Open-flame devices and candles shall not be used, except for birthdays or religious celebrations.

History: 2005 MR 19, Eff. Jan 1, 2006.

R 400.1933 Water supply; sewage disposal; water temperature.

Rule 33. (1) The water supply shall be from an approved source.

(2) All sewage shall be disposed of through a public system or, in the absence thereof, in a manner approved by the environmental health authority.

(3) A child care home shall have a minimum of 1 flush toilet and 1 handwashing sink with hot and cold running water.

(4) Hot water temperature shall not exceed 120 degrees Fahrenheit at water faucets accessible to children.

History: 2005 MR 19, Eff. Jan 1, 2006.

R 400.1934 Heating; ventilation; lighting.

Rule 34. (1) Each room that is used by children in care shall have adequate ventilation and be maintained at a safe and comfortable temperature

so that children do not become overheated, chilled, or cold.

(a) The temperature shall be not less than 65 degrees Fahrenheit at a point 2 feet above the floor.

(b) Measures shall be taken to cool the children when the temperature exceeds 82 degrees Fahrenheit.

(2) Windows and doors that are used for ventilation shall be screened and in good repair.

(3) A carbon monoxide detector, bearing a safety certification mark of a recognized testing laboratory such as UL (Underwriters Laboratories) or ETL (Electrotechnical Laboratory), shall be placed on all levels approved for child care.

(4) All basements approved for child use shall have levels of radon gases not to exceed 4 picocuries per liter of air. Documentation of the results shall be kept on file in the home.

(5) All child-use areas shall have adequate natural and/or artificial lighting.

History: 2005 MR 19, Eff. Jan 1, 2006.

R 400.1935 Firearms.

Rule 35. (1) All firearms shall be unloaded and properly stored in a secure, safe, locked environment inaccessible to children. A secure locked environment shall include a commercially available locked firearms cabinet, gun safe, trigger lock that prevents discharge, or other locking firearm device.

(2) Ammunition shall be stored in a separate locked location inaccessible to children.

(3) Firearms shall not be traded or sold on the premises while child care children are present.

History: 2005 MR 19, Eff. Jan 1, 2006.

R 400.1936 Animals and pets.

Rule 36. (1) Parents shall be notified of the animals and pets in the home.

(2) Animals and pets that are potentially aggressive or in poor health shall be separated from children in care at all times.

(3) Children having contact with animals and pets shall be supervised by a caregiving staff person who is close enough to remove a child immediately if the animal shows signs of distress or the child shows signs of treating the animal inappropriately.

(4) Animals and pets shall not be allowed in food preparation and eating areas during meal or snack time.

(5) Litter boxes, pet food and dishes, and pet toys shall be inaccessible to children.

History: 2005 MR 19, Eff. Jan 1, 2006.

R 400.1941 Heat-producing equipment.

Rule 41. (1) All flame-producing and heat-producing equipment, including, but not limited to the following shall be maintained in a safe condition and shielded to protect against burns:

(a) A furnace.

(b) A water heater.

(c) A fireplace.

(d) A radiator and pipes.

(e) Wood burning equipment.

(2) Combustible materials and equipment shall not be stored within 4 feet of furnaces, other flame or heat-producing equipment, or fuel-fired water heaters.

(3) Portable heating devices shall not be used when children are in care.

(4) Furnaces, other flame or heat-producing equipment used to heat the home, and fuel-fired water heaters shall be inspected by any of the following

entities:

(a) A licensed heating contractor for a fuel-fired furnace.

(b) A licensed heating contractor or licensed plumbing contractor for a fuel-fired water heater.

(5) For group child care homes, the inspection specified in subrule (4) of this rule shall be conducted before the initial license issuance and every 2 years thereafter at the time of license renewal.

(6) For family child care homes, the inspection specified in subrule (4) of this rule shall be conducted before the issuance of the certificate of registration and every 3 years thereafter at the time of renewal.

History: 2005 MR 19, Eff. Jan 1, 2006.

R 400.1942 Electrical service; maintenance.

Rule 42. (1) The electrical service of a child care home shall be maintained in a safe condition. When warranted, an electrical inspection by an electrical inspecting authority may be required.

(2) All electrical outlets accessible to children shall have safety covers.

(3) Electrical cords shall be arranged so they are not hazards to children.

History: 2005 MR 19, Eff. Jan 1, 2006.

R 400.1943 Exit and escape requirements for each floor level used by children.

Rule 43. (1) All child care homes shall have at least 2 remotely located exits for every floor level occupied by children.

(2) At least 1 exit from each floor level shall provide a direct, safe means of unobstructed travel to the outside at street or ground level.

(3) A window may be used as a second exit if it complies with all of the following provisions:

(a) Is accessible to children and caregiving staff.

(b) Is clearly identified.

(c) Can be readily opened.

(d) Is of a size and design to allow for the evacuation of all children and caregiving staff.

(4) If a level of a home that is above the second floor is used for children in care, then the building shall be of 1-hour-fire-resistive construction and shall have 2 stairways to ground level. At least 1 of the required stairways and all other vertical openings shall be enclosed by, at a minimum, 1-hour-fire-resistive construction to provide a protected means of egress direct to the outside at ground level.

(5) All exits shall be unobstructed and accessible at all times.

(6) The means of egress shall be adequately lit at all times that children are in care.

(7) Doors located in a required path of escape may have locks. All locking devices that may impede or prohibit emergency exiting, or that cannot be easily disengaged, shall be prohibited when children are in care. Double cylinder locks, key-operated locks, and similar devices are not allowed on any door in a required path of escape.

(8) Interior door hardware shall be designed to allow opening from the outside during an emergency if locked.

(9) All closet door latches shall be such that children can open the door from inside the closet.

(10) A room or space, including an attic, that is accessible only by a ladder or folding stairway or through a trapdoor shall not be used by children in care.

(11) Steps and platforms used to access a basement window exit shall be permanently secured to the wall or floor. Ladders shall not be used as a means for exiting. Those homes registered or licensed before the effective date of these rules shall have 1 year to comply.

(12) An emergency escape window to the outside is required for basements approved for child use after the effective date of these rules. The following provisions shall apply:

(a) The window shall be not less than 20 inches wide and 24 inches high, with a minimum area of 5 square feet.

(b) The bottom of the opening shall be less than 44 inches above the floor.

(c) If the sill height is below grade, then it shall open into a window well with at least 9 square feet of area, 3 feet in length and width. If the well depth is over 44 inches, then it shall have approved steps.

History: 2005 MR 19, Eff. Jan 1, 2006.

R 400.1944 Smoke detectors; fire extinguishers.

Rule 44. (1) Operable smoke detectors approved by a nationally recognized testing laboratory shall be installed and maintained on each floor of the home, including the basement, and in all sleeping areas and bedrooms used by children in care.

(2) Heat detectors may be utilized in kitchens.

(3) A home shall have at least 1 functioning multipurpose fire extinguisher, with a rating of 2A-10BC or larger, properly mounted not higher than 5 feet from the floor to the top of the fire extinguisher, on each floor level that is used by children in care.

History: 2005 MR 19, Eff. Jan 1, 2006.

R 400.1945 Fire; tornado; serious accident and injury plans.

Rule 45. (1) A written plan for the care of children shall be established and posted for each of the following emergencies:

(a) Fire evacuation.

(b) Tornado watches and warnings.

(c) Serious accident or injury.

(d) Water emergencies, if applicable.

(2) A caregiver shall inform each assistant caregiver and emergency person of the overall evacuation plan and of his or her individual duties and responsibilities in the event of an emergency specified in subrule (1) of this rule.

(3) Fire drills shall be practiced at least once a month and a written record that includes the date and time it takes to evacuate shall be maintained.

(4) Tornado drills shall be practiced once a month, April to October, and a written record that includes the date shall be maintained.

(5) Smoke detectors shall be used as the alarm for fire drills.

(6) The records required in this rule shall be retained for a minimum of 4 years.

History: 2005 MR 19, Eff. Jan 1, 2006.

R 400.1951 Transportation.

Rule 51. (1) A vehicle used to transport children in care shall be maintained in a good, safe working condition.

(2) The caregiver shall assure that the driver of a vehicle transporting children shall be an adult, have a valid driver's license, and proof of no fault insurance.

(3) The caregiver shall notify the parents when drivers other than caregiving staff are used to transport children.

(4) Each child passenger restraint device and each safety belt shall be installed, anchored, and used according to the manufacturer's specifications and shall be maintained in a safe working condition.

(5) The transportation of all children shall be conducted in accordance with existing state law.

(6) Each child transported shall remain seated and properly restrained by the passenger restraint device appropriate for his or her age as defined by Act 300 of 1949, MCL 257.710d(1), MCL 257.710e(3), (4), and the manufacturer's rated seating capacity.

(7) Drivers shall be provided with a copy of the child information card,

or comparable facsimile, for the children being transported in their vehicles.

(8) The driver of each vehicle transporting children shall carry in the vehicle, and be familiar with, the contents of a first aid kit. The first aid kit, excluding antiseptics and ointments, shall contain, at a minimum, all of the following:

- (a) Adhesive tape.
- (b) Bandages (assorted sizes).
- (c) Cold pack.
- (d) Disposable gloves
- (e) Gauze pads and roller gauze (assorted sizes).
- (f) Hand sanitizer.
- (g) Plastic bags.
- (h) Scissors and tweezers.
- (i) Triangular bandage.

History: 2005 MR 19, Eff. Jan 1, 2006.

R 400.1952 Parent permission and notification required; child information cards when off-premises.

Rule 52 (1) The caregiver shall obtain and keep on file written permission from a child's parent before each time a child is transported in a vehicle.

(2) If the caregiver routinely transports children to and from school, then written parent permission shall be given at least annually.

(3) The caregiver shall obtain written permission at the time of initial enrollment of a child to go on field trips not involving a vehicle that includes, but is not limited to, walking to a park or in the neighborhood.

(4) The caregiver shall have a copy of each child's information card and a first aid kit, containing the items listed in R 400.1951 (8), accessible at all times when children leave the premises.

History: 2005 MR 19, Eff. Jan 1, 2006.

R 400.1961 Parent notification of incidents, accidents, illness, or disease required; isolation; sanitation.

Rule 61. (1) Caregiving staff shall promptly report to a parent any incidents, accidents, suspected illness, or other changes observed in the health of a child.

(2) Caregiving staff shall notify a parent of a child who is exposed to a communicable disease so that the child may be observed for symptoms of the disease.

(3) Caregiving staff shall isolate a child who is too ill to remain in the group in an area where the child can be supervised and made as comfortable as possible.

(4) Bedding, toys, utensils, toilets, and lavatories used by an ill individual shall be appropriately cleaned and sanitized before being used by another person.

History: 2005 MR 19, Eff. Jan 1, 2006.

R 400.1962 Department notification of injury, accident, illness, death, or fire.

Rule 62. (1) The caregiver shall make a verbal report to the department within 24 hours of a serious injury, accident, illness, or medical condition of a child, occurring while a child is in care, which results in emergency medical treatment or hospitalization at a health facility, or which results in a death.

(2) The caregiver shall submit a written report, to the department, in a format provided by the department within 72 hours of the incident.

(3) The caregiver shall report to the department within 24 hours after the occurrence of a fire in the registered or licensed home which results in the loss of property or personal injury.

History: 2005 MR 19, Eff. Jan 1, 2006.

R 400.1963 Rule variance.

Rule 63. (1) Upon written request of an applicant or caregiver, the department may grant a variance from an administrative rule if the alternative proposed provides clear and convincing evidence that the health, welfare, and safety of children is protected.

(2) The decision of the department shall be entered upon the records of the department and a signed copy shall be sent to the applicant or caregiver. A variance may remain in effect for as long as the caregiver continues to comply with the conditions of the variance or may be time-limited.

History: 2005 MR 19, Eff. Jan 1, 2006.

Paula P Bratto

From: CJ Chung [chung@LTU.edu]
Sent: Thursday, April 27, 2006 2:15 AM
To: Paula P Bratto
Cc: Louise Schilling; dave@lambert.net; rbeltram@wideopenwest.com; Talk2Cristina@aol.com; Wade Fleming; Mfhowryl@umich.edu; Jeanne M. Stine; John M Lamerato; Mark F Miller
Subject: Troy ZOTA 214

Dear Planning Department,

(1)

Thank you so much for planning a meeting with neighbors of family and group child care homes on Monday May 1 from 7pm to 9pm.

However, I think there is a problem to consider the meeting as an official one:

The letter was written on April 19.

Stamped date on the envelope is Apr 25.

I received the letter on Apr. 27, just two office (or 4 calendar) days before the meeting!

Unfortunately, I already scheduled a very important meeting on that day at that time. (I am volunteering for hosting an IEEE chapter meeting)

My suggestion for 8

.... Parking and drop-off areas shall be designed to maximize safety and privacy, "and minimize noise" <-- Please add.

I read 04.20.71 and 10.25.01, but I could not find the bulleted items. Could you explain "9" in plain English? Sorry, I do not quite understand No. 9.

(2)

A childcare "center" at Wattles and Rochester closed after the city's decision to allow group daycare homes. I asked State why? Please see below. It was a voluntary close. The fee for home daycares are much cheaper and flexible. Daycare centers that need to pay rent cannot compete with daycare homes. Troy will lose more official jobs. More disputes between neighbors. Crime rate will increase. Less home buyers: for example, we hired a math professor who is moving from Toronto. He does not want to buy a home in Troy. Anyone can setup the noisy business next door! I firmly believe the decision was wrong in the long run as a whole.

(3)

There were 20 group daycare homes recently in Troy. A group daycare home voluntarily closed in Jan 2006. See below. There were some letters who opposed the group daycare home came from the neighbors at Crimson.

Sincerely,
 CJ Chung
 1189 Garwood Dr.

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

From: Kennedy, Denise L (FIA)

To: CJ Chung

Sent: Monday, April 10, 2006 8:58 AM

Subject: RE: daycare center and group home

Children's World Learning Center #DC630018605 was a voluntary closure and was closed on April 3, 2006.

Janice Saide #DG630062373 was also a voluntary closure and was closed on January 5, 2006.

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

From: CJ Chung [mailto:chung@LTU.edu]

6/12/2006

Sent: Monday, April 10, 2006 1:17 AM

To: BFSFOIA

Subject: daycare center and group home

Dear Sir/Madam,

(1)

Could you please let me know why Childcare center
located at
1064 E Wattles Troy, MI 48085 has been closed recently?

(2)

Also, could you tell me why Group daycare home
1865 Crimson Troy, MI has been closed some month ago?

Sincerely,

CJ Chung

1189 Garwood Dr. Troy, MI

Paula P Bratto

From: Kathy Czarnecki
Sent: Friday, April 28, 2006 11:37 AM
To: Paula P Bratto
Subject: FW: Group Child Care Homes-Meeting

Kathy Czarnecki
City of Troy - Planning Department
248.524.3364
czarneckik@ci.troy.mi.us

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

From: Mark F Miller
Sent: Friday, April 28, 2006 10:12 AM
To: Kathy Czarnecki
Subject: FW: Group Child Care Homes-Meeting

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

From: Daniel Popplestone [mailto:dan@dancpa.com]
Sent: Thursday, April 27, 2006 4:11 PM
To: Mark F Miller
Subject: Group Child Care Homes-Meeting

Dear Mr. Miller, Planning Director:

As things stand now, neither one of us will be able to make the public meeting schedule for Monday May 1st. We ask that you please allow us to pass along our input with this email.

Our approach here is, whether one agrees or not with the group homes being allowed within residential neighborhood, it has now been allowed by council. This being said, we ask and answer, where should the burden of these home be placed?

We would urge that the process going forward places the burden on the business and not the surrounding homeowners.

Put the burden upon the business to resolve conflicts etc within the existing rules, charter or deed restrictions instead of having it overridden by this process.

Items under the section called-Potential Group Child Care Home Provisions-No Concurrence By City Council:

Items 1 and 2-Fence Issues:

A lot of neighborhoods already have some form of fence rules. Why override it?

Put the burden back on the operator of the home to manage what they got before changing the character of the neighborhood deed restrictions. If they need a fence, then maybe they should take in a lesser number of children that they can comfortably deal with or move the location of the group home.

If you add a fence requirement, for neighborhoods with restrictions against them, add a requirement that it has to be removed once the business is stopped, terminated or moved.

Instead of a chain linked fence, how about a decorative and or natural type?

Regardless of the type of fence, a maintenance requirement should be required. To often metal fences rust and wood fences deteriorates long before homeowners fix them.

Our objective is to minimize the amount of deed restrictions overridden and commercial intrusion to the residential character of the neighborhood.

If safety is the issue here, then put the burden back on the operator and parents to find the solution within the confines of the city code and neighborhood deed restrictions.

Item 3-Grandfather Issues:

For this item and Item 10 under Potential Group Child Care Home Provisions Recommended By City Council seems to just reward those who got away with breaking the law all along. Since this is a new item, why not remove all grandfather clauses?

In cases where two or more homes who would be considered grandfathered and a conflict arises from such items as the 750 feet suggestion, have a lottery or drawing between the affected group home providers.

Item 4-Play Equipment Locations:

If not already part of the code, then maybe a rule that sets minimum set backs for all homes in the city and not just the group homes. We would recommend something along the line of not less than ten feet or more from any lot line.

Along this line, no play equipment allowed in the side yards between homes. In short, it has to be in the back yards with some kind of set-back.

Item 5-Hours Of Operation:

Hours of operation between 6 AM to 10 PM appears to be a bit long for a business that operates within a residential area.

We would suggest taking a look at Chapter 88-Nuisances. We would direct your attention to item 9.5(h).

This section deals with construction noises. This section restricts the activity to the hours of 7:00 AM through 8:00 PM.

A time frame of 7:00 AM through 8:00 PM comes to 13 hours. Even with overtime, most people do not work more than a 10 hour a day. Therefore, we see this as a reasonable time frame and it is already part of the existing code.

Several of the other items under this section has a quiet time through 7:00 AM each day. We would argue the late time associated with these other items would be to late for a business operating within a residential neighborhood.

Given these homes will be operating within a residential area, a start time prior to 7:00 AM would inconvenience a lot of home owners who do not have kids in schools. A stopping time later than 8:00 PM would inconvenience a lot of homeowners with kids in school and ones who have early start times themselves for work.

Potential Group Child Care Home Provisions Recommended By City Council:

Item 3-Structural Changes:

Given that we are dealing with residential neighborhoods, this item should be included. Would it be possible to put a period after the word dwelling?

The thought being, if Michigan law-rules requires a change that causes the home to deviate form being residential in character on the outside or out of character for the neighborhood, then maybe the home should move to a more appropriate area.

Item 7-Registration With The City:

If this is a requirement for other businesses in Troy, then by all means this should be extended to the group home.

Item 9-Conditions Applicable to Group Homes:

If we have read section 10.25.01 right, we fail to see where this section would create a burden upon the group home and accordingly would hope that it not be waived.

Including something about the group home not being a nuisance would not hurt. If you go down this route, then language about being booted for repeat offenses would help a lot. The part about offenses being accumulative verse annually with expirations would be better.

We are still trying to understand what is meant by "the use of the dwelling for residential purposes in not more than an incidental function".

To us, this seems to imply the dwelling is more businesses than private residential home. If this is the case, this concept would seem to create some real issues for the character of the neighbor hood.

Item 10-Distances Between Homes:

As mentioned above, this section seems to reward those who did not follow the law. Again, we would urge the elimination of any grandfathering. In cases of dispute involving existing or future homes due to the 750 feet rule, have a lottery or drawing.

We appreciate the limits being attempted by the 750 feet requirement. We would hope this requirement be kept and made larger if possible.

Items Not Covered By City's Letter:

We are not sure if this is the place or it has to go back to council for these suggestions.

Can something be added when a group home wants to operate within a residential neighborhood like we have with the parking variances? In short, have the home come before council and give the effected neighbors a chance to give their input.

We feel a review process is needed every three to five years. For one, to allow the effected neighbors to petition council for changes and secondly, to allow any future providers within the 750 of a home a chance to replace the existing one.

Given the homes are being allowed, we like the 750 foot requirement between homes. At the same time, we find it objectable due to this rule, just because you are there first that entitles you for what ever time one wants.

Therefore, we would propose this review every three to five year so as to allow others a chance to open. As mentioned earlier, in cases of conflicts there can be a drawing.

This review process will also allow for changes in the neighborhood. Families do move in and out for a variety of reasons.

We would hope that in the end, the rules be done in a manner that benefits Troy and its residents. Rules that seem to accommodate group home customers from outside of Troy at the expense of Troy residents or neighborhoods should be avoided.

Daniel H. Popplestone & Gail B. Popplestone
6612 Woodcrest Drive // Troy, Michigan 48098-6815
Tel: 248.828.1463 // Fax: 248.828.3133 // Email: dan@popplestone.com or gail@popplestone.com

Paula P Bratto

From: HUSSONMJ@aol.com
Sent: Thursday, April 27, 2006 8:05 PM
To: planning@ci.troy.us
Subject: (no subject)

Thank you for your letter dated April 19th 2006, addressed to Mary Ann Husson, received Thursday, April 27th.

With respect to the "no concurrence by City Council" items on page 2 I would offer the following.

In our case (5379 Hertford Drive in the Sylvan Glen subdivision) we live virtually across the street from the Collins residence who runs a group child care home and has done so for a number of years.

She only accepts children of Troy school teachers so her hours are approximately 7 AM to about 5 PM latest during the school year.

We have never had any complaints with any issue relating to her home care operation.

Broadening my thinking to all group child care homes in our city I would concur with some fencing requirement i.e. chain link or stockade as 2 examples to keep children in & any potential threat from an unwanted loose pet or human predator.

In addition I feel that 6 AM to 10 PM is too wide a span of hours & should be more like 7 AM to 6 PM & limited to 10 or 11 hours, but definitely below 16 hours.

Michael J. Husson

Paula P Bratto

From: Kotlusa@aol.com
Sent: Sunday, April 30, 2006 10:40 AM
To: Paula P Bratto
Subject: Re: Drafting of Ordinance Regarding the Group Day Care in R-1A through R-1E

To: Mr. Mark F. Miller - Planning Director

Dear Mr. Miller:

My name is John Bjelobrk and I live at 5581 Mandale Dr., Troy, MI 48085. Unfortunately, I will not be able to attend your meeting scheduled for 5/1/06 at 7:00 p.m. to discuss a draft language of the ordinance. Therefore, I am taking this opportunity to make a few suggestions to the proposed language in the letter dated April 19, 2006:

My position on this issue is well known. Unfortunately, my neighbors -- Mr. and Mrs. Schaefer continue to do exactly the same thing as what they have done before for years. **They are still parking their vehicles in front of my house, even though the curb in front of their house is always clear and available.** If you listen to their testimonies (i.e., how eager they are to work and listen to their neighbors), you would think - "what nice people". Unfortunately, nothing has changed!

These are my proposals regarding the proposed draft language for the GROUP CHILD CARE HOMES:

Item 5: A major thoroughfare in the residential neighborhood should be defined. In my mind, the best definition is: A major thoroughfare in the residential neighborhood is a street an which the SCHOOL BUSES travel.

Item 8: Add the verbiage that the street parking is nor allowed.

Item 9: A nuisance provision **MUST exist** in both draft language provisions for the GROUP and FAMILY Day Care providers.

Items under NO CONCURRENCE BY CITY COUNCIL:

Item 4: Under no circumstance should the existing day care homes be grand fathered. This became a "big issue" because they did not "play" by the established rules and regulations to start with. Perhaps, this is the reason why my neighbors are still parking in front of my house.

By grand fathering their operation, the City would rewarding them. **This action would go directly across the backs of the low abiding neighbors.** This grand fathered issue is not any different from the "illegal citizens" issue that the Congress is dealing with. The "rule" is the "rule" and it should apply to **ALL** period.

Thank you, Mr. Miller for taking these inputs in the consideration of the final language.

John Bjelobrk

Paula P Bratto

From: Lil9838@aol.com
Sent: Friday, April 28, 2006 8:43 AM
To: Paula P Bratto
Subject: Group child care home provisions

Dear Sir:

I would first like to relay my oppositions to running day care in residential areas in the city of Troy. I consider day care as a business.

Do you think allowing 12 kids as a maximum requirement is reasonable. I would hope I would never move into a home with a neighbor that has 12 kids! You must lower the number.

Number seven sounds like a lot of city funds to inspect these places. I do not want to pay.

Number 8 would like entrances, drop-offs & pickups identified. Does this has to mean signs.....All over a home?

POTENTIAL GROUP CHILD CARE HOME PROVISIONS

Number 1. What benefit is a 4 foot chain for a fence?

Number 2 Fence & screening. What happens to your neighbor who really does not like a fence like that.

Number 4 Location of play equipment being at the furthest area from a neighbor. That could still be to close.

Very upsetting getting this letter.

Lillian Karamanian
5388 Breeze Hill
Troy, Mi. 48098

Paula P Bratto

From: Mark F Miller
Sent: Thursday, May 11, 2006 8:44 AM
To: Paula P Bratto
Subject: FW: Group Child Care Homes (GCCH)

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

From: jerry and barb rosicky [mailto:rosickys@sbcglobal.net]
Sent: Wednesday, May 10, 2006 10:20 PM
To: Louise Schilling; dave@lambert.net; rbeltram@wideopenwest.com; talk2cristina@aol.com; Wade Fleming; Mfhowryl@umich.edu; stinejm@wwnet.net
Cc: Cynthia A Stewart; Mark F Miller
Subject: Group Child Care Homes (GCCH)

Dear Council Members:

We were in receipt of Mr. Mark Miller's letter of April 19, 2006 which indicated that City Council directed City Management to prepare an ordinance to permit Group Child Care Homes (GCCH) allowing up to 12 children cared for in R-1A through R-1E districts within the City of Troy.

As an interested citizen, I, Gerald Rosicky, attended the meeting on May 1, 2006 to provide input to the Planning Department. Many thoughtful recommendations were made to Mr. Miller whose job is to provide proposed suggestions to you regarding this matter.

Quite frankly, all of the attendees including myself feel that allowing GCCH in residential areas is excessive in the number of children allowed (up to 12). In fact, this is really the establishment of a **commercial enterprise in a residential neighborhood**. Chapter 39 of the Zoning Ordinance, Article X One Family Residential Districts states in Article 10.10.00 that it is the intent that "The R-1A through R-1E **One-Family (bold added)** Residential Districts are designed to be the most restrictive of the residential Districts as to use. The intent is to provide for environmentally sound areas of predominantly low-density, single family detached dwellings, through the varying of lot sizes and the development options which will accommodate a broad spectrum of house sizes and designs appealing to the widest spectrum of the population."

While you can write an ordinance with restrictive covenants such as proposed for GCCH, it does not abrogate the fact that this ordinance will allow a commercial business in a residential neighborhood and does and will create a myriad of problems for the residents adjacent and near to this type of property (including but not limited to lower property values, parking congestion, excessive noise, etc.).

By proposing this ordinance, you have caved into the commercial interests of the operators of the existing GCCH, which are a minority of the population while not attending to the the majority populace and the intent of the Zoning Laws as written.

Obviously, we are not pleased with the Council's actions thus far and are vehemently opposed to allowing GCCH in the City of Troy. We moved to Troy in 1971 and one of the major factors in making our decision to stay in Troy was the Master Zoning Plan. It seems that your intent is to destroy the residential aspects of many neighborhoods where these establishments (19 of them) are already in place and the future GCCH that would be allowed.

We are requesting that your prior actions on proposing an ordinance allowing GCCH be reconsidered and rescinded.

We would appreciate your written response to our concerns and proposal.

6/12/2006

Gerald and Barbara Rosicky

Paula P Bratto

From: Mark F Miller
Sent: Monday, May 01, 2006 8:29 AM
To: Paula P Bratto
Subject: FW: R-1A-R-1E

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

From: marcia newton [mailto:okinewtm@yahoo.com]
Sent: Sunday, April 30, 2006 12:17 PM
To: Mark F Miller
Subject: R-1A-R-1E

Mr. Miller,

As a neighbor of Barb & Jerry Rosicky, I am adding my name to their letter submitted to you regarding residential home care, as I share their concerns and opinions.

Sincerely,
 Marcia Newton
 2215 Rutgers
 Troy, MI 48085

Dear Mr. Miller:

We are in receipt of your letter of April 19, 2006 regarding the proposed ordinance to permit group child care homes in residential districts R-1A through R-1E.

You state that there will be a meeting with neighbors of family and group child care centers on May 1, 2006. Does this mean that we are presently a neighbor of this type of facility at this time? If so, where is it located?

In Chapter 39 of the Zoning Ordinance, Article X One Family Residential Districts states in Article 10.10.00 that it is the intent that "The R-1A through R-1E **One-Family (bold added)** Residential Districts are designed to be the most restrictive of the residential Districts as to use. The intent is to provide for environmentally sound areas of predominantly low-density, single family detached dwellings, through the varying of lot sizes and the development options which will accommodate a broad spectrum of house sizes and designs appealing to the widest spectrum of the population."

The proposal by the City Council fails to meet the intent of Article X by virtue of the following:

- A. Allowing up to 12 children of unaffiliated families in one residence is not low density by any stretch of the imagination and is certainly not one family.**
- B. This proposal is not environmentally sound since a significant amount of traffic is created at the residence when parents are dropping off their children and picking them up.**

Furthermore, Article 10.30.00 entitled "USES PERMITTED SUBJECT TO SPECIAL USE APPROVAL" states that "...."the Planning Commission shall find that: A. The land use or activity being proposed shall be of such location, size and character as to be compatible with the orderly development of the Zoning District in which it is situated, and shall not be detrimental to the orderly development, property values, environment or use of adjacent land and/or districts.

The proposal by the City Council fails to meet the intent of Article 10.30.00 by virtue of the following:

- A. Property values will certainly be impacted by virtue of a commercial business in a residential neighborhood.**

Allowing commercial enterprises such as group child care or family child care homes in residential districts in not good business. If this is permissible, then an argument could be made to have an

6/12/2006

individual doctor's office in a residential neighborhood as well. The original intent of residential neighborhoods is that they be for single families and not be turned into commercial establishments.

We therefore vehemently oppose City Council's direction and implore you as the Planning Director to uphold the existing intent of residential districts by vetoing their request.

**Sincerely,
Gerald and Barbara Rosicky
2232 Rutgers Drive
Troy, MI 48085**

Paula P Bratto

From: Qualmannm@aol.com
Sent: Monday, May 01, 2006 8:30 AM
To: Paula P Bratto
Subject: group child care homesAtt:Mark Miller

We are unable to attend the meeting On Monday May 1st, but are very concerned about many aspects. We are more concerned about How permission was given in the first place. Someone has resided in the newly addressed Sussex address when no other owner was allowed to reside there. The Lenox address is used by a State Representative as a mailing address and he does not reside there. Who is going to enforce the rules? A continued child care, although not a problem with a small number could bring many additional related problems with greater numbers, change of ownership, sale of surrounding property, additional homes, or even removal of homes. There are too many unanswered questions. Please be diligent about exploring every aspect as these things are more important to the neighbors than the children. Marge and Carl Qualmann, 2914 Lenox

Paula P Bratto

From: Christine Stergar [CMSterg@comcast.net]

Sent: Tuesday, June 27, 2006 11:29 PM

To: Paula P Bratto

Subject: Public hearing comments

City Council,

I am happy that day care providers can finally be legal in Troy with more than 6 children. I believe that Day Care homes promote healthy families / lifestyles and I believe that Troy should also promote families.

I would not be against a day care home being next to mine as I feel they lower crime in the area by not leaving my street deserted all day.

I do hope that you are making the requirements things that will cost the providers money and not make it profitable for them. With the unemployment rate so high our citizens need ways to earn a decent living.

Thank you for considering the children and the needs of working parents.

Sincerely,
Christine Stergar

6/28/2006

Paula P Bratto

From: Lil9838@aol.com
Sent: Tuesday, June 27, 2006 6:03 PM
To: Paula P Bratto
Subject: Article one Family Residential hearing

Dear Sir:

Please be advised that I am against any revision that would add on to our existing laws for day care centers in our residential neighborhoods.

Day Care is a business, & should be treated as a business with much restrictions. We do not want businesses being conducted where our home is. It is no different then any other business that thinks it can operate next door to our homes.

Lillian Karamanian
88-20-08-328-008

88-20-08-326-002

6/28/2006

I cannot attend the meeting because I'm having surgery that day. I do not want Group Homes in our neighborhood & all the troubles that they bring.

CITY OF TROY
PUBLIC HEARING

Sincerely,
Lucille M. Mellion
1825 Bentwood Dr, MI

D

A Public Hearing will be held by and before the City Council of the City of Troy at City Hall, 500 W. Big Beaver, Troy, MI on Monday, July 10, 2006, at 7:30 P.M., or as soon thereafter as the agenda will permit, to consider amending the text of Article IV Definitions and Article X One Family Residential Districts R-1A through R-1E of the Zoning Ordinance.

The proposed amendments would revise the text to amend the text to permit and provide requirements for Group Daycare Homes in the R-1A through R-1E One Family Residential Districts.

REC'D
JUN 27 2006

Copies of this proposal can be purchased or inspected in the Planning Department of the City of Troy at City Hall, 500 W. Big Beaver, Troy, MI between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday, on regular business days.

You may express your comments regarding this matter by contacting the Planning Department in writing, or by e-mail to planning@ci.troy.mi.us, or by phone at (248) 524-3364, or by attending the Public Hearing.

Tonni L. Bartholomew
Tonni L. Bartholomew, MMC
City Clerk

NOTICE: People with disabilities needing accommodations for effective participation in this meeting should contact the City Clerk by e-mail at clerk@ci.troy.mi.us or by calling (248) 524-3317 at least two working days in advance of the meeting. An attempt will be made to make reasonable accommodations.

Paula P Bratto

From: Dennis Smith [dsmith@abilita.com]
Sent: Wednesday, June 28, 2006 3:49 PM
To: Paula P Bratto
Subject: RE: July 10, 2006 City Council Meeting

Paula,

Why does this not get taken care of. This has been going on for years. I have a day care oin my neighborhood and I have no problem what so ever with it's existance. The person that runs has done a great job for the 25 years I have been in the neighborhood.

Thanks

From: Paula P Bratto [mailto:BrattoPP@ci.troy.mi.us]
Sent: Wednesday, June 28, 2006 11:37 AM
To: Paula P Bratto
Subject: July 10, 2006 City Council Meeting

The following items will be on the July 10, 2006 City Council Meeting:

(1) Public Hearing for Zoning Ordinance Text Amendment

ZOTA 214 Group Daycare Homes within the R-1 One Family Residential Districts (R-1A, R-1B, R-1C, R-1D & R-1E)

The proposed amendment would revise the text to **permit and provide requirements for Group Child Care Homes** in the R-1A, R-1B, R-1C, R-1D & R-1E One Family Residential Districts.

(2) Public Meeting Notice for Proposed Residential Development

Proposed Tuscany Estates Site Condominium

Zoned R-1C (One Family Residential)

The subject site contains 4.2951 acres and 11 units/lots are proposed.

Section 24

The subject property lies on the west side of Dequindre Rd., north of Winter Dr.

Notices and information for public hearings will be posted at <http://www.ci.troy.mi.us/PublicHearings/>.

The agendas for City Council meetings are posted on the City website at <http://www.ci.troy.mi.us/council/Meetings.asp>, agendas for Planning Commission meetings are posted at <http://www.ci.troy.mi.us/committees/committeelist.asp#PC> (usually the Friday before the meeting).

If you have any questions or concerns regarding the above item(s) please contact our office. All correspondence received will be forwarded onto the Planning Commission and/or City Council.

Paula Preston Bratto

City of Troy
Planner
248.524.3365
www.ci.troy.mi.us

6/28/2006

Paula P Bratto

From: Maofeng Fu [maofeng.fu@gmail.com]
Sent: Wednesday, June 28, 2006 4:49 PM
To: Paula P Bratto
Subject: Re: July 10, 2006 City Council Meeting

Hi

Thank you veru much for letting us know.

Our family is strongly against to allow adding more children in Group Child Care Home.

Please consider our opinion.

Thanks

Maofeng Fu
Xiuling Ying

1133 Garwood Dr
Troy 48085

On 6/28/06, **Paula P Bratto** <BrattoPP@ci.troy.mi.us> wrote:

The following items will be on the July 10, 2006 City Council Meeting:

(1) Public Hearing for Zoning Ordinance Text Amendment

ZOTA 214 Group Daycare Homes within the R-1 One Family Residential Districts (R-1A, R-1B, R-1C, R-1D & R-1E)

The proposed amendment would revise the text to **permit and provide requirements for Group Child Care Homes** in the R-1A, R-1B, R-1C, R-1D & R-1E One Family Residential Districts.

(2) Public Meeting Notice for Proposed Residential Development

Proposed Tuscany Estates Site Condominium

Zoned R-1C (One Family Residential)

The subject site contains 4.2951 acres and 11 units/lots are proposed.

Section 24

The subject property lies on the west side of Dequindre Rd., north of Winter Dr.

Notices and information for public hearings will be posted at
<http://www.ci.troy.mi.us/PublicHearings/> .

The agendas for City Council meetings are posted on the City website at

<http://www.ci.troy.mi.us/council/Meetings.asp> , agendas for Planning Commission meetings are posted at <http://www.ci.troy.mi.us/committees/committeelist.asp#PC> (usually the Friday before the meeting).

If you have any questions or concerns regarding the above item(s) please contact our office. All correspondence received will be forwarded onto the Planning Commission and/or City Council.

6/29/2006

Paula Preston Bratto

City of Troy

Planner

248.524.3365

www.ci.troy.mi.us

DATE: February 14, 2006

TO: John Szerlag, City Manager

FROM: Brian P. Murphy, Assistant City Manager/Services
Mark Stimac, Director of Building & Zoning

SUBJECT: Application of the Michigan Building Code
Pertaining to Day Care Group Homes

In order to understand the building code implications of allowing Day Care Group Homes (7-12 children) in single-family residential structures, it is imperative to understand the theory behind the development of the requirements of the building codes as they relate to the different uses of buildings and structures.

The Michigan Building Code is adopted by the State of Michigan and per the requirements of Public Act 230 of 1972, as amended, applies throughout the State without exception. This code is based primarily on requirements of the International Building Code. The International Building Code is promulgated by the International Code Council (ICC) through a consensus process and is published every three years. The current edition is the 2003 edition with the 2006 edition soon to be published.

The requirements of the Building Code are developed on the theory of, as I call it, "an equivalent level of minimum safety" in all buildings. That is to say that depending on the types of construction materials used, the use of the building, and other factors such as the availability of fire suppression, fire detection, and fire alarm systems, that all buildings will meet a minimum level of safety for the occupants. In order to establish this equivalent level, the size of buildings and number of stories are regulated by the code based upon these variables. The two most important factors in determining this minimum level of safety are the construction type of the building and the occupancy group of the uses that will take place inside.

Certain building materials have an inherently greater resistance to the effects of fire than other materials. Reinforced concrete is less likely to fail under exposure to fire than ordinary lumber. Building materials can also have additional protection applied to them to increase their resistance to the effects of fire. Steel, sprayed with a fire resistant coating, or encased in layers of gypsum board, has shown through testing to have a resistance to fire equal to that of concrete.

These "types of construction" are broken down into nine different categories 1A through 5B. Type 1A construction is one where the structural members are designed and tested to withstand a fire for up to three hours. Type 5B construction, at the other end of the spectrum, includes unprotected wood frame construction typically found in single-family homes. With buildings used for the same purpose, as the fire resistance of the structure increases, the allowable size for the building increases as well.

The other factor greatly affecting the allowable size for a building is what the building is going to be used for. Certain uses, because of the number of people involved and the activities that they are engaged in, are more hazardous than others. In others, the condition of the occupants, such as being asleep, anesthetized, restrained or having reduced mobility because of age or mental capacity affects the level of safety of the building. The Building Code divides the different uses of a building into ten basic use group categories. It further breaks those categories down into 26 sub-categories.

In establishing this equivalent level of safety the building code looks at a combination of the construction type of the building and the use group classification for the intended uses of the building. It then establishes a maximum height and area for those buildings also taking into account the availability of fire suppression, as well as the provision for access to the building for fire fighting purposes. In buildings constructed of heavily protected construction the areas and heights are unlimited. Other uses are not permitted at all in the unprotected wood frame buildings.

In terms of the question directly at hand, a single-family residence is classified as an occupancy group R-3 (Residential). A building in this occupancy group can be built of unprotected wood frame construction to an unlimited size up to three stories in height. A child day care facility for up to five children also fits within this same group and restrictions. When a day care facility provides care for more than five children then it is classified as an occupancy group E (Educational). Under this occupancy group in order to obtain that same "equivalent level of minimum safety" the code limits the area of the building built of unprotected wood construction to 9,500 square feet and limits the height to a maximum of one story above grade. The area can be increased to 28,500 square feet and the height can be increased to two stories if the building is provided with a fire suppression (commercial fire sprinkler) system.

If the children cared for are very young (under 2 ½ years of age) and not capable of self-preservation, the code places the facility into a higher group classification of an I-4 (Institutional) use group. These uses are limited to one story and 9,000 square feet and are required to have fire suppression. However, there is an exception if all of the rooms used for the day care are on the ground floor and have a door directly to the outside. Under those conditions the facility would still be classified as an E use group.

If these facilities include rooms or spaces that are below grade (basements) that are used as part of the child care facility, those basements must be provided with an exterior stairway leading to the ground, or openings on at least one side of the building

that are above the ground and at least 20 square feet of area, or they must be provided with a fire suppression system.

While the typical single family home is not subject to the requirements for handicap accessibility, facilities that care for more than five children are. The code does not require that the entire home be designed to meet these standards, but it does require that the portion of the home used for day care meet the accessibility standards. This would include accessible parking spaces (the signs are not required for five or fewer parking spaces), accessible building approach, accessible entrances, accessible hardware and accessible plumbing facilities. The City of Troy does not enforce the requirements of the American's with Disabilities Act (ADA), but the ADA does indicate that a day care center is a public accommodation covered under that act.

There is another code that has been adopted by the State of Michigan that may have some application in these cases. The State has developed and adopted the Michigan Rehabilitation Code for Existing Buildings. This code has provisions that could be used for reviewing applications for the alteration of existing buildings. The establishment of a Day Care Group Home in an existing single-family residence is considered to be a change of occupancy classification. As previously discussed, the occupancy classification for at least a portion of the structure will change from an R-3 to an E classification. Chapter 8 of the Rehabilitation Code establishes the minimum requirements when such a change takes place.

The application of this code requires a case-by-case analysis of the structure and the areas involved. While the use of this code may eliminate the need for a fire suppression system or modifications to existing stairways, it still would require that the building comply with the general height and area limitations of the Michigan Building Code as well as the accessibility requirements for the areas involved.

Prepared by: Mark Stimac, Director of Building and Zoning

or walks controlled by a public entity that is not subject to this part. Public entities are subject to the requirements of title II of the Act. The Department's regulation implementing title II, which will be codified at 28 CFR part 35, addresses the obligations of public entities to ensure accessibility by providing curb ramps at pedestrian walkways.

"Illegal use of drugs." The definition of "illegal use of drugs" is taken from section 510(d)(1) of the Act and clarifies that the term includes the illegal use of one or more drugs.

"Individual with a disability" means a person who has a disability but does not include an individual who is currently illegally using drugs, when the public accommodation acts on the basis of such use. The phrase "current illegal use of drugs" is explained in the preamble to § 36.209.

"Place of public accommodation." The term "place of public accommodation" is an adaptation of the statutory definition of "public accommodation" in section 301(7) of the ADA and appears as an element of the regulatory definition of public accommodation. The final rule defines "place of public accommodation" as a facility, operated by a private entity, whose operations affect commerce and fall within at least one of 12 specified categories. The term "public accommodation," on the other hand, is reserved by the final rule for the private entity that owns, leases (or leases to), or operates a place of public accommodation. It is the public accommodation, and not the place of public accommodation, that is subject to the regulation's nondiscrimination requirements. Placing the obligation not to discriminate on the public accommodation, as defined in the rule, is consistent with section 302(a) of the ADA, which places the obligation not to discriminate on any person who owns, leases (or leases to), or operates a place of public accommodation.

Facilities operated by government agencies or other public entities as defined in this section do not qualify as places of public accommodation. The actions of public entities are governed by title II of the ADA and will be subject to regulations issued by the Department of Justice under that title. The receipt of government assistance by a private entity does not by itself preclude a facility from being considered as a place of public accommodation.

The definition of place of public accommodation incorporates the 12 categories of facilities represented in the statutory definition of public accommodation in section 301(7) of the ADA:

1. Places of lodging.
2. Establishments serving food or drink.
3. Places of exhibition or entertainment.
4. Places of public gathering.
5. Sales or rental establishments.
6. Service establishments.
7. Stations used for specified public transportation.
8. Places of public display or collection.
9. Places of recreation.
10. Places of education.
11. Social service center establishments.
12. Places of exercise or recreation.

In order to be a place of public accommodation, a facility must be operated by a private entity, its operations must affect commerce, and it must fall within one of these 12 categories. While the list of categories is exhaustive, the representative examples of facilities within each category are not. Within each category only a few examples are given. The category of social service center establishments would include not only the types of establishments listed, day care centers, senior citizen centers, homeless shelters, food banks, adoption agencies, but also establishments such as substance abuse treatment centers, rape crisis centers, and halfway houses. As another

example, the category of sales or rental establishments would include an innumerable array of facilities that would sweep far beyond the few examples given in the regulation. For example, other retail or wholesale establishments selling or renting items, such as bookstores, videotape rental stores, car rental establishment, pet stores, and jewelry stores would also be covered under this category, even though they are not specifically listed.

Several commenters requested clarification as to the coverage of wholesale establishments under the category of "sales or rental establishments." The Department intends for wholesale establishments to be covered under this category as places of public accommodation except in cases where they sell exclusively to other businesses and not to individuals. For example, a company that grows food produce and supplies its crops exclusively to food processing corporations on a wholesale basis does not become a public accommodation because of these transactions. If this company operates a road side stand where its crops are sold to the public, the road side stand would be a sales establishment covered by the ADA. Conversely, a sales establishment that markets its goods as "wholesale to the

public" and sells to individuals would not be exempt from ADA coverage despite its use of the word "wholesale" as a marketing technique.

Of course, a company that operates a place of public accommodation is subject to this part only in the operation of that place of public accommodation. In the example given above, the wholesale produce company that operates a road side stand would be a public accommodation only for the purposes of the operation of that stand. The company would be prohibited from discriminating on the basis of disability in the operation of the road side stand, and it would be required to remove barriers to physical access to the extent that it is readily achievable to do so (see § 36.304); however, in the event that it is not readily achievable to remove barriers, for example, by replacing a gravel surface or regrading the area around the stand to permit access by persons with mobility impairments, the company could meet its obligations through alternative methods of making its goods available, such as delivering produce to a customer in his or her car (see § 36.305). The concepts of readily achievable barrier removal and alternatives to barrier removal are discussed further in the preamble discussion of §§ 36.304 and 36.305.

Even if a facility does not fall within one of the 12 categories, and therefore does not qualify as a place of public accommodation, it still may be a commercial facility as defined in § 36.104 and be subject to the new construction and alterations requirements of subpart D.

A number of commenters questioned the treatment of residential hotels and other residential facilities in the Department's proposed rule. These commenters were essentially seeking resolution of the relationship between the Fair Housing Act and the ADA concerning facilities that are both residential in nature and engage in activities that would cause them to be classified as "places of public accommodation" under the ADA. The ADA's express exemption relating to the Fair Housing Act applies only to "commercial facilities" and not to "places of public accommodation."

A facility whose operations affect interstate commerce is a place of public accommodation for purposes of the ADA to the extent that its operations include those types of activities engaged in or services provided by the facilities contained on the list of 12 categories in section 301(7) of the ADA. Thus, a facility that provides social services would be considered a "social service

center establishment." Similarly, the category "places of lodging" would exclude solely residential facilities because the nature of a place of lodging contemplates the use of the facility for short-term stays.

Many facilities, however, are mixed use facilities. For example, in a large hotel that has a separate residential apartment wing, the residential wing would not be covered by the ADA because of the nature of the occupancy of that part of the facility. This residential wing would, however, be covered by the Fair Housing Act. The separate nonresidential accommodations in the rest of the hotel would be a place of lodging, and thus a public accommodation subject to the requirements of this final rule. If a hotel allows both residential and short-term stays, but does not allocate space for these different uses in separate, discrete units, both the ADA and the Fair Housing Act may apply to the facility. Such determinations will need to be made on a case-by-case basis. Any place of lodging of the type described in paragraph (1) of the definition of place of public accommodation and that is an establishment located within a building that contains not more than five rooms for rent or hire and is actually occupied by the proprietor of the establishment as his or her residence is not covered by the ADA. (This exclusion from coverage does not apply to other categories of public accommodations, for example, professional offices or homeless shelters, that are located in a building that is also occupied as a private residence.)

A number of commenters noted that the term "residential hotel" may also apply to a type of hotel commonly known as a "single room occupancy hotel." Although such hotels or portions of such hotels may fall under the Fair Housing Act when operated or used as long-term residences, they are also considered "places of lodging" under the ADA when guests of such hotels are free to use them on a short-term basis. In addition, "single room occupancy hotels" may provide social services to their guests, often through the operation of Federal or State grant programs. In such a situation, the facility would be considered a "social service center establishment" and thus covered by the ADA as a place of public accommodation, regardless of the length of stay of the occupants.

A similar analysis would also be applied to other residential facilities that provide social services, including homeless shelters, shelters for people seeking refuge from domestic violence,

nursing homes, residential care facilities, and other facilities where persons may reside for varying lengths of time. Such facilities should be analyzed under the Fair Housing Act to determine the application of that statute. The ADA, however, requires a separate and independent analysis. For example, if the facility, or a portion of the facility, is intended for or permits short-term stays, or if it can appropriately be categorized as a service establishment or as a social service establishment, then the facility or that portion of the facility used for the covered purpose is a place of public accommodation under the ADA. For example, a homeless shelter that is intended and used only for long-term residential stays and that does not provide social services to its residents would not be covered as a place of public accommodation. However, if this facility permitted short-term stays or provided social services to its residents, it would be covered under the ADA either as a "place of lodging" or as a "social service center establishment," or as both.

A private home, by itself, does not fall within any of the 12 categories. However, it can be covered as a place of public accommodation to the extent that it is used as a facility that would fall within one of the 12 categories. For example, if a professional office of a dentist, doctor, or psychologist is located in a private home, the portion of the home dedicated to office use (including areas used both for the residence and the office, e.g., the entrance to the home that is also used as the entrance to the professional office) would be considered a place of public accommodation. Places of public accommodation located in residential facilities are specifically addressed in § 36.207.

If a tour of a commercial facility that is not otherwise a place of public accommodation, such as, for example, a factory or a movie studio production set, is open to the general public, the route followed by the tour is a place of public accommodation and the tour must be operated in accordance with the rule's requirements for public accommodations. The place of public accommodation defined by the tour does not include those portions of the commercial facility that are merely viewed from the tour route. Hence, the barrier removal requirements of § 36.304 only apply to the physical route followed by the tour participants and not to work stations or other areas that are merely adjacent to, or within view of, the tour route. If the tour is not open to the general public, but rather is

conducted, for example, for selected business colleagues, partners, customers, or consultants, the tour route is not a place of public accommodation and the tour is not subject to the requirements for public accommodations.

Public accommodations that receive Federal financial assistance are subject to the requirements of section 504 of the Rehabilitation Act as well as the requirements of the ADA.

Private schools, including elementary and secondary schools, are covered by the rule as places of public accommodation. The rule itself, however, does not require a private school to provide a free appropriate education or develop an individualized education program in accordance with regulations of the Department of Education implementing section 504 of the Rehabilitation Act of 1973, as amended (34 CFR part 104), and regulations implementing the Individuals with Disabilities Education Act (34 CFR part 300). The receipt of Federal assistance by a private school, however, would trigger application of the Department of Education's regulations to the extent mandated by the particular type of assistance received.

"Private club." The term "private club" is defined in accordance with section 307 of the ADA as a private club or establishment exempted from coverage under title II of the Civil Rights Act of 1964. Title II of the 1964 Act exempts any "private club or other establishment not in fact open to the public, except to the extent that the facilities of such establishment are made available to the customers or patrons of [a place of public accommodation as defined in title II]." The rule, therefore, as reflected in § 36.102(e) of the application section, limits the coverage of private clubs accordingly. The obligations of a private club that rents space to any other private entity for the operation of a place of public accommodation are discussed further in connection with § 36.201.

In determining whether a private entity qualifies as a private club under title II, courts have considered such factors as the degree of member control of club operations, the selectivity of the membership selection process, whether substantial membership fees are charged, whether the entity is operated on a nonprofit basis, the extent to which the facilities are open to the public, the degree of public funding, and whether the club was created specifically to avoid compliance with the Civil Rights

§ 36.105-36.200 [Reserved]**Subpart B—General Requirements****§ 36.201 General.**

(a) *Prohibition of discrimination.* No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any private entity who owns, leases (or leases to), or operates a place of public accommodation.

(b) *Landlord and tenant responsibilities.* Both the landlord who owns the building that houses a place of public accommodation and the tenant who owns or operates the place of public accommodation are public accommodations subject to the requirements of this part. As between the parties, allocation of responsibility for complying with the obligations of this part may be determined by lease or other contract.

§ 36.202 Activities.

(a) *Denial of participation.* A public accommodation shall not subject an individual or class of individuals on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements, to a denial of the opportunity of the individual or class to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation.

(b) *Participation in unequal benefit.* A public accommodation shall not afford an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements, with the opportunity to participate in or benefit from a good, service, facility, privilege, advantage, or accommodation that is not equal to that afforded to other individuals.

(c) *Separate benefit.* A public accommodation shall not provide an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with a good, service, facility, privilege, advantage, or accommodation that is different or separate from that provided to other individuals, unless such action is necessary to provide the individual or class of individuals with a good, service, facility, privilege, advantage, or accommodation, or other opportunity that is as effective as that provided to others.

(d) *Individual or class of individuals.* For purposes of paragraphs (a) through (c) of this section, the term "individual or class of individuals" refers to the clients or customers of the public accommodation that enters into the contractual, licensing, or other arrangement.

§ 36.203 Integrated settings.

(a) *General.* A public accommodation shall afford goods, services, facilities, privileges, advantages, and accommodations to an individual with a disability in the most integrated setting appropriate to the needs of the individual.

(b) *Opportunity to participate.* Notwithstanding the existence of separate or different programs or activities provided in accordance with this subpart, a public accommodation shall not deny an individual with a disability an opportunity to participate in such programs or activities that are not separate or different.

(c) *Accommodations and services.* (1) Nothing in this part shall be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity, or benefit available under this part that such individual chooses not to accept.

(2) Nothing in the Act or this part authorizes the representative or guardian of an individual with a disability to decline food, water, medical treatment, or medical services for that individual.

§ 36.204 Administrative methods.

A public accommodation shall not, directly or through contractual or other arrangements, utilize standards or criteria or methods of administration that have the effect of discriminating on the basis of disability, or that perpetuate the discrimination of others who are subject to common administrative control.

§ 36.205 Association.

A public accommodation shall not exclude or otherwise deny equal goods, services, facilities, privileges, advantages, accommodations, or other opportunities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.

§ 36.206 Retaliation or coercion.

(a) No private or public entity shall discriminate against any individual because that individual has opposed any act or practice made unlawful by this part, or because that individual made a charge, testified, assisted, or

participated in any manner in an investigation, proceeding, or hearing under the Act or this part.

(b) No private or public entity shall coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by the Act or this part.

(c) Illustrations of conduct prohibited by this section include, but are not limited to:

(1) Coercing an individual to deny or limit the benefits, services, or advantages to which he or she is entitled under the Act or this part;

(2) Threatening, intimidating, or interfering with an individual with a disability who is seeking to obtain or use the goods, services, facilities, privileges, advantages, or accommodations of a public accommodation;

(3) Intimidating or threatening any person because that person is assisting or encouraging an individual or group entitled to claim the rights granted or protected by the Act or this part to exercise those rights; or

(4) Retaliating against any person because that person has participated in any investigation or action to enforce the Act or this part.

§ 36.207 Places of public accommodation located in private residences.

(a) When a place of public accommodation is located in a private residence, the portion of the residence used exclusively as a residence is not covered by this part, but that portion used exclusively in the operation of the place of public accommodation or that portion used both for the place of public accommodation and for residential purposes is covered by this part.

(b) The portion of the residence covered under paragraph (a) of this section extends to those elements used to enter the place of public accommodation, including the homeowner's front sidewalk, if any, the door or entryway, and hallways; and those portions of the residence, interior or exterior, available to or used by customers or clients, including restrooms.

§ 36.208 Direct threat.

(a) This part does not require a public accommodation to permit an individual to participate in or benefit from the goods, services, facilities, privileges, advantages and accommodations of that

and purpose of this code and that such modification does not lessen health, accessibility, life and fire safety, or structural requirements. The details of action granting modifications shall be recorded and entered in the files of the department of building safety.

104.11 Alternative materials, design and methods of construction and equipment. The provisions of this code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the building official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

104.11.1 Research reports. Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research reports from approved sources.

104.11.2 Tests. Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the building official shall have the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the building official shall approve the testing procedures. Tests shall be performed by an approved agency. Reports of such tests shall be retained by the building official for the period required for retention of public records.

SECTION 105 PERMITS

105.1 Required. Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

105.1.1 Annual permit. In place of an individual permit for each alteration to an already approved electrical, gas, mechanical, or plumbing installation, the enforcing agency is authorized to issue an annual permit upon application therefore to any person, firm, or corporation. The applicant shall be licensed in accordance with the requirements of 1956 PA 217, MCL 338.881 et seq., 1984 PA 192, MCL 338.971 et seq., or 2002 PA 733, MCL 338.3511 et seq.

105.1.2 Annual permit records. The person to whom an annual permit is issued shall keep a detailed record of alterations made under an annual permit. Access to the records

shall be provided at all times and the records shall be filed with the enforcing agency.

105.2 Work exempt from permit. Exemptions from permit requirements of the code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of the code or any other laws or ordinances of this jurisdiction. Permits shall not be required for any of the following:

- a. Building permits shall not be required for any of the following:
 - i. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet (11.15 m²).
 - ii. A fence that is not more than 6 feet (1829 mm) high.
 - iii. Oil derricks.
 - iv. A retaining wall that is not more than 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding class I, II or III-A liquids.
 - v. A water tank supported directly upon grade if the capacity is not more than 5,000 gallons (18 927 L) and the ratio of height to diameter or width is not greater than 2 to 1.
 - vi. A sidewalk or driveway that is not more than 30 inches (762 mm) above grade and is not over any basement or story below and which are not part of an accessible route.
 - vii. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
 - viii. Temporary motion picture, television and theater stage sets and scenery.
 - ix. Prefabricated swimming pools accessory to a group R-3 occupancy, as applicable in section 101.2, which are less than 24 inches (610 mm) deep, do not exceed 5,000 gallons (19 000 L) and are installed entirely above ground.
 - x. Shade cloth structures constructed for nursery or agricultural purposes and not including service systems.
 - xi. Swings and other playground equipment accessory to 1- and 2-family dwellings.
 - xii. Window awnings supported by an exterior wall which do not project more than 54 inches (1372 mm) from the exterior wall and do not require additional support of group R-3, as applicable in section 101.2 and group U occupancies.
 - xiii. Movable cases, counters, and partitions.
- b. Electrical permits shall not be required for any of the following:
 - i. Repairs and maintenance: Minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.

USE AND OCCUPANCY CLASSIFICATION

Funeral parlors
Gymnasiums (without spectator seating)
Indoor swimming pools (without spectator seating)
Indoor tennis courts (without spectator seating)
Lecture halls
Libraries
Museums
Waiting areas in transportation terminals
Pool and billiard parlors

A-4 Assembly uses intended for viewing of indoor sporting events and activities with spectator seating including, but not limited to:

Arenas
Skating rinks
Swimming pools
Tennis courts

A-5 Assembly uses intended for participation in or viewing outdoor activities including, but not limited to:

Amusement park structures
Bleachers
Grandstands
Stadiums

303.1.1 Nonaccessory assembly use. A building or tenant space used for assembly purposes by less than 50 persons shall be considered a Group B occupancy.

SECTION 304 BUSINESS GROUP B

304.1 Business Group B. Business Group B occupancy includes, among others, the use of a building or structure, or a portion thereof, for office, professional or service-type transactions, including storage of records and accounts. Business occupancies shall include, but not be limited to, the following:

Airport traffic control towers
Animal hospitals, kennels and pounds
Banks
Barber and beauty shops
Car wash
Civic administration
Clinic—outpatient
Dry cleaning and laundries; pick-up and delivery stations and self-service
Educational occupancies above the 12th grade
Electronic data processing
Laboratories; testing and research
Motor vehicle showrooms
Post offices
Print shops
Professional services (architects, attorneys, dentists, physicians, engineers, etc.)
Radio and television stations
Telephone exchanges

SECTION 305 EDUCATIONAL GROUP E

305.1 Educational Group E. Educational Group E occupancy includes, among others, the use of a building or structure, or a

portion thereof, by six or more persons at any one time for educational purposes through the 12th grade. Religious educational rooms and religious auditoriums, which are accessory to churches in accordance with Section 302.2 and have occupant loads of less than 100, shall be classified as A-3 occupancies.

305.2 Day care. The use of a building or structure, or portion thereof, for educational, supervision or personal care services for more than five children older than 2½ years of age, shall be classified as a Group E occupancy.

SECTION 306 FACTORY GROUP F

306.1 Factory Industrial Group F. Factory Industrial Group F occupancy includes, among others, the use of a building or structure, or a portion thereof, for assembling, disassembling, fabricating, finishing, manufacturing, packaging, repair or processing operations that are not classified as a Group H hazardous or Group S storage occupancy.

306.2 Factory Industrial F-1 Moderate-Hazard Occupancy. Factory industrial uses which are not classified as Factory Industrial F-2 Low Hazard shall be classified as F-1 Moderate Hazard and shall include, but not be limited to, the following:

Aircraft
Appliances
Athletic equipment
Automobiles and other motor vehicles
Bakeries
Beverages; over 12-percent alcohol content
Bicycles
Boats
Brooms or brushes
Business machines
Cameras and photo equipment
Canvas or similar fabric
Carpets and rugs (includes cleaning)
Clothing
Construction and agricultural machinery
Disinfectants
Dry cleaning and dyeing
Electric generation plants
Electronics
Engines (including rebuilding)
Food processing
Furniture
Hemp products
Jute products
Laundries
Leather products
Machinery
Metals
Millwork (sash & door)
Motion pictures and television filming (without spectators)
Musical instruments
Optical goods
Paper mills or products
Photographic film
Plastic products

vised environment, having physical limitations because of health or age are harbored for medical treatment or other care or treatment, or in which people are detained for penal or correctional purposes or in which the liberty of the occupants is restricted. Institutional occupancies shall be classified as Group I-1, I-2, I-3 or I-4.

308.2 Group I-1. This occupancy shall include buildings, structures or parts thereof housing more than 16 persons, on a 24-hour basis, who because of age, mental disability or other reasons, live in a supervised residential environment that provides personal care services. The occupants are capable of responding to an emergency situation without physical assistance from staff. This group shall include, but not be limited to, the following:

- Residential board and care facilities
- Assisted living facilities
- Halfway houses
- Group homes
- Congregate care facilities
- Social rehabilitation facilities
- Alcohol and drug centers
- Convalescent facilities

A facility such as the above with five or fewer persons shall be classified as a Group R-3 or shall comply with the *International Residential Code* in accordance with Section 101.2. A facility such as above, housing at least six and not more than 16 persons, shall be classified as Group R-4.

308.3 Group I-2. This occupancy shall include buildings and structures used for medical, surgical, psychiatric, nursing or custodial care on a 24-hour basis of more than five persons who are not capable of self-preservation. This group shall include, but not be limited to, the following:

- Hospitals
- Nursing homes (both intermediate-care facilities and skilled nursing facilities)
- Mental hospitals
- Detoxification facilities

A facility such as the above with five or fewer persons shall be classified as Group R-3 or shall comply with the *International Residential Code* in accordance with Section 101.2.

308.3.1 Child care facility. A child care facility that provides care on a 24-hour basis to more than five children 2½ years of age or less shall be classified as Group I-2.

308.4 Group I-3. This occupancy shall include buildings and structures that are inhabited by more than five persons who are under restraint or security. An I-3 facility is occupied by persons who are generally incapable of self-preservation due to security measures not under the occupants' control. This group shall include, but not be limited to, the following:

- Prisons
- Jails
- Reformatories
- Detention centers
- Correctional centers
- Prerelease centers

Buildings of Group I-3 shall be classified as one of the occupancy conditions indicated in Sections 308.4.1 through 308.4.5 (see Section 408.1).

308.4.1 Condition 1. This occupancy condition shall include buildings in which free movement is allowed from sleeping areas, and other spaces where access or occupancy is permitted, to the exterior via means of egress without restraint. A Condition 1 facility is permitted to be constructed as Group R.

308.4.2 Condition 2. This occupancy condition shall include buildings in which free movement is allowed from sleeping areas and any other occupied smoke compartment to one or more other smoke compartments. Egress to the exterior is impeded by locked exits.

308.4.3 Condition 3. This occupancy condition shall include buildings in which free movement is allowed within individual smoke compartments, such as within a residential unit comprised of individual sleeping units and group activity spaces, where egress is impeded by remote-controlled release of means of egress from such a smoke compartment to another smoke compartment.

308.4.4 Condition 4. This occupancy condition shall include buildings in which free movement is restricted from an occupied space. Remote-controlled release is provided to permit movement from sleeping units, activity spaces and other occupied areas within the smoke compartment to other smoke compartments.

308.4.5 Condition 5. This occupancy condition shall include buildings in which free movement is restricted from an occupied space. Staff-controlled manual release is provided to permit movement from sleeping units, activity spaces and other occupied areas within the smoke compartment to other smoke compartments.

308.5 Group I-4, day care facilities. This group shall include buildings and structures occupied by persons of any age who receive custodial care for less than 24 hours by individuals other than parents or guardians, relatives by blood, marriage or adoption, and in a place other than the home of the person cared for. A facility such as the above with five or fewer persons shall be classified as a Group R-3 or shall comply with the *International Residential Code* in accordance with Section 101.2. Places of worship during religious functions are not included.

308.5.1 Adult care facility. A facility that provides accommodations for less than 24 hours for more than five unrelated adults and provides supervision and personal care services shall be classified as Group I-4.

Exception: A facility where occupants are capable of responding to an emergency situation without physical assistance from the staff shall be classified as Group A-3.

308.5.2 Child care facility. A facility that provides supervision and personal care on less than a 24-hour basis for more than five children 2½ years of age or less shall be classified as Group I-4.

Exception: A child day care facility that provides care for more than five but no more than 100 children 2½ years or less of age, when the rooms where such children are cared for are located on the level of exit discharge and

TABLE 503
ALLOWABLE HEIGHT AND BUILDING AREAS
 Height limitations shown as stories and feet above grade plane.
 Area limitations as determined by the definition of "Area, building," per floor.

GROUP	Hgt(S) Hgt(feet)	TYPE OF CONSTRUCTION								
		TYPE I		TYPE II		TYPE III		TYPE IV	TYPE V	
		A	B	A	B	A	B	HT	A	B
		UL	160	65	55	65	55	65	50	40
A-1	S A	UL UL	5 UL	3 15,500	2 8,500	3 14,000	2 8,500	3 15,000	2 11,500	1 5,500
A-2	S A	UL UL	11 UL	3 15,500	2 9,500	3 14,000	2 9,500	3 15,000	2 11,500	1 6,000
A-3	S A	UL UL	11 UL	3 15,500	2 9,500	3 14,000	2 9,500	3 15,000	2 11,500	1 6,000
A-4	S A	UL UL	11 UL	3 15,500	2 9,500	3 14,000	2 9,500	3 15,000	2 11,500	1 6,000
A-5	S A	UL UL	UL UL	UL UL	UL UL	UL UL	UL UL	UL UL	UL UL	UL UL
B	S A	UL UL	11 UL	5 37,500	4 23,000	5 28,500	4 19,000	5 36,000	3 18,000	2 9,000
E	S A	UL UL	5 UL	3 26,500	2 14,500	3 23,500	2 14,500	3 25,500	1 18,500	1 9,500
F-1	S A	UL UL	11 UL	4 25,000	2 15,500	3 19,000	2 12,000	4 33,500	2 14,000	1 8,500
F-2	S A	UL UL	11 UL	5 37,500	3 23,000	4 28,500	3 18,000	5 50,500	3 21,000	2 13,000
H-1	S A	1 21,000	1 16,500	1 11,000	1 7,000	1 9,500	1 7,000	1 10,500	1 7,500	NP NP
H-2	S A	UL 21,000	3 16,500	2 11,000	1 7,000	2 9,500	1 7,000	2 10,500	1 7,500	1 3,000
H-3	S A	UL UL	6 60,000	4 26,500	2 14,000	4 17,500	2 13,000	4 25,500	2 10,000	1 5,000
H-4	S A	UL UL	7 UL	5 37,500	3 17,500	5 28,500	3 17,500	5 36,000	3 18,000	2 6,500
H-5	S A	3 UL	3 UL	3 37,500	3 23,000	3 28,500	3 19,000	3 36,000	3 18,000	2 9,000
I-1	S A	UL UL	9 55,000	4 19,000	3 10,000	4 16,500	3 10,000	4 18,000	3 10,500	2 4,500
I-2	S A	UL UL	4 UL	2 15,000	1 11,000	1 12,000	NP NP	1 12,000	1 9,500	NP NP
I-3	S A	UL UL	4 UL	2 15,000	1 10,000	2 10,500	1 7,500	2 12,000	2 7,500	1 5,000
I-4	S A	UL UL	5 60,500	3 26,500	2 13,000	3 23,500	2 13,000	3 25,500	1 18,500	1 9,000
M	S A	UL UL	11 UL	4 21,500	4 12,500	4 18,500	4 12,500	4 20,500	3 14,000	1 9,000
R-1	S A	UL UL	11 UL	4 24,000	4 16,000	4 24,000	4 16,000	4 20,500	3 12,000	2 7,000
R-2 ^a	S A	UL UL	11 UL	4 24,000	4 16,000	4 24,000	4 16,000	4 20,500	3 12,000	2 7,000
R-3 ^b	S A	UL UL	11 UL	4 UL	4 UL	4 UL	4 UL	4 UL	3 UL	3 UL
R-4	S A	UL UL	11 UL	4 24,000	4 16,000	4 24,000	4 16,000	4 20,500	3 12,000	2 7,000
S-1	S A	UL UL	11 48,000	4 26,000	3 17,500	3 26,000	3 17,500	4 25,500	3 14,000	1 9,000
S-2 ^{b, c}	S A	UL UL	11 79,000	5 39,000	4 26,000	4 39,000	4 26,000	5 38,500	4 21,000	2 13,500
U ^c	S A	UL UL	5 35,500	4 19,000	2 8,500	3 14,000	2 8,500	4 18,000	2 9,000	1 5,500

For SI: 1 foot = 304.8 mm, 1 square foot = 0.0929 m².

UL = Unlimited, NP = Not permitted.

a. As applicable in Section 101.2.

b. For open parking structures, see Section 406.3.

c. For private garages, see Section 406.1.

SECTION 903 AUTOMATIC SPRINKLER SYSTEMS

[F] 903.1 **General.** Automatic sprinkler systems shall comply with this section.

[F] 903.1.1 **Alternative protection.** Alternative automatic fire-extinguishing systems complying with Section 904 shall be permitted in lieu of automatic sprinkler protection where recognized by the applicable standard and approved by the building official.

[F] 903.2 **Where required.** Approved automatic sprinkler systems in new buildings and structures shall be provided in the locations described in this section.

Exception: Spaces or areas in telecommunications buildings used exclusively for telecommunications equipment, associated electrical power distribution equipment, batteries and standby engines, provided those spaces or areas are equipped throughout with an automatic fire alarm system and are separated from the remainder of the building by a wall with a fire-resistance rating of not less than 1 hour and a floor/ceiling assembly with a fire-resistance rating of not less than 2 hours.

[F] 903.2.1 **Group A.** An automatic sprinkler system shall be provided throughout buildings and portions thereof used as Group A occupancies as provided in this section. For Group A-1, A-2, A-3 and A-4 occupancies, the automatic sprinkler system shall be provided throughout the floor area where the Group A-1, A-2, A-3 or A-4 occupancy is located, and in all floors between the Group A occupancy and the level of exit discharge. For Group A-5 occupancies, the automatic sprinkler system shall be provided in the spaces indicated in Section 903.2.1.5.

[F] 903.2.1.1 **Group A-1.** An automatic sprinkler system shall be provided for Group A-1 occupancies where one of the following conditions exists:

1. The fire area exceeds 12,000 square feet (1115 m²).
2. The fire area has an occupant load of 300 or more.
3. The fire area is located on a floor other than the level of exit discharge.
4. The fire area contains a multitheater complex.

[F] 903.2.1.2 **Group A-2.** An automatic sprinkler system shall be provided for Group A-2 occupancies where one of the following conditions exists:

1. The fire area exceeds 5,000 square feet (464.5 m²).
2. The fire area has an occupant load of 300 or more.
3. The fire area is located on a floor other than the level of exit discharge.

[F] 903.2.1.3 **Group A-3.** An automatic sprinkler system shall be provided for Group A-3 occupancies where one of the following conditions exists:

1. The fire area exceeds 12,000 square feet (1115 m²).
2. The fire area has an occupant load of 300 or more.
3. The fire area is located on a floor other than the level of exit discharge.

Exception: Areas used exclusively as participant sports areas where the main floor area is located at the same level as the level of exit discharge of the main entrance and exit.

[F] 903.2.1.4 **Group A-4.** An automatic sprinkler system shall be provided for Group A-4 occupancies where one of the following conditions exists:

1. The fire area exceeds 12,000 square feet (1115 m²).
2. The fire area has an occupant load of 300 or more.
3. The fire area is located on a floor other than the level of exit discharge.

Exception: Areas used exclusively as participant sports areas where the main floor area is located at the same level as the level of exit discharge of the main entrance and exit.

[F] 903.2.1.5 **Group A-5.** An automatic sprinkler system shall be provided in concession stands, retail areas, press boxes and other accessory use areas in excess of 1,000 square feet (93 m²).

[F] 903.2.2 **Group E.** An automatic sprinkler system shall be provided for Group E occupancies as follows:

1. Throughout all Group E fire areas greater than 20,000 square feet (1858 m²) in area.
2. Throughout every portion of educational buildings below the level of exit discharge.

Exception: An automatic sprinkler system is not required in any fire area or area below the level of exit discharge where every classroom throughout the building has at least one exterior exit door at ground level.

[F] 903.2.3 **Group F-1.** An automatic sprinkler system shall be provided throughout all buildings containing a Group F-1 occupancy where one of the following conditions exists:

1. Where a Group F-1 fire area exceeds 12,000 square feet (1115 m²);
2. Where a Group F-1 fire area is located more than three stories above grade; or
3. Where the combined area of all Group F-1 fire areas on all floors, including any mezzanines, exceeds 24,000 square feet (2230 m²).

[F] 903.2.3.1 **Woodworking operations.** An automatic sprinkler system shall be provided throughout all Group F-1 occupancy fire areas that contain woodworking operations in excess of 2,500 square feet (232 m²) in area which generate finely divided combustible waste or use finely divided combustible materials.

[F] 903.2.4 **Group H.** Automatic sprinkler systems shall be provided in high-hazard occupancies as required in Sections 903.2.4.1 through 903.2.4.3.

[F] 903.2.4.1 **General.** An automatic sprinkler system shall be installed in Group H occupancies.

[F] 903.2.4.2 **Group H-5.** An automatic sprinkler system shall be installed throughout buildings containing Group H-5 occupancies. The design of the sprinkler sys-

tem shall not be less than that required by this code for the occupancy hazard classifications in accordance with Table 903.2.4.2. Where the design area of the sprinkler system consists of a corridor protected by one row of sprinklers, the maximum number of sprinklers required to be calculated is 13.

[F] TABLE 903.2.4.2
GROUP H-5 SPRINKLER DESIGN CRITERIA

LOCATION	OCCUPANCY HAZARD CLASSIFICATION
Fabrication areas	Ordinary Hazard Group 2
Service corridors	Ordinary Hazard Group 2
Storage rooms without dispensing	Ordinary Hazard Group 2
Storage rooms with dispensing	Extra Hazard Group 2
Corridors	Ordinary Hazard Group 2

[F] 903.2.4.3 **Pyroxylin plastics.** An automatic sprinkler system shall be provided in buildings, or portions thereof, where cellulose nitrate film or pyroxylin plastics are manufactured, stored or handled in quantities exceeding 100 pounds (45 kg).

[F] 903.2.5 **Group I.** An automatic sprinkler system shall be provided throughout buildings with a Group I fire area.

Exception: An automatic sprinkler system installed in accordance with Section 903.3.1.2 or 903.3.1.3 shall be allowed in Group I-1 facilities.

[F] 903.2.6 **Group M.** An automatic sprinkler system shall be provided throughout buildings containing a Group M occupancy where one of the following conditions exists:

1. Where a Group M fire area exceeds 12,000 square feet (1115 m²);
2. Where a Group M fire area is located more than three stories above grade; or
3. Where the combined area of all Group M fire areas on all floors, including any mezzanines, exceeds 24,000 square feet (2230 m²).

[F] 903.2.6.1 **High-piled storage.** An automatic sprinkler system shall be provided in accordance with the *International Fire Code* in all buildings of Group M where storage of merchandise is in high-piled or rack storage arrays.

[F] 903.2.7 **Group R.** An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area.

[F] 903.2.8 **Group S-1.** An automatic sprinkler system shall be provided throughout all buildings containing a Group S-1 occupancy where one of the following conditions exists:

1. A Group S-1 fire area exceeds 12,000 square feet (1115 m²);
2. A Group S-1 fire area is located more than three stories above grade; or
3. The combined area of all Group S-1 fire areas on all floors, including any mezzanines, exceeds 24,000 square feet (2230 m²).

[F] 903.2.8.1 **Repair garages.** An automatic sprinkler system shall be provided throughout all buildings used as repair garages in accordance with Section 406, as shown:

1. Buildings two or more stories in height, including basements, with a fire area containing a repair garage exceeding 10,000 square feet (929 m²).
2. One-story buildings with a fire area containing a repair garage exceeding 12,000 square feet (1115 m²).
3. Buildings with a repair garage servicing vehicles parked in the basement.

[F] 903.2.8.2 **Bulk storage of tires.** Buildings and structures where the area for the storage of tires exceeds 20,000 cubic feet (566 m³) shall be equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1.

[F] 903.2.9 **Group S-2.** An automatic sprinkler system shall be provided throughout buildings classified as enclosed parking garages in accordance with Section 406.4 or where located beneath other groups.

Exception: Enclosed parking garages located beneath Group R-3 occupancies as applicable in Section 101.2.

[F] 903.2.9.1 **Commercial parking garages.** An automatic sprinkler system shall be provided throughout buildings used for storage of commercial trucks or buses where the fire area exceeds 5,000 square feet (464 m²).

[F] 903.2.10 **All occupancies except Groups R-3 and U.** An automatic sprinkler system shall be installed in the locations set forth in Sections 903.2.10.1 through 903.2.10.1.3.

Exception: Group R-3 as applicable in Section 101.2 and Group U

[F] 903.2.10.1 **Stories and basements without openings.** An automatic sprinkler system shall be installed throughout every story or basement of all buildings where the floor area exceeds 1,500 square feet (139.4 m²) and where there is not provided at least one of the following types of exterior wall openings:

1. Openings below grade that lead directly to ground level by an exterior stairway complying with Section 1009 or an outside ramp complying with Section 1010. Openings shall be located in each 50 linear feet (15 240 mm), or fraction thereof, of exterior wall in the story on at least one side.
2. Openings entirely above the adjoining ground level totaling at least 20 square feet (1.86 m²) in each 50 linear feet (15 240 mm), or fraction thereof, of exterior wall in the story on at least one side.

[F] 903.2.10.1.1 **Opening dimensions and access.** Openings shall have a minimum dimension of not less than 30 inches (762 mm). Such openings shall be accessible to the fire department from the exterior and shall not be obstructed in a manner that fire fighting or rescue cannot be accomplished from the exterior.

[F] 903.2.10.1.2 **Openings on one side only.** Where openings in a story are provided on only one side and the opposite wall of such story is more than 75 feet (22 860 mm) from such openings, the story shall be equipped throughout with an approved automatic sprinkler system, or openings as specified above shall be provided on at least two sides of the story.

[F] 903.2.10.1.3 **Basements.** Where any portion of a basement is located more than 75 feet (22 860 mm) from openings required by Section 903.2.10.1, the basement shall be equipped throughout with an approved automatic sprinkler system.

[F] 903.2.10.2 **Rubbish and linen chutes.** An automatic sprinkler system shall be installed at the top of rubbish and linen chutes and in their terminal rooms. Chutes extending through three or more floors shall have additional sprinkler heads installed within such chutes at alternate floors. Chute sprinklers shall be accessible for servicing.

903.2.10.3 Buildings more than 30 feet in height. An automatic sprinkler system shall be installed throughout a building that has a floor level which has an occupant load of 30 or more occupants and which is located 30 feet (9144 mm) or more above the lowest level of fire department vehicle access.

Exceptions:

1. Airport control towers.
2. Open parking structures.
3. Occupancies in Group F-2.
4. Existing buildings having occupied floor levels not more than 55 feet (16 764 mm) in height above the lowest level of fire department vehicle access, where the local unit of government complies with the following parameters:
 - 4.1. The local unit of government having a municipal fire department with an ISO rating of 3 or lower, employing a full-time career fire-fighting staff.
 - 4.2. The governing body of the local unit of government has passed a resolution affirming the use of this exception and filed that resolution with the department of labor & economic growth, bureau of construction codes and fire safety.

R 408.30445

[F] 903.2.11 **During construction.** Automatic sprinkler systems required during construction, alteration and demolition operations shall be provided in accordance with the *International Fire Code*.

[F] 903.2.12 **Other hazards.** Automatic sprinkler protection shall be provided for the hazards indicated in Sections 903.2.12.1 and 903.2.12.2.

[F] 903.2.12.1 **Ducts conveying hazardous exhausts.** Where required by the *International Mechanical Code*, automatic sprinklers shall be provided in ducts convey-

ing hazardous exhaust, or flammable or combustible materials.

Exception: Ducts in which the largest cross-sectional diameter of the duct is less than 10 inches (254 mm).

[F] 903.2.12.2 **Commercial cooking operations.** An automatic sprinkler system shall be installed in commercial kitchen exhaust hood and duct system where an automatic sprinkler system is used to comply with Section 904.

[F] 903.2.13 **Other required suppression systems.** In addition to the requirements of Section 903.2, the provisions indicated in Table 903.2.13 also require the installation of a suppression system for certain buildings and areas.

[F] 903.3 **Installation requirements.** Automatic sprinkler systems shall be designed and installed in accordance with Sections 903.3.1 through 903.3.7.

[F] TABLE 903.2.13
ADDITIONAL REQUIRED SUPPRESSION SYSTEMS

SECTION	SUBJECT
402.8	Covered malls
403.2, 403.3	High-rise buildings
404.3	Atriums
405.3	Underground structures
407.5	Group I-2
410.6	Stages
411.4	Special amusement buildings
412.2.5, 412.2.6	Aircraft hangars
415.7.2.4	Group H-2
416.4	Flammable finishes
417.4	Drying rooms
507	Unlimited area buildings
IFC	Sprinkler requirements as set forth in Section 903.2.13 of the <i>International Fire Code</i>

[F] 903.3.1 **Standards.** Sprinkler systems shall be designed and installed in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3.

[F] 903.3.1.1 **NFPA 13 sprinkler systems.** Where the provisions of this code require that a building or portion thereof be equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1, sprinklers shall be installed throughout in accordance with NFPA 13 except as provided in Section 903.3.1.1.1.

[F] 903.3.1.1.1 **Exempt locations.** Automatic sprinklers shall not be required in the following rooms or areas where such rooms or areas are protected with an approved automatic fire detection system in accordance with Section 907.2 that will respond to visible or invisible particles of combustion. Sprinklers shall not be omitted from any room merely because it is damp, of fire-resistance-rated construction or contains electrical equipment.

1. Any room where the application of water, or flame and water, constitutes a serious life or fire hazard.

1103.2.4 Detached dwellings. Detached one- and two-family dwellings and accessory structures, and their associated sites and facilities as applicable in Section 101.2, are not required to be accessible.

1103.2.5 Utility buildings. Occupancies in Group U are exempt from the requirements of this chapter other than the following:

1. In agricultural buildings, access is required to paved work areas and areas open to the general public.
2. Private garages or carports that contain required accessible parking.

1103.2.6 Construction sites. Structures, sites and equipment directly associated with the actual processes of construction including, but not limited to, scaffolding, bridging, materials hoists, materials storage or construction trailers are not required to be accessible.

1103.2.7 Raised areas. Raised areas used primarily for purposes of security, life safety or fire safety including, but not limited to, observation galleries, prison guard towers, fire towers or lifeguard stands are not required to be accessible or to be served by an accessible route.

1103.2.8 Limited access spaces. Nonoccupiable spaces accessed only by ladders, catwalks, crawl spaces, freight elevators or very narrow passageways are not required to be accessible.

1103.2.9 Equipment spaces. Spaces frequented only by personnel for maintenance, repair or monitoring of equipment are not required to be accessible. Such spaces include, but are not limited to, elevator pits, elevator penthouses, mechanical, electrical or communications equipment rooms, piping or equipment catwalks, water or sewage treatment pump rooms and stations, electric substations and transformer vaults, and highway and tunnel utility facilities.

1103.2.10 Single-occupant structures. Single-occupant structures accessed only by passageways below grade or elevated above grade including, but not limited to, toll booths that are accessed only by underground tunnels, are not required to be accessible.

1103.2.11 Residential Group R-1. Buildings of Group R-1 containing not more than five sleeping units for rent or hire that are also occupied as the residence of the proprietor are not required to be accessible.

1103.2.12 Day care facilities. Where a day care facility (Groups A-3, E, I-4 and R-3) is part of a dwelling unit, only the portion of the structure utilized for the day care facility is required to be accessible.

1103.2.13 Detention and correctional facilities. In detention and correctional facilities, common use areas that are used only by inmates or detainees and security personnel, and that do not serve holding cells or housing cells required to be accessible, are not required to be accessible or to be served by an accessible route.

1103.2.14 Fuel-dispensing systems. The operable parts on fuel-dispensing devices shall comply with ICC A117.1, Section 308.2.1 or 308.3.1.

1103.2.15 Military, fire service, and police facilities. Housing, bathing, toilet, training, and storage areas intended for use and occupancy exclusively by military, fire service, police, or security personnel required to be physically agile are not required to be accessible.

R 408.30427

SECTION 1104 ACCESSIBLE ROUTE

1104.1 Site arrival points. Accessible routes within the site shall be provided from public transportation stops, accessible parking and accessible passenger loading zones and public streets or sidewalks to the accessible building entrance served.

Exception: An accessible route shall not be required between site arrival points and the building or facility entrance if the only means of access between them is a vehicular way not providing for pedestrian access.

1104.2 Within a site. At least one accessible route shall connect accessible buildings, accessible facilities, accessible elements and accessible spaces that are on the same site.

Exception: An accessible route is not required between accessible buildings, accessible facilities, accessible elements and accessible spaces that have, as the only means of access between them, a vehicular way not providing for pedestrian access.

1104.3 Connected spaces. When a building, or portion of a building, is required to be accessible, an accessible route shall be provided to each portion of the building, to accessible building entrances connecting accessible pedestrian walkways and the public way. Where only one accessible route is provided, the accessible route shall not pass through kitchens, storage rooms, restrooms, closets or similar spaces.

Exceptions:

1. In assembly areas with fixed seating required to be accessible, an accessible route shall not be required to serve fixed seating where wheelchair spaces or designated aisle seats required to be on an accessible route are not provided.
2. Accessible routes shall not be required to mezzanines provided that the building or facility has no more than one story, or where multiple stories are not connected by an accessible route as permitted by Section 1104.4.
3. A single accessible route is permitted to pass through a kitchen or storage room in an accessible dwelling unit.

1104.3.1 Employee work areas. Common use circulation paths within employee work areas shall be accessible routes.

Exceptions:

1. Common use circulation paths, located within employee work areas that are less than 300 square feet (27.9 m²) in size and defined by permanently installed partitions, counters, casework or furnishings, shall not be required to be accessible routes.

each of these child care rooms has an exit door directly to the exterior, shall be classified as Group E.

**SECTION 309
MERCANTILE GROUP M**

309.1 Mercantile Group M. Mercantile Group M occupancy includes, among others, buildings and structures or a portion thereof, for the display and sale of merchandise, and involves stocks of goods, wares or merchandise incidental to such purposes and accessible to the public. Mercantile occupancies shall include, but not be limited to, the following:

- Department stores
- Drug stores
- Markets
- Motor fuel-dispensing facilities
- Retail or wholesale stores
- Sales rooms

309.2 Quantity of hazardous materials. The aggregate quantity of nonflammable solid and nonflammable or noncombustible liquid hazardous materials stored or displayed in a single control area of a Group M occupancy shall not exceed the quantities in Table 414.2.4.

**SECTION 310
RESIDENTIAL GROUP R**

310.1 Residential Group R. Residential Group R includes, among others, the use of a building or structure, or a portion thereof, for sleeping purposes when not classified as an Institutional Group I. Residential occupancies shall include the following:

R-1 Residential occupancies where the occupants are primarily transient in nature, including:

- Boarding houses (transient)
- Hotels (transient)
- Motels (transient)

R-2 Residential occupancies containing sleeping units or more than two dwelling units where the occupants are primarily permanent in nature, including:

- Apartment houses
- Boarding houses (not transient)
- Convents
- Dormitories
- Fraternities and sororities
- Monasteries
- Vacation timeshare properties
- Hotels (nontransient)
- Motels (nontransient)

R-3 Residential occupancies where the occupants are primarily permanent in nature and not classified as R-1, R-2, R-4 or I and where buildings do not contain more than two dwelling units as applicable in Section 101.2, or adult and child care facilities that provide accommodations for five or fewer persons of any age for less than 24 hours. Adult and child care facilities that are within a single-family home are permitted to comply with the

International Residential Code in accordance with Section 101.2.

R-4 Residential occupancies shall include buildings arranged for occupancy as residential care/assisted living facilities including more than five but not more than 16 occupants, excluding staff.

Group R-4 occupancies shall meet the requirements for construction as defined for Group R-3 except as otherwise provided for in this code or shall comply with the *International Residential Code* in accordance with Section 101.2.

310.2 Definitions. The following words and terms shall, for the purposes of this section and as used elsewhere in this code, have the meanings shown herein.

BOARDING HOUSE. A building arranged or used for lodging for compensation, with or without meals, and not occupied as a single-family unit.

DORMITORY. A space in a building where group sleeping accommodations are provided in one room, or in a series of closely associated rooms, for persons not members of the same family group, under joint occupancy and single management, as in college dormitories or fraternity houses.

DWELLING UNIT. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

PERSONAL CARE SERVICE. The care of residents who do not require chronic or convalescent medical or nursing care. Personal care involves responsibility for the safety of the resident while inside the building.

RESIDENTIAL CARE/ASSISTED LIVING FACILITIES. A building or part thereof housing persons, on a 24-hour basis, who because of age, mental disability or other reasons, live in a supervised residential environment which provides personal care services. The occupants are capable of responding to an emergency situation without physical assistance from staff. This classification shall include, but not be limited to, the following: residential board and care facilities, assisted living facilities, halfway houses, group homes, congregate care facilities, social rehabilitation facilities, alcohol and drug abuse centers and convalescent facilities.

**SECTION 311
STORAGE GROUP S**

311.1 Storage Group S. Storage Group S occupancy includes, among others, the use of a building or structure, or a portion thereof, for storage that is not classified as a hazardous occupancy.

311.2 Moderate-hazard storage, Group S-1. Buildings occupied for storage uses which are not classified as Group S-2 including, but not limited to, storage of the following:

- Aerosols, Levels 2 and 3
- Aircraft repair hangar
- Bags; cloth, burlap and paper
- Bamboos and rattan
- Baskets

Gladys Ford
1563 Brentwood Dr.
Tray - 48098

Northfield Hills Condo

7-1-66

In response to your survey regarding the rezoning for a group home in a residential neighborhood -

I certainly would vote against the rezoning for several reasons but in large part because of the tremendous taxes we pay as homeowners.

Even the increase in traffic per day is a concern.

I'm sure with more investigation a more rural setting would be more satisfactory for all.

June 30, 2006

TO: John M. Lamerato, Acting City Manager

FROM: Brian Murphy, Assistant City Manager/Services
Steve Vandette, City Engineer 

SUBJECT: **Agenda Item** - Approval of Cost Participation Agreement for the Reconstruction of Crooks Road, Square Lake to M-59
Project No. 94.108.6

RECOMMENDATION

Staff recommends that City Council approve the attached Cost Participation Agreement with the Board of Road Commissioners for the County of Oakland for the reconstruction of Crooks Road, Square Lake to M-59. Furthermore, staff recommends that the Mayor and City Clerk be authorized to execute the agreement.

REVISED AGREEMENT INFORMATION

This item was previously presented to City Council at their meeting of June 19, 2006. Discussion of the project limits led to the postponement of the item until the regular City Council meeting of July 10, 2006 so that staff could review the project limits.

The agreement previously submitted was based on project limits previously established in MDOT Contract No. 06-5094 executed by the RCOC and MDOT. The MDOT contract is prepared before the project has been bid and is based on the best available information at the time it is prepared. This contract must be in place early on as it obligates the federal funds for the project and establishes the financial responsibilities of each party.

Staff has reviewed the MDOT contract along with the previous cost participation agreement with the RCOC. Attached is a revised agreement formalizing the cost sharing of the non-federally funded portions of the project along with the sharing of the local match between each party that is based on the as-bid construction plans. Since the construction phase has already started, we are able to use the actual construction documents, rather than previous estimates, which are traditionally used in these types of agreements.

By using the as-bid documents, the total length of the project is now described as 2.46 miles or an increase in the overall project length of 0.13 miles. The length of the project in Troy is 1.06 miles or 43% as compared to 1.11 miles and 48% previously. The length of the project in Rochester Hills is 1.40 miles or 57% as compared to 1.22 miles and 52% previously. The RCOC as the lead agency, is responsible for 50% of the local match in each community; therefore Troy's share of the local match is 22% while Rochester Hills share is 28% as compared to 24% and 26% previously. In addition to the 22% local match, non-participating local construction items (items ineligible to receive federal and/or state funding) which include sanitary sewer installation and street lighting in the City of

Troy (which are independent of the revised project length) make up the remainder of Troy's total project share of \$1,211,150 an apparent reduction in the local match for Troy of \$70,900 over the previous agreement.

While the use of the as-bid documents allows us to provide a more accurate representation of the project limits, the dollar amounts discussed are based on as-bid prices and amounts and are subject to change based on as constructed amounts. As-bid amounts are not as-constructed amounts and as such final construction costs are established at the conclusion of the construction phase after MDOT performs an audit of the project. The percentages established in the revised agreement will not change unless the project limits were to change during construction.

PROJECT INFORMATION

Crooks Road will be widened to a four-lane concrete boulevard from Square Lake Road to just south of M-59. The project will also include improvements at the Crooks/South Boulevard and Crooks/Auburn Road intersections. The Crooks Road project is currently under construction. The project will take two years to complete and is the single most expensive project ever undertaken by the Road Commission for Oakland County (RCOC). Final landscape and cleanup work is anticipated to be completed in the spring of 2008.

FUNDING

The total estimated project cost is \$19,040,000 as detailed in the attached "Exhibit A". Of this amount, Troy's share is \$1,211,150. We have reserved Tri-Party funds in the amount of \$779,900 from our 2002, 2003 and 2004 Tri-Party allocations to partially offset this cost. Troy is responsible for 1/3 of the Tri-Party allocation or \$259,966 with the remaining \$519,934 paid by the RCOC and the Oakland County Board of Commissioners. By reserving the past year's Tri-Party funds, Troy's actual share of the project is reduced to an estimated total amount of \$691,216 an overall net reduction of \$23,634 when compared to the previous agreement.

Funds for the City's share are included in the 2005-06 and 2006-07 Major Road Capital fund, account number 401479.7989.941086 as well as in the 2006-07 Water Fund and Sewer Fund, account numbers 555.7972.045015 and 535.7973.044015, respectively. The amounts include funds for construction, inspection and contingencies.

COST PARTICIPATION AGREEMENT

CONSTRUCTION

CROOKS ROAD

Square Lake Road to Highway M-59

In the

City of Troy and City of Rochester Hills

BOARD Project No. 47971

This Agreement, made and entered into this _____ day of _____, 2006, by and between the Board of Road Commissioners for the County of Oakland, Michigan, hereinafter referred to as the BOARD, the City of Troy, hereinafter referred to as TROY; and

WHEREAS, the BOARD, in cooperation with the Michigan Department of Transportation, hereinafter referred to as MDOT, the City of Rochester Hills, hereinafter referred to as ROCHESTER HILLS, and TROY have programmed the reconstruction and widening of Crooks Road, hereinafter referred to as the PROJECT; and

WHEREAS, for purposes of identification and funding, the PROJECT has been divided into the described limitations:

PART A – FEDERAL AND/OR STATE PARTICIPATION

Construction is described as 2.46 miles of hot mix asphalt and concrete pavement work along Crooks Road from Square Lake Road to approximately 2650 feet north of Auburn Road; including pavement removal, earthwork, storm sewer, water main repair, and traffic signal work; and all together with necessary related work. This work is eligible to receive federal and/or state funding.

PART B – NO FEDERAL OR STATE PARTICIPATION

The installation of sanitary sewer together with associated engineering and inspection services and street lighting installation within the City of Troy, defined as the distance of 1.06 miles located on Crooks Road from the centerline of the Square Lake Road intersection to the centerline of the South Boulevard Road intersection. This work is ineligible to receive federal and/or state funding.

PART C – NO FEDERAL OR STATE PARTICIPATION

The installation of water main together with associated engineering and inspection services within the City of Rochester Hills, defined as the distance of 1.40 miles located on Crooks Road from the centerline of the South Boulevard Road intersection to approximately 2650 feet north of Auburn Road. This work is ineligible to receive federal and/or state funding.

Part D – No Federal Participation

The removal of abandoned DTE Utilities located on Crooks Road within the PROJECT limits.

WHEREAS, the estimated total PROJECT cost is \$19,040,000; and

WHEREAS, the BOARD has executed MDOT Contract 06-5094 for partial funding of the PROJECT cost with Federal Equity Bonus Funds being used as Transportation Economic Development Funds, Category C Program; and

WHEREAS, the BOARD, as the requesting party therein, shall be the party financially responsible to MDOT to bear all costs of the PROJECT in excess of federal funds, hereinafter referred to as the LOCAL MATCH; and

WHEREAS, the total PROJECT cost shall also include items that are ineligible to receive federal funding as detailed in MDOT Contract 06-5094, hereinafter referred to as NON-PARTICIPATING items; and

WHEREAS, TROY'S share of said LOCAL MATCH, involves certain designated funding in accordance with the Tri-Party Program, in the amount of \$779,900, which amount shall be funded through equal contributions paid by the BOARD, TROY, and the Oakland County Board of Commissioners, hereinafter referred to as the COUNTY; and

WHEREAS, the parties hereto have reached a mutual understanding regarding cost sharing of the LOCAL MATCH and wish to commit that understanding to writing in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and in conformity with applicable law, it is hereby agreed between the parties hereto as follows:

1. TROY and ROCHESTER HILLS approve of the PROJECT, declare its public necessity, and authorize the BOARD and MDOT to forthwith undertake and complete the PROJECT, as above described, and to perform all engineering, inspection, and administration in reference thereto.
2. The actual total cost of the PROJECT may include total payments to the contractor, construction engineering, material testing and inspection, construction and permanent traffic controls, traffic signals, and utility relocation costs.
3. All cost of the LOCAL MATCH for Part A of the PROJECT shall be shared 50% by the BOARD, 22% by TROY, and 28% by ROCHESTER HILLS, respectively, as indicated in Exhibit A.
4. All contractor payments along with 15% associated engineering cost for Part B of the PROJECT, estimated in the amount of \$431,250, shall be funded entirely by TROY.

5. All contractor payments along with 15% associated engineering cost for Part C of the PROJECT, estimated in the amount of \$862,500, shall be funded entirely by ROCHESTER HILLS.
6. All contractor payments along with 15% associated engineering cost for Part D of the PROJECT, estimated in the amount of \$201,250, shall be funded entirely by the BOARD.
7. TROY'S 22% share of the estimated LOCAL MATCH for Part A of the PROJECT cost is \$779,900 and shall be funded in accordance with the following:
 - a. The cumulative Tri-Party allocations are estimated in the amount of \$779,900.
 - b. The BOARD shall credit the COUNTY'S Tri-Party contribution of \$259,967, together with the BOARD'S Tri-Party contribution in an amount equal thereto.
 - c. TROY may use any remaining available funds up to the total amount allocated to TROY for the 2004 Tri-Party Program to offset any overages, if necessary.
8. ROCHESTER HILLS' 28% share of the LOCAL MATCH for Part A, estimated in the amount of \$992,600, and Part C of the PROJECT cost, estimated in the amount of \$862,500 shall be funded under a separate Agreement with the BOARD.
9. Upon execution of this Agreement, the BOARD shall submit an invoice to TROY for \$345,608 (being half of TROY'S share of the PROJECT cost), as initial payment toward the PROJECT costs.
10. The BOARD shall invoice TROY and ROCHESTER HILLS periodically as additional costs accrue, after the initial payment has been expended.
11. Within 30 days upon completion of the PROJECT construction, the BOARD shall submit an estimated final invoice to TROY for the remainder of TROY'S share of the estimated total LOCAL MATCH.
12. The total actual LOCAL MATCH shall be determined from the records of the BOARD upon completion of state financial audits for the PROJECT and a final

determination of the total federal funds used toward the PROJECT costs. Final adjustments in the financial obligations of the parties hereto shall be made upon completion of the required audits.

- 13. TROY and ROCHESTER HILLS represent and warrant to the BOARD that they have sufficient funds available to pay their obligations under this Agreement and shall pay to the BOARD all sums due within 30 days of receipt of progress billings.
- 14. The PROJECT shall include restoration and vegetative stabilization of all medians. After growth is established, the CITY shall be responsible for maintenance of the boulevard medians. Additional landscape work shall be subject to applicable Road Commission for Oakland County permits.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and date first written above.

BOARD OF ROAD COMMISSIONERS FOR THE
COUNTY OF OAKLAND
A Public Body Corporate

By _____

Its _____

CITY OF TROY

By _____

Its _____

By _____

Its _____

EXHIBIT A

TRI-PARTY PROGRAM

County Supported Improvements

CROOKS ROAD

Square Lake Road to Highway M-59

In the

City of Troy and City of Rochester Hills

BOARD Project No. 47971

ESTIMATED PROJECT COST			
	Federally Funded Items	Items Ineligible for Federal Funds	TOTAL
Contractor Payments (based on Engineers Estimate)			
A. Road Construction	\$15,000,000	0	\$15,000,000
B. City of Troy Sanitary & Street Lighting Cost	0	\$ 375,000	375,000
C. City of Rochester Hills Water Main Cost	0	750,000	750,000
D. Abandoned Utility Removal	0	175,000	175,000
Construction Engineering (15% of contractors pymts)	2,250,000	195,000	2,445,000
Traffic Signal Force Account Work	261,000	0	261,000
DTE/MacLeod USA Utility Relocation Force Account Work	34,000	0	34,000
Total Project Cost	\$17,545,000	\$1,495,000	\$19,040,000
Less Federal Equity Bonus Funds (capped)	(11,712,817)		(11,712,817)
Less State TED Funds, Cat C (80% of eligible items after deduction of Federal Equity Bonus Funds)	(2,287,183)	0	(2,287,183)
LOCAL MATCH	\$ 3,545,000	\$1,495,000	\$ 5,040,000

DISTRIBUTION OF LOCAL MATCH				
		Part A	Parts B, C, D + 15%	Total Share(s)
BOARD	(50%)	\$1,772,500	(Part D) 201,250	\$1,973,750
TROY	(22%)	779,900	(Part B) 431,250	1,211,150
ROCHESTER HLS	(28%)	992,600	(Part C) 862,500	1,855,100
Total Local Match	(100%)	\$3,545,000	\$1,495,000	\$5,040,000

BREAKDOWN OF SHARES					
	ROCHESTER HLS	TROY	BOARD	COUNTY	TOTAL
Parts B, C, D + 15% for CE	\$ 862,500	\$431,250	\$ 201,250	\$ 0	\$1,495,000
28% & 50% of Part A	992,600	0	1,772,500	0	2,765,100
2002 Tri-Party Program (22% of Part A)	0	47,007	47,007	47,007	141,021
2003 Tri-Party Program (22% of Part A)	0	117,242	117,242	117,242	351,726
2004 Tri-Party Program (22% of Part A)	0	95,717	95,718	95,718	287,153
Total Shares	\$1,855,100	\$691,216	\$2,233,717	\$259,967	\$5,040,000

June 27, 2006

TO: John M. Lamerato, Acting City Manager

FROM: Brian P. Murphy, Asst. City Manager/Services
Steve Vandette, City Engineer 
John K. Abraham, Traffic Engineer 

SUBJECT: Agenda Item – Postponed Item

This item was postponed at the City Council meeting of June 19, 2006. Since that time the Traffic Committee reconsidered the matter at their meeting of June 21, 2006, and made the following recommendation for City Council approval.

1. To recommend that a YIELD sign be installed on Ivanhoe at Sweet.



TO: Members of the Troy City Council
FROM: Lori Grigg Bluhm, City Attorney
DATE: June 20, 2006
SUBJECT: Proposed Revisions to DDA By-Laws

At the June 1, 2006 meeting, the Downtown Development Authority approved recommended amendments to their By-Laws, as well as adopted new Rules of Procedure. These amendments were made to separate the Rules of Procedure from the By-laws. These changes were forwarded to City Council at their June 19, 2006 meeting. At that time, City Council informally recommended a revision that would retain the Quorum section of the By-laws. A Quorum section that mirrors the current By-laws language is now contained in the Rules of Procedure. In addition, some members of Council requested a change to the By-laws concerning the required number of votes for any action. Currently, the DDA By-laws provide that a majority of DDA members present at a meeting can take action on behalf of the DDA. Some Council members opined that the By-laws should be modified to require a majority of the total DDA membership for any action to be taken. City Council postponed action on this item until July 10, 2006, in order to provide the DDA with the opportunity to review the recommended modifications prior to City Council action.

The DDA considered the proposed modifications at the June 21, 2006 meeting. There was no motion to modify the proposed By-laws. Several members opined that the existing voting requirements of the DDA should remain intact, especially since the DDA is primarily an advisory body to the City Council. Some members of the DDA were concerned that an elevation in the voting requirements could impede the DDA's ability to move things forward from any meeting where there were vacant DDA positions.

The same version of the By-laws must be approved

For your convenience, enclosed please find a red line version of the proposed by-laws amendments as recommended by the DDA on June 1, 2006. In addition, enclosed please find a copy of the DDA By-laws that assumes that the proposed amendments will be approved.

Please let me know if you have any questions concerning the above.

CITY OF TROY
DOWNTOWN DEVELOPMENT AUTHORITY
BOARD OF DIRECTORS

BY-LAWS ~~AND RULES OF PROCEDURE~~

The purpose of the following By-Laws is to establish the rules of operation for the Board of Directors. ~~In addition to establishing procedure,~~ The By-Laws also describe the organizational framework of the Board of Directors, and, in general terms, define the duties and responsibilities of the Board of Directors.

City of Troy
Downtown Development Authority
Board of Directors

By-Laws ~~and Rules of Procedure~~

ARTICLE I: AUTHORITY

The ~~By-laws and~~ rules and procedures of the City of Troy Downtown Development Authority Board of Directors are subordinate and subject to the Public Act 197 of 1975 of the State of Michigan, as amended, and Ordinance No. 78, of the City of Troy, Michigan.

ARTICLE II: TITLE

The title of the governing body of the Downtown Development Authority as established by the City Council of the City of Troy shall be the "Troy Downtown Development Authority", or "BOARD".

ARTICLE III: MEMBERS

Section 1. Membership

The BOARD shall be composed of the following thirteen (13) members: The Mayor of the City of Troy and twelve (12) persons who shall be appointed by the Mayor; each appointment to the BOARD is subject to approval by a majority vote of the City Council of the City of Troy. At least seven (7) members of the BOARD shall have a property interest in the Downtown Development District.

Section 2. Term of Office

The terms of office of the members of the BOARD shall begin immediately upon their appointment. The term of office of each member of the BOARD shall be four (4) years, except that in the case of the first BOARD appointed hereunder, three (3) of the members shall be appointed for a term of one (1) year, three (3) for a term of two (2) years, three (3) for a term of three (3) years and three (3) for a term of four (4) years. All members shall continue to hold office until their successors are appointed. Vacancies occurring through other than the normal expiration of the term of appointment shall be filled for the unexpired term by the Mayor and the City of Troy, subject to approval by a majority of the City Council.

Section 3. Removal

Members of the BOARD may be removed from office by the City Council for cause.

ARTICLE IV: OFFICERS AND PERSONNEL

Section 1. Officers

The officers of the BOARD shall be:

- A. **Chairman:** The Chairman shall preside at all meetings and shall have such other duties as further prescribed in the By-Laws, and shall have authority to preside at all Adjourned Meetings and call and preside at all Special Meetings.
- B. **Vice-Chairman:** The Vice-Chairman shall, in the absence of the Chairman or his/her inability to act, preside at all Regular, Adjourned, or Special Meetings, public hearings, and committee meetings of the BOARD and shall have the power to function in the same capacity as the Chairman.
- C. **Secretary:** The Secretary shall have authority to execute documents in the name of the BOARD and shall perform such other duties as the BOARD may, from time to time, determine. The Secretary is not required to be a member of the BOARD.
- D. **Treasurer:** The Treasurer shall disburse the funds of the Authority as may be ordered by the BOARD, taking proper vouchers for such disbursements, and shall render to the BOARD, at the regular meetings of the BOARD, or whenever they may require, an account of all transactions as Treasurer and of the financial condition of the Authority. The Treasurer is not required to be a member of the BOARD. The Treasurer shall give the Authority a bond, if required by the BOARD in a sum, and with one or more sureties satisfactory to the BOARD, for the faithful performance of the duties of the office, and for the restoration to the Authority in case of his/her death, resignation, retirement, or removal from office of all books, papers, vouchers, money, and other property of whatever kind in his/her possession or under his/her control belonging to the Authority.

Section 2. Terms

Each officer of the BOARD shall be elected annually by a majority of the BOARD for a one-year term by the BOARD at their first regular meeting in ~~January~~ October, and shall hold office until a successor is elected and assumes office.

Section 3. Delegation of Duties

In the absence of an officer of the Authority, or for any other reason that the BOARD may deem sufficient, the BOARD may delegate, from time to time and for such time as it may deem appropriate, the powers or duties, or any of them,

of such officer to any other officer, or to any director, provided that said duties are delegated by a majority vote of the BOARD.

Section 4. Executive Director

The Executive Director for the BOARD shall be the City Manager of the City of Troy or ~~the City Manager~~, the BOARD may designate a qualified person as Executive Director to perform the duties of the office. The Executive Director shall function as the chief executive officer and business manager of the BOARD. The Executive Director shall supervise the preparations of plans and the performance of the functions of the Authority in the manner authorized by the State Act. The Director shall attend all meetings of the BOARD and shall have full right of discussion, but shall not have a vote on any matters coming before the BOARD. The Director shall be responsible for preparation of the budget of the Board and shall render to the Board and the City Council a regular report covering the activities and the financial condition of the Authority.

Section 5. City Personnel

The BOARD shall make use of appropriate City personnel and consultants, including the City Attorney, City Engineer, and City Planner. The City shall be reimbursed by the BOARD for any and all additional costs incurred by the City because of the operation of the Authority. The BOARD may contract for additional services or employ personnel or consultants other than those appointed to serve the City following approval of the City Council.

ARTICLE V: MEETINGS

Section 1. Times and Dates

At the annual meeting, the BOARD shall determine the date, time and place of each regular meeting of the BOARD for the ensuing year. Any regular meeting may be adjourned to a definite date or alternate site, by a majority vote of a quorum of the members. Adjourned or special meetings may be held at any time or place established by the BOARD. Notice of all meetings shall be provided as required by State law. Special meetings shall be subject to the call of the Chairman, acting Chairman or Executive Director. A special meeting may also be called upon the written request of seven (7) members of the BOARD.

~~ARTICLE VI: THE ORDER OF BUSINESS~~

~~Section 1. Regular Meetings~~

~~The order of business for a Regular Meeting shall be:~~

- ~~1. Call to order by Chairman or Vice-Chairman.~~

- ~~2. Roll call.~~
- ~~3. Determination of a quorum.~~
- ~~4. Approval of Minutes of last preceding meeting.~~
- ~~5. Hearings.~~
- ~~6. Old business.~~
- ~~7. New business.~~
- ~~8. Adjournment.~~

Section 2. Chairman's Discretion

~~The Chairman shall have the discretion to change the order of business whenever he or she deems it advisable to do so either before or during the progress of the meeting.~~

Section 3. Annual Meeting

~~The order of business for the Annual Meeting, to be the BOARD'S first Regular Meeting in January, shall be:~~

- ~~1. Call to order by Chairman or Vice-Chairman.~~
- ~~2. Roll call.~~
- ~~3. Determination of a quorum.~~
- ~~4. Election of new Chairman.~~
- ~~5. Taking of Chair by new Chairman.~~
- ~~6. Election of other officers.~~
- ~~7. Establishing of regular meeting dates, time and location.~~
- ~~8. Regular order of business.~~

ARTICLE VII: QUORUM

~~For the transaction of ordinary business at any Regular Meeting, adjourned meeting, or special meeting, seven (7) members shall constitute a quorum. Except as otherwise stated in these By-Laws, an affirmative vote of a majority of the members present at a duly called meeting of the BOARD shall be necessary in order to make a decision.~~

ARTICLE VIII: MINUTES

Section 1: Responsibility

~~The Secretary of the BOARD shall be responsible for ensuring that a complete and accurate set of Minutes for all regular, adjourned or special meetings where official business was transacted is prepared. These Minutes shall become a matter of public record, shall be kept in a separate Minute book, and shall be placed on file with the City Clerk.~~

Section 2. Signatures

~~The Secretary and the Chairman shall sign all Minutes, after approval by the BOARD members, at the next official meeting.~~

ARTICLE ~~VI~~ IX: COMMITTEES

There may be special committees established by the BOARD as the BOARD may deem necessary. Membership of these committees may be from within or outside of the membership of the BOARD.

ARTICLE ~~VII~~ X: AMENDMENT OF BY-LAWS

These By-Laws may be changed or added to by the affirmative vote of seven (7) members. No amendment shall be discussed and adopted unless a written notice to amend the By-Laws shall be filed with the Secretary at the Regular Meeting preceding the meeting at which the motion to change is to be made. This requirement may be waived by the BOARD by a unanimous vote of the full BOARD. Any amendment to these By-Laws is subject to approval by the City Council of the City of Troy.

ARTICLE ~~VIII~~ XI: CONTRACTS, LOANS, CHECKS AND DEPOSITS

Section 1. Contracts

The BOARD may authorize by resolution, adopted by an affirmative vote of seven (7) members, that the Executive Director may enter into any contract or execute and deliver any instrument in the name of and on behalf of the BOARD and that such authorization may be general or confined to specific instances.

Section 2. Loans

Any funds expended by the City of Troy on behalf of the BOARD or on any related function of the Downtown Development Authority, including costs of organization, shall be considered a debt of the BOARD, shall be noted in the books of account of the BOARD and the City, and shall be repaid to the City as appropriate funds become available to the BOARD.

Section 3. Payments

All checks, drafts, or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the BOARD, shall be signed manually or by an approved facsimile signature by such office or officers, agent or agents of the BOARD and in such manner as shall from time to time be determined by resolution of the BOARD.

Section 4. Deposits

All funds of the Authority not otherwise employed shall be deposited from time to time to the credit of the Authority by the Treasurer in such banks, trust companies or other depositories as the BOARD may designate.

ARTICLE ~~IX~~ ~~XII~~: REPRESENTATION AND INDEMNIFICATION

The members of the City of Troy Downtown Development Authority shall be represented and indemnified for claims and civil action made against them as provided for elected and appointed officials and employees of the City in Chapter 4, Section 10, of the Troy City Code.

ARTICLE ~~XIII~~: FISCAL YEAR

The fiscal year of the Authority shall correspond at all times to the fiscal year of the City of Troy, Oakland County, Michigan.

ARTICLE XI: PARLIAMENTARY AUTHORITY

The Troy Downtown Development Authority adopts Roberts Rules of Order, latest edition, as its parliamentary authority, except as preempted by City Charter or City Code or as modified by the Rules of Procedure adopted by the BOARD.

~~ARTICLE XIV: CERTIFICATION~~

~~The undersigned, being, respectively, the duly appointed and acting Clerk of the City of Troy, Oakland County, Michigan, and the duly appointed and acting Secretary of the Downtown Development Authority of the City of Troy, do hereby certify that the foregoing By-Laws were adopted by the Board of Directors of the City of Troy Downtown Development Authority at a meeting of the Board on _____, 2006, and approved at a regular meeting of the City Council of the City of Troy on _____, 2006.~~

City Clerk

DDA Secretary

The undersigned, being, respectively, the duly appointed and acting Clerk of the City of Troy, Oakland County, Michigan, and the duly appointed and acting Secretary of the Downtown Development Authority of the City of Troy, do hereby certify that the foregoing By-Laws were adopted by the Board of Directors of the City of Troy Downtown Development Authority at a meeting of the Board on _____, 2006, and approved at a regular meeting of the City Council of the City of Troy on _____, 2006.

City Clerk

DDA Secretary

Amended: March 15, 2006- DDA
May 8, 2006- City Council

Clean Copy of By-laws- if amended as recommended

CITY OF TROY
DOWNTOWN DEVELOPMENT AUTHORITY
BOARD OF DIRECTORS

BY-LAWS

The purpose of the following By-Laws is to establish the rules of operation for the Board of Directors. The By-Laws also describe the organizational framework of the Board of Directors, and, in general terms, define the duties and responsibilities of the Board of Directors.

City of Troy
Downtown Development Authority
Board of Directors

By-Laws

ARTICLE I: AUTHORITY

The By-laws and rules and procedures of the City of Troy Downtown Development Authority Board of Directors are subordinate and subject to the Public Act 197 of 1975 of the State of Michigan, as amended, and Ordinance No. 78, of the City of Troy, Michigan.

ARTICLE II: TITLE

The title of the governing body of the Downtown Development Authority as established by the City Council of the City of Troy shall be the "Troy Downtown Development Authority", or "BOARD".

ARTICLE III: MEMBERS

Section 1. Membership

The BOARD shall be composed of the following thirteen (13) members: The Mayor of the City of Troy and twelve (12) persons who shall be appointed by the Mayor; each appointment to the BOARD is subject to approval by a majority vote of the City Council of the City of Troy. At least seven (7) members of the BOARD shall have a property interest in the Downtown Development District.

Section 2. Term of Office

The terms of office of the members of the BOARD shall begin immediately upon their appointment. The term of office of each member of the BOARD shall be four (4) years, except that in the case of the first BOARD appointed hereunder, three (3) of the members shall be appointed for a term of one (1) year, three (3) for a term of two (2) years, three (3) for a term of three (3) years and three (3) for a term of four (4) years. All members shall continue to hold office until their successors are appointed. Vacancies occurring through other than the normal expiration of the term of appointment shall be filled for the unexpired term by the Mayor and the City of Troy, subject to approval by a majority of the City Council.

Section 3. Removal

Members of the BOARD may be removed from office by the City Council for cause.

ARTICLE IV: OFFICERS AND PERSONNEL

Section 1. Officers

The officers of the BOARD shall be:

- A. **Chairman:** The Chairman shall preside at all meetings and shall have such other duties as further prescribed in the By-Laws, and shall have authority to preside at all Adjourned Meetings and call and preside at all Special Meetings.
- B. **Vice-Chairman:** The Vice-Chairman shall, in the absence of the Chairman or his/her inability to act, preside at all Regular, Adjourned, or Special Meetings, public hearings, and committee meetings of the BOARD and shall have the power to function in the same capacity as the Chairman.
- C. **Secretary:** The Secretary shall have authority to execute documents in the name of the BOARD and shall perform such other duties as the BOARD may, from time to time, determine. The Secretary is not required to be a member of the BOARD.
- D. **Treasurer:** The Treasurer shall disburse the funds of the Authority as may be ordered by the BOARD, taking proper vouchers for such disbursements, and shall render to the BOARD, at the regular meetings of the BOARD, or whenever they may require, an account of all transactions as Treasurer and of the financial condition of the Authority. The Treasurer is not required to be a member of the BOARD. The Treasurer shall give the Authority a bond, if required by the BOARD in a sum, and with one or more sureties satisfactory to the BOARD, for the faithful performance of the duties of the office, and for the restoration to the Authority in case of his/her death, resignation, retirement, or removal from office of all books, papers, vouchers, money, and other property of whatever kind in his/her possession or under his/her control belonging to the Authority.

Section 2. Terms

Each officer of the BOARD shall be elected annually by a majority of the BOARD for a one-year term by the BOARD at their first regular meeting in October, and shall hold office until a successor is elected and assumes office.

Section 3. Delegation of Duties

In the absence of an officer of the Authority, or for any other reason that the BOARD may deem sufficient, the BOARD may delegate, from time to time and for such time as it may deem appropriate, the powers or duties, or any of them,

of such officer to any other officer, or to any director, provided that said duties are delegated by a majority vote of the BOARD.

Section 4. Executive Director

The Executive Director for the BOARD may be the City Manager of the City of Troy or the BOARD may designate a qualified person as Executive Director to perform the duties of the office. The Executive Director shall function as the chief executive officer and business manager of the BOARD. The Executive Director shall supervise the preparations of plans and the performance of the functions of the Authority in the manner authorized by the State Act. The Director shall attend all meetings of the BOARD and shall have full right of discussion, but shall not have a vote on any matters coming before the BOARD. The Director shall be responsible for preparation of the budget of the Board and shall render to the Board and the City Council a regular report covering the activities and the financial condition of the Authority.

Section 5. City Personnel

The BOARD shall make use of appropriate City personnel and consultants, including the City Attorney, City Engineer, and City Planner. The City shall be reimbursed by the BOARD for any and all additional costs incurred by the City because of the operation of the Authority. The BOARD may contract for additional services or employ personnel or consultants other than those appointed to serve the City following approval of the City Council.

ARTICLE V: MEETINGS

Section 1. Times and Dates

At the annual meeting, the BOARD shall determine the date, time and place of each regular meeting of the BOARD for the ensuing year. Any regular meeting may be adjourned to a definite date or alternate site, by a majority vote of a quorum of the members. Adjourned or special meetings may be held at any time or place established by the BOARD. Notice of all meetings shall be provided as required by State law. Special meetings shall be subject to the call of the Chairman, acting Chairman or Executive Director. A special meeting may also be called upon the written request of seven (7) members of the BOARD.

ARTICLE VI : COMMITTEES

There may be special committees established by the BOARD as the BOARD may deem necessary. Membership of these committees may be from within or outside of the membership of the BOARD.

ARTICLE VII: AMENDMENT OF BY-LAWS

These By-Laws may be changed or added to by the affirmative vote of seven (7) members. No amendment shall be discussed and adopted unless a written notice to amend the By-Laws shall be filed with the Secretary at the Regular Meeting preceding the meeting at which the motion to change is to be made. This requirement may be waived by the BOARD by a unanimous vote of the full BOARD. Any amendment to these By-Laws is subject to approval by the City Council of the City of Troy.

ARTICLE VIII: CONTRACTS, LOANS, CHECKS AND DEPOSITS

Section 1. Contracts

The BOARD may authorize by resolution, adopted by an affirmative vote of seven (7) members, that the Executive Director may enter into any contract or execute and deliver any instrument in the name of and on behalf of the BOARD and that such authorization may be general or confined to specific instances.

Section 2. Loans

Any funds expended by the City of Troy on behalf of the BOARD or on any related function of the Downtown Development Authority, including costs of organization, shall be considered a debt of the BOARD, shall be noted in the books of account of the BOARD and the City, and shall be repaid to the City as appropriate funds become available to the BOARD.

Section 3. Payments

All checks, drafts, or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the BOARD, shall be signed manually or by an approved facsimile signature by such office or officers, agent or agents of the BOARD and in such manner as shall from time to time be determined by resolution of the BOARD.

Section 4. Deposits

All funds of the Authority not otherwise employed shall be deposited from time to time to the credit of the Authority by the Treasurer in such banks, trust companies or other depositories as the BOARD may designate.

ARTICLE IX: REPRESENTATION AND INDEMNIFICATION

The members of the City of Troy Downtown Development Authority shall be represented and indemnified for claims and civil action made against them as

provided for elected and appointed officials and employees of the City in Chapter 4, Section 10, of the Troy City Code.

ARTICLE X: FISCAL YEAR

The fiscal year of the Authority shall correspond at all times to the fiscal year of the City of Troy, Oakland County, Michigan.

ARTICLE XI: PARLIAMENTARY AUTHORITY

The Troy Downtown Development Authority adopts Roberts Rules of Order, latest edition, as its parliamentary authority, except as preempted by City Charter or City Code or as modified by Rules of Procedure adopted by the BOARD.

CERTIFICATION

The undersigned, being, respectively, the duly appointed and acting Clerk of the City of Troy, Oakland County, Michigan, and the duly appointed and acting Secretary of the Downtown Development Authority of the City of Troy, do hereby certify that the foregoing By-Laws were adopted by the Board of Directors of the City of Troy Downtown Development Authority and approved at a regular meeting of the City Council of the City of Troy on October 14, 1993.

Amended: March 15, 2006- DDA
May 8, 2006- City Council

A Regular Meeting of the Troy City Council was held Monday, June 19, 2006, at City Hall, 500 W. Big Beaver Road. Mayor Schilling called the Meeting to order at 7:31 P.M.

Pastor Jim Loller of First Baptist Church gave the Invocation and the Pledge of Allegiance to the Flag was given.

E-02

ROLL CALL:

Mayor Louise E. Schilling
Robin Beltramini
Cristina Broomfield
Wade Fleming
Martin F. Howrylak
David A. Lambert
Jeanne M. Stine

CERTIFICATES OF RECOGNITION:

A-1 Presentations:

- a) John Pappageorge introduced members of St. Nicholas Greek Orthodox Church and provided a brief presentation regarding the upcoming 13th Annual Opa! Fest scheduled from Friday, June 23rd through Sunday, June 25th. John Pappageorge also formally announced that he is a candidate for State Senator-13th District in the August 8, 2006 State Primary Election.

CARRYOVER ITEMS:

B-1 No Carryover Items

PUBLIC HEARINGS:

C-1 Rezoning Application (File No: Z 717) – Proposed Medical/General Office Building, Northwest Corner of Lovell and Rochester Road, Section 3 – R-1C to O-1

The Mayor opened the Public Hearing for public comment. The Mayor closed the Public Hearing after receiving comment from the petitioner and from the public.

Resolution
Moved by Fleming
Seconded by Broomfield

RESOLVED, That the R-1C to O-1 rezoning request, located on the northwest corner of Lovell and Rochester, in Section 3, part of parcel 88-20-03-226-104, being 0.994 acres in size, is described in the following legal description and illustrated on the attached Certificate of Survey drawing:

T2N, R11E, NE ¼ of the NE ¼ of Section 3

Commencing at the East ¼ Corner of said Section 3; thence N 01°46'00" W (Recorded as N 01°21'08" W) along the east line of Section 3, 1831.21 ft. and S 88°38'24" W, 80.00 ft. to the Point of Beginning being at the intersection of the west line of Rochester Rd. (M-150) and the north line of Lovell Ave.; thence continuing S 88°38'24" W, along the north line of Lovell Ave., 221.00 ft.; thence N 01°46'00" W, 195.90 ft.; thence N 88°38'24" E (Recorded as N 89°03'37" E), 221.00 ft. to the west line of Rochester Rd.; thence S 01°46'00" E along said west line, 195.90 ft. to the Point of Beginning. Containing 0.994 ac., more or less, and subject to easements and restrictions of record; and

BE IT FINALLY RESOLVED, That the proposed rezoning is hereby **GRANTED**, as recommended by City Management and the Planning Commission.

Vote on Resolution to Postpone

Resolution #2006-06-259

Moved by Beltramini

Seconded by Howrylak

RESOLVED, That Troy City Council hereby **POSTPONES** *C-1 Rezoning Application File No. Z-717 for proposed Medical/General Office Building, Northwest Corner of Lovell and Rochester Road, Section 3 – R-1C to O-1* until the Regular City Council Meeting scheduled for Monday, August 14, 2006 or until such time the Binson's Home Health Care Center comes back before City Council, or until whichever event occurs first.

Yes: Schilling, Beltramini, Howrylak, Lambert, Stine

No: Broomfield, Fleming

MOTION CARRIED

C-2 Rezoning Application (File No: Z 718) – Proposed Curves, West Side of Livernois, Between Maple and Kirts, Section 28 – O-1 to B-3

The Mayor opened the Public Hearing for public comment. The Mayor closed the Public Hearing after receiving comment from the public.

Resolution #2006-06-260

Moved by Beltramini

Seconded by Howrylak

RESOLVED, That the O-1 to B-3 rezoning request, located on the west side of Livernois, between Maple and Kirts, in Section 28, part of parcel 88-20-28-478-030, being 14,250 square feet in size, is described in the following legal description and illustrated on the attached Certificate of Survey drawing:

T2N, R11E, SE ¼ of Section 28

The North 95 ft. of the South 330 ft. of the West 150 ft. of the East 183 ft. of the Southeast ¼ of Section 28. Containing 0.33 ac., more or less, and subject to easements and restrictions of record; and

BE IT FINALLY RESOLVED, That the proposed rezoning is hereby **GRANTED**, as recommended by City Management and the Planning Commission.

Yes: All-7

MOTION CARRIED

POSTPONED ITEMS:

D-1 Rezoning Application (File No. Z 704) – Proposed Dunkin Donuts, South Side of Vanderpool, West of Rochester Road and East of Ellenboro, Section 22 – R-1E to B-2

POSTPONED until August 14, 2006 at the request of the petitioner due to illness.

CONSENT AGENDA:

E-1a Approval of “E” Items NOT Removed for Discussion

Resolution #2006-06-261
Moved by Lambert
Seconded by Broomfield

RESOLVED, That all items as presented on the Consent Agenda are hereby **APPROVED** as presented with the exception of Items E-4c, E-5, E-8, E-9, E-10, which shall be considered after Consent Agenda (E) items, as printed.

Yes: All-7

MOTION CARRIED

E-2 Approval of City Council Minutes

Resolution #2006-06-261-E-2

RESOLVED, That the Minutes of the 7:30 PM Regular City Council Meeting of June 5, 2006; the Minutes of the 8:00 AM Special City Council Meeting of June 10, 2006 and the Minutes of the 2:00 PM Special City Council Meeting of June 11, 2006 be **APPROVED** as submitted.

E-3 City of Troy Proclamation:

Resolution #2006-06-261-E-3

RESOLVED, That the following City of Troy Proclamation be **APPROVED**:

- a) Parks and Recreation Month – July 2006
-

E-4 Standard Purchasing Resolutions

- a) **Standard Purchasing Resolution 10: Travel Authorization and Approval to Expend Funds for Troy City Council Members' Travel Expenses – Michigan Municipal League (MML) 2006 Convention**

Resolution #2006-06-261-E-4a

RESOLVED, That those Council Members interested are **AUTHORIZED** to attend the 2006 MML Convention, September 27 – 29, 2006, in Marquette, Michigan in accordance with accounting procedures of the City of Troy.

- b) **Standard Purchasing Resolution 8: Best Value Award Photographic Services**

Resolution #2006-06-261-E-4b

RESOLVED, That a contract to provide three (3) year requirements of Photographic Services with an option to renew for three (3) additional years is hereby **AWARDED** to Laura Freeman Photography of Dearborn, MI, the highest scoring respondent as a result of a Best Value process, which the Troy City Council determines to be in the public interest at unit prices contained in the tabulation opened May 17, 2006, for an estimated cost of \$24,070.00 per year, which includes \$1,000.00 for insurance, with a contract expiration of June 30, 2009; and

BE IT FURTHER RESOLVED, That the award is **CONTINGENT** upon contractor submission of proper contract and proposal documents, including insurance certificates and all other specified requirements.

- d) **Standard Purchasing Resolution 1: Award to Low Bidder Contract 06-5 Charnwood Hills Sanitary Sewer Phase I**

Resolution #2006-06-261-E-4d

RESOLVED, That Contract No. 06-5, Charnwood Hills Sanitary Sewer Phase I, be **AWARDED** to Tyger Excavating, Inc., 52188 Van Dyke, Suite 211, Shelby Township, MI 48316 at an estimated total cost of \$1,379,570.00; and

BE IT FURTHER RESOLVED, That the award is **CONTINGENT** upon submission of proper contract and bid documents, including bonds, insurance certificates and all specified requirements, and if additional work is required such additional work is **AUTHORIZED** in an amount not to exceed 10% of the total project cost; and

BE IT FINALLY RESOLVED, That the sewer benefit fee for Charnwood Sanitary Sewers Phase I, as provided for in Chapter 20 of the Troy City Code and revised by Resolution #2005-04-189, be \$16,268.51 based on the total cost of the sewer extension, including engineering and contingency, divided by 106 existing and potential lots derived from lot splits that benefit from the sewer improvements.

E-6 Sole Source Purchase – Deep Slicer Cassette Kit

Resolution #2006-06-261-E-6

WHEREAS, Weingartz Golf and Turf of Farmington Hills is the sole distributor of Supa equipment in Michigan; and

WHEREAS, To improve golf course conditions and playability of the greens during the hot, dry summer months, it is necessary to purchase the Supa deep slicer cassette kit to retrofit the Supa Verticuter System already in service;

THEREFORE, BE IT RESOLVED, That the City of Troy Parks and Recreation Department is **AUTHORIZED** to purchase the Supa deep slicer cassette kit from Weingartz Golf and Turf of Farmington Hills, Michigan at a cost of \$3,200.00 for an estimated grand total for the Supa Verticuter System of \$10,700.00.

E-7 Acceptance of Private Road Agreement and Permanent Easement for Emergency Ingress/Egress, Mondrian Properties Weston Downs, L.L.C. Sidwell #88-20-21-102-020 – Project No. 01.912.3

Resolution #2006-06-261-E-7

RESOLVED, That the Private Road Agreement and Permanent Easement for Emergency Ingress/Egress from Mondrian Properties Weston Downs, L.L.C., owner of property having Sidwell #88-20-21-102-020, are hereby **ACCEPTED**; and

BE IT FURTHER RESOLVED, That the Mayor and City Clerk are **AUTHORIZED TO SIGN** said Private Road Agreement on behalf of the City of Troy; and

BE IT FINALLY RESOLVED, That the City Clerk is hereby **DIRECTED TO RECORD** said agreement and easement with the Oakland County Register of Deeds, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

E-1b Address of “E” Items Removed for Discussion by City Council and/or the Public

c) Standard Purchasing Resolution 8: Best Value Award – Sale of 3236 Rochester Road

Resolution #2006-06-262

Moved by Howrylak

Seconded by Beltramini

RESOLVED, That a contract to sell surplus real estate parcel #20-23-304-019 located at 3236 Rochester Road is hereby **AWARDED** to the sole bidder, Maged & Nevein Michail of Troy, MI at a total cost of \$355,000.00, as listed on the bid tabulation opened June 8, 2006, **CONTINGENT** upon the purchaser(s) securing a bank loan; and

BE IT FURTHER RESOLVED, That the Real Estate and Development Department may **EXPEND** the necessary funds for title insurance and recordings to close and record this real estate parcel; and

THEREFORE, BE IT RESOLVED, That the Mayor and City Clerk are **AUTHORIZED TO SIGN** a warranty deed to be delivered at closing.

Yes: All-7

MOTION CARRIED

E-5 Request for Approval of Cost Participation Agreement for the Reconstruction of Crooks Road, Square Lake to M-59 – Project No. 94.108.6

Resolution #2006-06-263a
Moved by Howrylak
Seconded by Beltramini

RESOLVED, That Troy City Council hereby **POSTPONES** *E-5 Request for Approval of Cost Participation Agreement for the Reconstruction of Crooks Road, Square Lake to M-59 – Project No. 94.108.6* until the Regular City Council Meeting scheduled for Monday, July 10, 2006.

Yes: All-7

E-8 Application for Transfer of Class C License for Hooters of Troy

(a) New License

Resolution #2006-06-264a
Moved by Beltramini
Seconded by Schilling

RESOLVED, That the request from Hooters of Troy, Inc., (a Georgia Corporation) to transfer ownership of a 2005 Class C licensed business with outdoor service (1 area) located at 2950 Rochester, Troy, MI 48083, Oakland County from Sign of the Beefcarver, Inc., and the request for a new entertainment permit be **CONSIDERED** for **APPROVAL**; and

BE IT FURTHER RESOLVED, That it is the consensus of this legislative body that the application **BE RECOMMENDED** for issuance.

Yes: Stine, Schilling, Beltramini

No: Lambert, Broomfield, Fleming, Howrylak

MOTION FAILED

(b) Agreement

Resolution #2006-06-264b

Moved by Beltramini

Seconded by Schilling

WHEREAS, The City Council of the City of Troy deems it necessary to enter agreements with applicants for liquor licenses for the purpose of providing civil remedies to the City of Troy in the event licensees fail to adhere to Troy Codes and Ordinances;

THEREFORE, BE IT RESOLVED, That the City Council of the City of Troy hereby **APPROVES** an agreement with Hooters of Troy, Inc., (a Georgia Corporation) to transfer ownership of a 2005 Class C licensed business with outdoor service (1 area) located at 2950 Rochester, Troy, MI 48083, Oakland County from Sign of the Beefcarver, Inc., and request a new entertainment permit and the Mayor and City Clerk are hereby **AUTHORIZED TO EXECUTE** the document, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

Yes: Stine, Schilling, Beltramini

No: Lambert, Broomfield, Fleming, Howrylak

MOTION FAILED

E-9 Sale of Rochester Road Remnant Parcel #20-22-426-057, Section 22, All of Lot 42, and Part of Lots 43 and 45 of Supervisors Plat #17

POSTPONED until the Regular City Council Meeting scheduled for Monday, August 14, 2006.

E-10 2005-2006 Budget Amendment No. 3

Resolution #2006-06-265

Moved by Beltramini

Seconded by Stine

RESOLVED, That the 2005-06 Budget Amendment No. 3 be **APPROVED** as submitted and that a copy of the budget amendment be **ATTACHED** to the original Minutes of this meeting.

Yes: All-7

MOTION CARRIED

The meeting **RECESSED** at 8:57 P.M.

The meeting **RECONVENED** at 9:11 P.M.

Council Member Stine departed at 9:20 P.M.

PUBLIC COMMENT: Limited to Items Not on the Agenda

REGULAR BUSINESS:

F-4 Bi-Annual 2006 Part-time Wage Survey and Recommendations

Resolution #2006-06-266
Moved by Lambert
Seconded by Fleming

RESOLVED, That the recommendations presented in the 2006 Part-Time Wage Recommendations are hereby **APPROVED**, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

Yes: All-6
No: None
Absent: Stine

MOTION CARRIED

F-1 Appointments to Boards and Committees: a) Mayoral Appointments: Local Development Finance Authority (LDFA) b) City Council Appointments: Municipal Building Authority and Personnel Board

(a) Mayoral Appointments

Resolution #2006-06-267
Moved by Schilling
Seconded by Lambert

RESOLVED, That the following person is hereby **APPOINTED BY THE MAYOR** to serve on the Boards and Committees as indicated:

Local Development Finance Authority (LDFA)
Appointed by Mayor (5) – 4 Year Staggered Terms

Robin Beltramini (Council Rep) Term Expires 06/30/10

Yes: Beltramini, Broomfield, Fleming, Lambert, Schilling
No: Howrylak
Absent: Stine

MOTION CARRIED

(b) City Council Appointments

Resolution #2006-06-268
Moved by Broomfield
Seconded by Lambert

RESOLVED, That the following persons are hereby **APPOINTED BY THE CITY COUNCIL** to serve on the Boards and Committees as indicated:

Municipal Building Authority

Appointed by Council (5) – 3 Year Terms

Glenn Clark

Term Expires 01/31/09

Personnel Board

Appointed by Council (5) – 3 Year Terms

Laurie Huber

Term Expires 04/30/09

Yes: All-6
No: None
Absent: Stine

MOTION CARRIED

F-2 Revisions to Troy City Code Chapter 11 (Personnel Board)

Resolution #2006-06-269
Moved by Lambert
Seconded by Beltramini

RESOLVED, That Sections 2.2, 7.6, and 8.2 of the Troy City Code be **REVISED** as recommended by City Management, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

Yes: All-6
No: None
Absent: Stine

MOTION CARRIED

F-3 2006 Annual Salary Update for Classified and Exempt Employees and Proposed Changes to Benefit Package and Personnel Rules & Regulations

Resolution #2006-06-270
Moved by Beltramini
Seconded by Lambert

RESOLVED, That the 2006 Classification and Pay Plans are hereby **APPROVED** as recommended by City Management and the Personnel Board, a copy of which shall be **ATTACHED** to the original Minutes of this meeting; and

BE IT FURTHER RESOLVED, That the revision to the Personnel Rules & Regulations for Classified Personnel is hereby **APPROVED**, as recommended by City Management and the Personnel Board, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

Yes: All-6
 No: None
 Absent: Stine

MOTION CARRIED

F-5 Traffic Committee Recommendations – April 19, 2006

Resolution
 Moved by Beltramini
 Seconded by Fleming

(a) No Changes to Traffic Control Devices at Ivanhoe and Sweet

RESOLVED, That **NO CHANGES** be made to traffic control devices at Ivanhoe and Sweet.

AND

(b) Establishment of Fire Lanes/Tow Away Zones at 5365-5407 Crooks Road

RESOLVED, That Traffic Control Order No. _____ be **ISSUED** for the establishment of fire lanes/tow away zones shown in the attached sketch at 5365-5407 Crooks Road.

Vote on Resolution to Divide Item F-5 Traffic Committee Recommendations – April 19, 2006 and Postpone F-5 (a) No Changes to Traffic Control Devices at Ivanhoe and Sweet

Resolution #2006-06-271
 Moved by Lambert
 Seconded by Broomfield

RESOLVED, That Troy City Council hereby **DIVIDES** F-5 into two resolutions (a) and (b) for voting purposes and **POSTPONES** Resolution (a) *No Changes to Traffic Control Devices at Ivanhoe and Sweet* until the Regular City Council Meeting scheduled for Monday, July 10, 2006.

Yes: All-6
 No: None
 Absent: Stine

MOTION CARRIED

Vote on Resolution (b) Establishment of Fire Lanes/Tow Away Zones at 5365-5407 Crooks Road

Resolution #2006-06-272

Moved by Beltramini

Seconded by Fleming

RESOLVED, That Traffic Control Order No. 06-10-MR be **ISSUED** for the establishment of fire lanes/tow away zones shown in the attached sketch at 5365-5407 Crooks Road.

Yes: All-6

No: None

Absent: Stine

MOTION CARRIED

F-6 Traffic Committee Recommendations – May 17, 2006**(a) Establishment of Fire Lanes/Tow Away Zones 103 Park Street**

Resolution #2006-06-273

Moved by Lambert

Seconded by Broomfield

RESOLVED, That Traffic Control Order No. 06-11-MR be **ISSUED** for the establishment of fire lanes/tow away zones at 103 Park Street per the Fire Department recommendations.

Yes: All-6

No: None

Absent: Stine

MOTION CARRIED

F-7 Proposed Revisions to DDA By-Laws

Resolution

Moved by Beltramini

Seconded by Broomfield

RESOLVED, That the proposed revisions to the City of Troy Downtown Development Authority By-Laws and Rules of Procedure are **APPROVED** as recommended by City Administration, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

Vote on Resolution to Postpone

Resolution #2006-06-274

Moved by Beltramini

Seconded by Lambert

RESOLVED, That Troy City Council hereby **POSTPONES** *F-7 Proposed Revisions to DDA By-Laws* until the Regular City Council Meeting scheduled for Monday, July 10, 2006.

Yes: All-6
 No: None
 Absent: Stine

F-8 Extend and Amend Contract for Sidewalk Replacement

Resolution #2006-06-275
 Moved by Beltramini
 Seconded by Lambert

WHEREAS, On August 4, 2003, Troy City Council approved a contract to provide a sidewalk replacement and installation program with an option to renew for two (2) additional one-year periods to the low bidder, Hard Rock Concrete, Inc., of Westland, MI, for an estimated annual cost of \$366,210.00, plus a 25% allowance for changes to the quantity of work as needed (Resolution #2003-08-425-E9);

WHEREAS, The contract options were subsequently exercised and approved on July 19, 2004 and July 11, 2005 under the same contract unit prices, terms and conditions expiring June 30, 2006 (Resolution #2004-07-383 and 2005-07-348 respectively); and

WHEREAS, Hard Rock Concrete, Inc., has agreed to extend and amend the contract quantities under the same prices, terms, and conditions as the original contract;

THEREFORE, BE IT RESOLVED, That the contract is hereby **EXTENDED** and **AMENDED** with Hard Rock Concrete, Inc., to provide sidewalk replacement and installation with the City of Troy for an additional \$267,237.50, which will be added to the previously approved contract amounts and all costs will not exceed \$725,000.00; and

BE IT FINALLY RESOLVED, That the contract will be at the same unit prices as the 2003 contract expiring June 30, 2007.

Yes: All-6
 No: None
 Absent: Stine

MEMORANDUMS AND FUTURE COUNCIL AGENDA ITEMS:

G-1 Announcement of Public Hearings:

- a) Commercial Vehicle Appeal – 1868 Welling Drive – July 10, 2006
- b) Commercial Vehicle Appeal – 2127 Atlas – July 10, 2006
- c) Zoning Ordinance Text Amendment (File No: ZOTA 214) – Article X, Group Child Care Homes in the R-1A through R-1E Districts – July 10, 2006
 Noted and Filed

G-2 Green Memorandums: No Memorandums Submitted**COUNCIL REFERRALS: Items Advanced to the City Manager by Individual City Council Members for Placement on the Agenda****Vote on Resolution to Suspend Rules of Procedure for the City Council, Rule #6 – Order of Business, Article 15 I.**

Resolution #2006-06-276

Moved by Lambert

Seconded by Broomfield

RESOLVED, That Troy City Council hereby **SUSPENDS** Rules of Procedure for the City Council, Rule #6 Order of Business, Article 15-I. Council Comments and **AUTHORIZE** City Council to discuss and take action on an item that does not appear on the agenda.

Yes: All-6

No: None

Absent: Stine

MOTION CARRIED

H-1 Troy City Code Chapter 18 (Water Utility) – Council Member David Lambert

Resolution #2006-06-277

Moved by Broomfield

Seconded by Lambert

RESOLVED, That Troy City Council hereby **ADOPTS** an ordinance amendment to place a moratorium on the assessment of a fine or penalty associated with the odd/even watering restrictions as stipulated in *Chapter 18 – City Water Utility* of the Troy City Code with the moratorium in effect until City Council has the opportunity to amend the Ordinance.

Yes: All-6

No: None

Absent: Stine

MOTION CARRIED**COUNCIL COMMENTS:**

I-1 No Council Comments Advanced

REPORTS:

J-1 Minutes – Boards and Committees:

- a) Personnel Board/Final – June 8, 2004
- b) Historic District Study Committee/Final – June 7, 2005
- c) Personnel Board/Final – December 20, 2005
- d) Parks and Recreation Advisory Board/Final – March 16, 2006
- e) Downtown Development Authority/Draft – April 19, 2006
- f) Downtown Development Authority/Final – April 19, 2006
- g) Building Code Board of Appeals/Draft – May 3, 2006
- h) Advisory Committee for Senior Citizens/Final – May 4, 2006
- i) Ethnic Issues Advisory Board/Draft – May 9, 2006
- j) Ethnic Issues Advisory Board/Final – May 9, 2006
- k) Library Advisory Board/Draft – May 11, 2006
- l) Board of Zoning Appeals/Draft – May 16, 2006
- m) Parks and Recreation Advisory Board/Draft – May 18, 2006
- n) Historic District Study Committee/Final – May 23, 2006
- o) Planning Commission Special/Study/Draft – May 23, 2006
- p) Planning Commission Special/Study/Final – May 23, 2006
- q) Troy Daze Advisory Committee/Draft – May 23, 2006
- r) Advisory Committee for Senior Citizens/Draft – June 1, 2006
- s) Personnel Board/Draft – June 5, 2006
- t) Ethnic Issues Advisory Board/Draft – June 6, 2006
- u) Building Code Board of Appeals/Draft – June 7, 2006

Noted and Filed

J-2 Department Reports:

- a) Purchasing Department – Final Reporting Auction Services – April/May 2006
- b) Building Department – Permits Issued During the Month of May, 2006

Noted and Filed

J-3 Letters of Appreciation:

- a) Letter to Chief Craft from Keith Pretty, J.D., President of Walsh College, Thanking Sgt. Cantlon, Sgt. Crocker, and the Troy Police Department for Their Assistance During Commencement Ceremonies
- b) Letter of Thanks to Officer Cole and Officer Mairorano from Patricia Peijak and Family in Appreciation of Their Assistance and Compassion
- c) Letter of Appreciation to Captain Murphy from John Gladysz, Price Funeral Home, Thanking Lt. Houghton and the Troy Police Department for Their Support During the Funeral Service of John Sepac

Noted and Filed

J-4 Proposed Proclamations/Resolutions from Other Organizations: None Submitted

J-5 Calendar

Noted and Filed

J-6 Communication from Parks and Recreation Director Carol Anderson Regarding Fee Waiver for Military Personnel

Noted and Filed

J-7 Communication from Planning Director Mark Miller Regarding Pet Stores and Commercial Kennels

Noted and Filed

J-8 Communication from Traffic Engineer John Abraham Regarding Traffic Study for Rochester Road Between Square Lake and South Boulevard

Noted and Filed

J-9 Communication from City Engineer Steve Vandette Regarding Request to Amend Chapter 42, Flood Plain Management Allowing Homes with Basements in Flood Plain Areas

Noted and Filed

The meeting **RECESSED** at 10:28 P.M.

STUDY ITEMS:

K-1 Disposal/Sale of Excess Property - Item postponed for a future agenda

K-2 Blight Strategy Presentation

The meeting **RECONVENED** at 11:28 P.M.

PUBLIC COMMENT: Address of “K” Items

CLOSED SESSION:

L-1 Closed Session: No Closed Session Requested

The meeting **ADJOURNED** on Monday, June 19, 2006 at 11:29 P.M.

Louise E. Schilling, Mayor

Tonni L. Bartholomew, MMC
City Clerk

A Special Meeting of the Troy City Council was held Monday, June 29, 2006, at City Hall, 500 W. Big Beaver Road. Mayor Schilling called the Meeting to order at 7:33 P.M.

ROLL CALL:

Mayor Louise E. Schilling
Robin Beltramini
Cristina Broomfield (Absent)
Wade Fleming (Absent)
Martin F. Howrylak
David A. Lambert
Jeanne M. Stine

Appointment of City Manager and Approval of the City Manager’s Contract

Resolution #2006-06-278
Moved by Beltramini
Seconded by Stine

WHEREAS, On June 11, 2006, the Troy City Council APPOINTED Phillip L. Nelson as the Troy City Manager, contingent upon background checks and contract language; and

WHEREAS, A background check has been performed, and a contract has been negotiated between the City of Troy and Phillip L. Nelson;

NOW THEREFORE BE IT RESOLVED, that the Troy City Council hereby **APPOINTS** Phillip L. Nelson as the Troy City Manager; and

BE IT FURTHER RESOLVED, That the Troy City Council **APPROVES** the attached *Employment Agreement* between the City of Troy and Phillip L. Nelson concerning the position of City Manager, and **AUTHORIZES** the Mayor and City Clerk to **EXECUTE** the Employment Agreement; a copy of the Employment Agreement **SHALL BE ATTACHED** to the original Minutes of this meeting.

Yes: All-5
No: None
Absent: Broomfield, Fleming

Memo of Understanding Regarding Temporary Housing for the City Manager

Resolution #2006-06-279
Moved by Beltramini
Seconded by Stine

BE IT RESOLVED, That the Troy City Council hereby **APPROVES** the attached *Agreement To Use City Property for City Manager Temporary Housing* between the City of Troy and Phillip Nelson, and **AUTHORIZES** the Mayor and City Clerk to **EXECUTE** the Agreement; a copy of the Agreement **SHALL BE ATTACHED** to the original Minutes of this meeting.

Yes: All-5
No: None
Absent: Broomfield, Fleming

The meeting **ADJOURNED** at 7:40 P.M.

Louise E. Schilling, Mayor

Barbara A. Holmes, CMC
Deputy City Clerk

PROCLAMATION
Ride To Work Day – July 19, 2006

WHEREAS, The price of fossil fuels is growing and supply is diminishing; and

WHEREAS, The use of fossil fuels continues to damage our health by pollution and our future through global warming; and

WHEREAS, According to the United States Census Bureau and the Department of Transportation, over 80 million cars and light trucks are used for daily commuting on American roads; and

WHEREAS, Our infrastructure repairs fail to keep pace with its degradation; and

WHEREAS, Scooters and motorcycles require only a fraction of space taken by other vehicles to park, thereby addressing an ongoing problem in our City; and

WHEREAS, For these reasons, bicycles, scooters and motorcycles offer a form of daily transportation to be encouraged; and

WHEREAS, July 19, 2006 has been designated as “Ride to Work Day” to highlight the positive daily use of bicycles, scooters and motorcycles; and

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Troy hereby proclaims July 19, 2006, as Ride to Work Day.

BE IT FURTHER RESOLVED, That we invite all citizens to ride their bicycles, scooters or motorcycles to work on July 19, 2006 in recognition of their utilitarian value and to encourage the daily use of those vehicles.

Signed this 10th day of July 2006.

June 19, 2006

TO: John M. Lamerato, Acting City Manager

FROM: Jeanette Bennett, Purchasing Director
Charles T. Craft, Chief of Police

SUBJECT: **Agenda Item:** Standard Purchasing Resolution 9 - Membership
Renewal - Macomb County Criminal Justice Training Consortium

RECOMMENDATION

The Police Department recommends approval of a one-year membership renewal for the Macomb County Criminal Justice Training Consortium through Macomb Community College at an estimated cost of \$21,920.00, and use of the training services provided for in-service and specialized training.

BACKGROUND

The Troy Police Department has benefited greatly over the past four years of membership in this Training Consortium. The Consortium provides a comprehensive and cost effective training protocol, costing only \$160.00 per officer, per year. This cost allows the Police Department to send personnel to many varied training classes, which otherwise would have cost hundreds of dollars more per officer. Again, staff recommends continued re-certification of police officers in Emergency Vehicle Operations and the use of the state of art Firearms Training Simulator, commonly referred to as FATS Training, which are available to the Police Department at reduced costs as a Consortium member.

BUDGET

Funds for continuing the Police Department's Consortium membership have been budgeted in the Police Department Training Account #321.7960 for 2006/07.

June 28, 2006

TO: John M Lamerato, Acting City Manager

FROM: Jeanette Bennett, Purchasing Director
Cindy Stewart, Community Affairs Director

SUBJECT: **Agenda Item:** Standard Purchasing Resolution 8: Best Value
Process Award – 2007 Calendar/Annual Report Printing Services

RECOMMENDATION

On May 17, 2006, five (5) proposals were opened to provide Printing & Design Services to mail 40,000 copies of the 2007 City of Troy Calendar/Annual Report with the option to renew for the 2008 calendar year. City management recommends that a contract be awarded to **University Lithoprinters** of Ann Arbor, MI, the bidder providing the best value with the highest final weighted score of 87.92, which included calendar samples and a price scoring evaluation process, at an estimated cost of \$33,825.00 per year at unit prices contained in the attached bid tabulation, plus \$2,310.00 for the reply card insert.

Although University Lithoprinters is not the lowest total bidder, price is just one component in the “Best Value” approach to a Request for Proposal process. The award recommendation was based upon the vendor offering the best combination of a variety of factors; not simply the lowest bidder meeting certain minimal requirements. A best value approach addresses ability, experience, and quality issues leading to a successful contract and reduction in risk of poor service for such high profile PR tools as the City Calendar/Annual Report.

BACKGROUND

On September 22, 2003, University Lithoprinters was awarded the contract to provide the 2004 City Calendar/Annual Report. An option to renew printing services for the 2005 and 2006 Calendar/Annual Report was exercised. Cost for the 2006 calendar was \$38,650.00. This included 40,000 calendars plus minor corrections to proof throughout the process.

The calendar size is 8½ x11 (a cost savings measure instituted in 2004) and has a reply card as an option. The estimate for the 2007 calendar would be \$33,825.00 or \$36,135.00 with the reply card.

We have also sold advertising in the 2005 and 2006 City Calendars to help offset printing costs. The total amount collected in 2006 was \$11,335.00 for the advertising insert. We intend to sell advertising again for the 2007 calendar to help offset costs and anticipate collecting a comparable amount.

June 28, 2006

To: John M Lamerato, Acting City Manager

Re: Award Recommendation - Printing Services – City Calendar

Page 2 of 2

SUMMARY

After completing the evaluation process, University Lithographers received the highest recommendations from the committee. In an effort to achieve the most positive image for our City Calendar and personnel working in the field, and supply the best service, proper quality at the right price; a best value approach was used to evaluate and award the contract.

University Lithographers received the highest recommendations from the committee consisting of the Community Affairs Director, Community Affairs Officer and Finance Department Account Clerk. They received superior marks based on their quality samples. University Lithographers has serviced many other municipalities on similar projects of comparable magnitude. City calendars they produced within the last five years include Troy, Westland, Dearborn, Warren, and Novi. Not only did this company furnish the most impressive and complete proposal package; they as well as their designer received outstanding endorsements from the Cities of Novi, Dearborn, Warren and Westland when we called them inquiring about their calendar printer. University Lithographers also produced calendars for The Masarati Club, Consumers Energy, University of Michigan and the Detroit Free Press. The Community Affairs Department staff has worked with University Lithographers and Graphic Visions on a number of projects and is very impressed with their professionalism, creativity, cooperation and timeliness. University Lithographers has their own bindery and does the mail prep in house.

BUDGET

Funds are available from the operating budget in the Community Affairs Department a/c# 748.7901.

120 Vendors notified via the MITN System

122 Notices distributed by mail and email to prospective bidders

1 Vendor Walked-In

5 Proposals Received

Opening Date -- 5/17/06
Date Prepared -- 5/22/06

CITY OF TROY
TABULATION
PRINTING 2007 CALENDAR/ANNUAL REPORT

RFP-COT 06-16
Pg 1 of 2

FIRM NAME:

Dearborn Lithograph, Inc.	TGI Direct	University Lithoprinters Inc.
101178360	35644763	111781
\$1,500.00	\$1,500.00	\$1,500.00

Check Number
Amount

PROPOSAL: Furnish and deliver to a designated mailing service 40,000 copies of the City of Troy Year 2007 Calendar / Annual Report, including graphic design services, presswork, packaging, delivery, etc.....

VENDOR QUESTIONNAIRE: (Yes or No)	Yes	Yes	Yes
SAMPLE CALENDAR: (Yes or No)	Yes	Yes	Yes
SAMPLE PAPER: (Yes or No)	Yes	Yes	Yes
STOCK			Troy calendar
Option A Complete for the Sum of:	\$ 29,044.00	\$ 32,599.00	\$ 34,995.00
Cost per Additional (M) :	\$ 592.50	\$ 815.00	\$ 550.00
Per Specifications			
ALTERNATE			Novi calendar
Option B Quoting On Cover Stock	Omni Gloss	Euro Art 80# Gloss	80 lb Creator Gloss
Quoting on Text Stock	Omni Silk	Euro Art 70# Dull	80 lb Creator Silk
Manufactured by:	M-Real	Millcraft	Torraspapel USA, Inc.
Complete for the Sum of:	\$ 26,802.00	\$ 30,982.00	\$ 34,195.00
Cost per Additional (M) :	\$ 534.80	\$ 775.00	\$ 535.00
OPTIONAL:			
Reply Card			
Option A Complete for the Sum of:	\$ 1,981.92	\$ 2,398.00	\$ 2,310.00
Cost per Additional (M) :	\$ 42.98	\$ 59.95	\$ 20.00
Per Specifications			
ALTERNATE			
Option B Quoting On Cover Stock	Omni Matte	75# White, uncoated	Blank
Quoting on Text Stock	Blank	N/A	Blank
Manufactured by:	M-Real	Wausau	Blank
Complete for the Sum of:	\$ 1,711.00	\$ 1,397.00	Blank
Cost per Additional (M) :	\$ 36.28	\$ 34.92	Blank
ADDITIONAL COSTS:			
SCANS: Cost for each color photo over 65 color scans	\$25.00 /scan	\$0.00 /scan	\$45.00 /scan
EDIT CHARGES: Hourly rate for edits	\$ 55.00	\$ 75.00	\$ 85.00
DELIVERY DATE: Can meet schedule	XX	XX	XX
Dec 11th Cannot meet but offers			
TERMS:	Net 30 Days	Net 30 Days	Net 30 Days
DELIVERY DATE:	12/11/2006	5/17/2006	12/11/2006
EXCEPTIONS:	Blank	N/A	Any paper cost increases will be documented & presented to the City
ACKNOWLEDGEMENT: Y or N	Yes	Yes	Yes
ADDENDUM #1 Y or N	Yes	Yes	Yes

ATTEST:

Laura Campbell
Susan M. Davis
Linda Bockstanz

Jeanette Bennett
Purchasing Director

FIRM NAME:		* University Lithoprinters	Grand River Printing	Brophy
		Option C		
	Check Number	111781	453266	567005098
	Amount	\$1,500.00	\$1,500.00	\$1,500.00
PROPOSAL: Furnish and deliver to a designated mailing service 40,000 copies of the City of Troy Year 2007 Calendar / Annual Report, including graphic design services, presswork, packaging, delivery, etc.....				
VENDOR QUESTIONNAIRE: (Yes or No)		Yes	Yes	Yes
SAMPLE CALENDAR:	(Yes or No)	Yes	Yes	No
SAMPLE PAPER:	(Yes or No)	Yes	Yes	Yes
STOCK	Option A Complete for the Sum of: Cost per Additional (M) : Per Specifications	n/a n/a	Blank Blank	\$ 64,200.00 \$ 578.00
			Paper Not Available in Web	
ALTERNATE	Option B Quoting On Cover Stock Quoting on Text Stock Manufactured by: Complete for the Sum of: Cost per Additional (M) :	Dearborn calendar Commerce Gloss 80# Commerce Dull 80# SAPPI	80# #2 Gloss 70# #2 Gloss Productolith	Commerce Gloss 80# Commerce Dull 80# Sappi \$ 33,825.00 \$ 535.00
				\$ 34,617.08 \$ 865.00
				\$ 62,661.00 \$ 595.00
OPTIONAL:				
Reply Card	Option A Complete for the Sum of: Cost per Additional (M) : Per Specifications			\$ 2,310.00 \$ 20.00
				\$ 2,767.00 \$ 69.00
				\$ 2,345.00 \$ 43.00
ALTERNATE	Option B Quoting On Cover Stock Quoting on Text Stock Manufactured by:	Blank Blank Blank	N/A N/A N/A	Per Xpedx - No comparable alternate stock at this price level
ADDITIONAL COSTS:				
SCANS: Cost for each color photo over 65 color scans		\$45.00 /scan	\$25.00 /scan	\$55.00 /scan
EDIT CHARGES:	Hourly rate for edits	\$ 85.00	\$ 80.00	\$ 75.00
DELIVERY DATE	Can meet schedule	XX	XX	XX
	<u>Dec 11th</u> Cannot meet but offers			
TERMS:		Net 30 Days	Net 30	60 Days
DELIVERY DATE:		12/11/2006	12/11/2006	5/17/2006
EXCEPTIONS:		Any paper cost increases will be documented & presented to the City	Blank	Samples: have not been involved in printing of a calendar within the past few years.
ACKNOWLEDGEMENT:	Y or N	Yes	Yes	Yes
ADDENDUM #1	Y or N	Yes	Yes	Yes

NO BIDS:
Caldwell Printing

* DENOTES BEST VALUE PROPOSAL



EXECUTIVE SUMMARY PRINTING 2007 CALENDAR

STATISTICS:

- ◆ 120 Vendors notified via the MITN System
- ◆ 122 Notices were distributed by mail and e-mail to prospective bidders
- ◆ 1 Vendor Walked-In
- ◆ 5 proposals were received
- ◆ University Lithoprinters was the most qualified bidder by receiving the highest weighted score

The following bidders submitted a proposal and received the indicated final scores:

COMPANY	SCORE
University Lithoprinters	87.92 **
Dearborn Lithograph	82.4
Grand River Printing	69.92
TGI Direct	69.36
Brophy	28.88

Attachments:

Weighted Final Scoring Including "Sample" and Price Scoring
Evaluation Process

WEIGHTED FINAL SCORING PRINTING 2007 CALENDAR

Final Score Calculation:

$$\begin{aligned}
 &40\% \times \text{Price Score} \\
 &60\% \times \text{Sample Score} - \text{Weighted Average} \\
 &100\% \quad \text{Final Weighted Score}
 \end{aligned}$$

* In order to equate the price to the weighted evaluation process scoring, the prices had to be converted into a score with the base of 100

SAMPLE SCORE (60%)

Raters:	1	2	3	AVERAGE
Vendors:				
Dearborn Lithograph	60	63	89	70.67
Brophy	67	71	74	70.67
TGI Direct	58	66	54	59.33
Grand River Printing	73	39	96	69.33
University Lithoprinters	98	96	98	97.33

PRICING SCORES (40%) – Option B

Vendors:	FORMULA: $[1 - (\text{Proposal price} - \text{low price}) / \text{low price}] \times \text{available points}$		
Dearborn Lithograph	$[1 - (26802 - 26802) / 26802] * 100$		100
Brophy	$[1 - (62661 - 26802) / 26802] * 100$		-33.8
TGI Direct	$[1 - (30982 - 26802) / 26802] * 100$		84.4
Grand River Printing	$[1 - (34617.08 - 26802) / 26802] * 100$		70.8
University Lithoprinters	$[1 - (33825 - 26802) / 26802] * 100$		73.8

FINAL WEIGHTED SCORE:

VENDORS:	University ** Lithoprinters	Dearborn	Grand River Printing	TGI Direct	Brophy
Score					
PRICE SCORE: (x .40) =	29.52	40	28.32	33.76	-13.52
SAMPLE SCORE: (x .60) =	58.40	42.40	41.60	35.60	42.4
Final Score:	87.92	82.4	69.92	69.36	28.88

** HIGHEST RATED VENDOR – RECOMMENDED AWARD



SELECTION PROCESS

CRITERIA FOR SELECTION

The identified City Committee will review the proposals. The City of Troy reserves the right to award this proposal to the company considered the most qualified based upon a combination of factors including but not limited to the following:

- A. Compliance with qualifications criteria
- B. Completeness of the proposal
- C. Financial strength and capacity of the printer
- D. Correlation of the proposals submitted to the needs of the City of Troy
- E. Any other factors which may be deemed to be in the City's best interest
- F. Evaluation Process

Phase 1: Qualifications Evaluation.

Bidders will be required to meet minimum established criteria in order to go to the second phase of the process.

Phase 2: Sample Evaluation Process.

- o The City Committee will use a weighted scoring sheet to evaluate the required submitted samples.
- o Each Committee Member will calculate a weighted score.
- o The scores of the three Committee Members will be averaged into one score for each bidder for this phase of the process.

Phase 3: Price

Points for price will be calculated as follows:

FORMULA:

$$[1 - (\text{Proposal price} - \text{low price}) / \text{low price}] \times \text{available points}$$

Phase 4: Final Scoring and Selection

The highest final weighted scored will be the printer recommended to the Troy City Council for Award.

$$\begin{array}{r} 40\% \times \text{Price Score (100 pt. Base)} \\ 60\% \times \text{Sample Calendar Score (100 pt. Base)} \\ \hline 100\% \end{array} \quad \begin{array}{r} = \\ = \\ \text{Final Weighted Score} \end{array}$$

Note: The City of Troy reserves the right to change the order or eliminate an evaluation phase if deemed in the City's best interest to do so.

June 28, 2006

TO: John M. Lamerato, Acting City Manager

FROM: Brian Murphy, Assistant City Manager/Services
Steven J. Vandette, City Engineer 

SUBJECT: **Agenda Item** – Approval of Subcontract with Greenstar & Associates, L.L.C. for Right-of-Way Services for the Reconstruction and Widening of John R from Long Lake to Square Lake
Project No. 02.203.5

RECOMMENDATION

Staff recommends that City Council approve the attached subcontract No. 05-5109/S1 with Greenstar & Associates, L.L.C. for right-of-way services for the reconstruction and widening of John R from Long Lake to Square Lake. Furthermore, staff recommends that the Mayor and City Clerk be authorized to execute the subcontract.

INFORMATION

The City entered into a two-year contract with Greenstar & Associates, L.L.C. (GA) in accordance with Resolution #2006-04-174. Pat Petitto, a former city employee in Real Estate & Development, who as of April 1, 2006 has been working for the City as a contract employee as per our contract, owns GA.

Due to the fact that Pat is a contract employee, she is considered a consultant by MDOT. In order to use a consultant on a federally funded project, justification for using the consultant is required along with an agreement between the City and the consultant. The attached subcontract and justification were approved by MDOT on June 26, 2006 and if approved by City Council will allow the City to request reimbursement for the services provided by GA.

Compensation is based on an hourly rate of \$75 per hour, which is commensurate with the rate as previously approved by Resolution #2006-04-174. The maximum amount of this subcontract shall not exceed \$50,000.

FUNDING

The estimated cost for the right-of-way phase is \$500,000. Of this amount, \$400,000 in Transportation Economic Development funds Category "C" are available. The local share of the project to be paid for by the City is estimated to be \$100,000. Funds for the City of Troy's share are included in the 2006-07 Major Road fund, account number 401479.7989.022035.

Subcontract No. 05-5109/S1
Control Section No. EDCF 63544
Job No. 56246
Fed. Project No. MG 0563 (031)
Fed. Item No. RR 4527
Troy Project No. 02.203.5

CITY OF TROY
GREENSTAR & ASSOCIATES, L.L.C
JOHN R, LONG LAKE TO SQUARE LAKE
RIGHT OF WAY SERVICES CONTRACT
A TEDF-C PROJECT

THIS CONTRACT, made and entered into as of this date of _____, 2006, by and between Greenstar & Associates, L.L.C., 4840 N. Adams, Suite 183, Rochester, MI 48306, hereinafter referred to as the "CONSULTANT", and the City of Troy, hereinafter referred to as the "LOCAL AGENCY".

WITNESSETH:

WHEREAS, the LOCAL AGENCY is desirous of proceeding with acquisition of right of way for a road improvement PROJECT within its limits; and

WHEREAS, the LOCAL AGENCY desires to engage the professional services and assistance of the CONSULTANT to perform certain right of way acquisition services and other related work, said work to be hereinafter referred to as the "SERVICES", required in connection with the acquisition of right of way for improvements under the TEDF-C Program, said improvements to be hereinafter referred to as the "PROJECT."

Right of way acquisition services including title work provision of appraisals, negotiations, closings, maintaining and providing parcel files in acquisition of right of way for John R, Long Lake to Square Lake.

WHEREAS, the LOCAL AGENCY has programmed the PROJECT with the Michigan Department of Transportation, hereinafter referred to as the "DEPARTMENT" for the construction with the use of TEDF-C Funds administration by the United States DEPARTMENT of Transportation, Federal Highway Administration, hereinafter referred to as the "FHWA"; and

WHEREAS, the CONSULTANT is willing to render the SERVICES desired by the LOCAL AGENCY for the considerations hereinafter expressed; and

WHEREAS, the parties hereto have reached an understanding regarding the performance of the SERVICES on the PROJECT and desire to set forth this understanding in the form of a written Contract;

NOW THEREFORE, it is hereby agreed by and between the parties hereto that:

THE CONSULTANT SHALL:

1. Perform right of way services, including but not limited to providing title work, appraisals of parcels to be acquired, review of appraisals, negotiations with property owners and preparation of conveyance documents as may be required, attendance at closing, and other similar activities.
2. Govern all SERVICES by the applicable codes and practices of the LOCAL AGENCY and the DEPARTMENT and the FHWA.
3. Submit for approval by the LOCAL AGENCY the fully executed purchase agreement or request for approval of unconditioned offer and condemnation authorization.
4. Submit original documents including but not limited to appraisals, title commitments and documentation, review appraisals, negotiators' logs, and such other activities that are required to be performed and documented by Federal, State, and local statutes and regulations pertaining to the SERVICES.
5. During the preparation of the documents, make such changes and revisions in said plans and supporting material as are considered necessary and desirable by the LOCAL AGENCY and the DEPARTMENT.
6. During negotiations, make all corrections and alterations in the acquisition plans for the PROJECT as may be deemed necessary by the LOCAL AGENCY and the DEPARTMENT as a result of errors or omissions. The CONSULTANT and the LOCAL AGENCY specifically agree that in the event problems arise that may be the result of errors and/or omissions by the CONSULTANT or due to a failure of the CONSULTANT to otherwise perform in accordance with this Contract, that the CONSULTANT will be held responsible with no cost to the LOCAL AGENCY or in accordance with any agreement reached by the LOCAL AGENCY'S dispute resolution process, if applicable.
7. Be available at additional reasonable charges for additional consulting and assistance to the LOCAL AGENCY and counsel, should condemnation be required, said consulting and assistance to include reappraisal of the parcel or parcels to the date of taking.
8. During the performance of the SERVICES, be responsible for any loss or damage to documents belonging to the LOCAL AGENCY while they are in

its possession. Restoration of lost or damaged documents shall be at the CONSULTANT'S expense.

9. Attend conferences and make trips to the offices of the LOCAL AGENCY and to the site of the work to confer with representatives of the LOCAL AGENCY or the DEPARTMENT or the FHWA as may be necessary in the carrying out of the work under this Contract.
10. Follow standard accounting practices and permit representatives of the LOCAL AGENCY and the DEPARTMENT and the FHWA to audit and inspect its PROJECT books and records at any reasonable time. Such records are to be kept available for three (3) years from the date of the final payment for work conducted under this Contract.
 - a. The CONSULTANT shall establish and maintain accurate RECORDS, in accordance with generally accepted accounting principles, of all expenses incurred for which payment is sought or made under this Contract, said RECORDS to be hereinafter referred to as the "RECORDS." Separate accounts shall be established and maintained for all costs incurred under this Contract.
 - b. The CONSULTANT shall maintain the RECORDS for at least three (3) years from the date of final payment of federal aid or state aid made by the DEPARTMENT to the LOCAL AGENCY under this Contract. In the event of a dispute with regard to the allowable expenses or any other issue under this Contract, the CONSULTANT shall thereafter continue to maintain the RECORDS at least until that dispute has been finally decided and the time for all available challenges or appeals of that decision has expired.
 - c. The DEPARTMENT, or its representative, may inspect, copy, or audit the RECORDS at any reasonable time after giving reasonable notice.
 - d. If any part of the work is subcontracted, the CONSULTANT shall assure compliance with subsections (a), (b), and (c) above for all subcontracted work.
11. Have in its employ a sufficient number of qualified employees available to complete the SERVICES within two (2) years of execution of this Contract, unless an extension of time is granted as provided in Section 29.
12. Permit the LOCAL AGENCY, the DEPARTMENT, the FHWA, and other public agencies interested in the plans and designs for the PROJECT to have full access thereto during the process of the SERVICES being performed thereon.

13. Have their professional endorsement upon all plans, specifications, estimates, and engineering data furnished by the LOCAL AGENCY.
14. Provide evidence of Workers' Compensation Insurance, said insurance to be as required by law or if sole proprietor, provide workers compensation insurance release.
15. Commence SERVICE as set forth in this Contract only upon receipt of written notice from the LOCAL AGENCY PROJECT manager that the CONSULTANT'S SERVICES are desired.
16. Submit billings to the LOCAL AGENCY, as hereinafter set forth in Section 19.

THE LOCAL AGENCY SHALL:

17. Furnish for the use of the CONSULTANT, the DEPARTMENT'S standards for the SERVICES and such other information as may be needed in a particular instance.
18. For and in consideration of the SERVICES rendered by the CONSULTANT as set forth in this Contract, pay the CONSULTANT on an hourly basis at a rate of \$75 per hour. This rate shall remain firm for the 2006 calendar year. Thereafter the hourly rate will be increased at a rate not to exceed the difference in the Consumer Price index between the current year (as close to 12 months as possible) and the previous year as calculated on the CPI Inflation Calculator available on the Bureau of Labor Statistics website www.BLS.gov/cpi/home.htm with the exception that annual rate increases shall not exceed three (3) percent. The CPI Inflation Calculator uses the average Consumer Price Index for a given year.
 - a. The maximum amount of this Contract shall not exceed Fifty Thousand Dollars (\$50,000.00) except by the execution of an amendment to the Contract by and between the parties hereto and with approval by the DEPARTMENT and the FHWA. Payment shall be made as set forth hereinafter.
19. Make payments to the CONSULTANT in accordance with the following procedures:
 - a. Progress payments may be made for reimbursement of amounts earned to date.
 - b. Partial payments will be made upon the submission by the CONSULTANT of a billing, accompanied by properly completed reporting forms and such other evidence of progress as may be

required by the LOCAL AGENCY. Partial payments shall be made only once a month.

- c. Final billing under this Contract shall be submitted in a timely manner but not later than three (3) months after completion of the SERVICES. Billing for work submitted later than three (3) months after completion of SERVICES will not be paid. Final payment will be made upon completion of audit by the LOCAL AGENCY and/or as appropriate, by representatives of the DEPARTMENT and the FHWA. In the event such audit indicates an overpayment, the CONSULTANT will repay the LOCAL AGENCY within sixty (60) days of the date of the invoice.
20. If SERVICES, or any part thereof, are terminated before completion, pay the CONSULTANT as follows:
- a. Pay the CONSULTANT actual cost, as defined herein, incurred for the work to be terminated up to the time of termination, plus an amount determined at the time of termination to compensate the CONSULTANT in full for work completed, as set forth in Section 19, subject to approval by the DEPARTMENT and the FHWA.
 - b. In no case shall the compensation paid to the CONSULTANT for SERVICES, or any part thereof, exceed the amount the CONSULTANT would receive had the SERVICES or the terminated portion thereof been completed.

IT IS FURTHER AGREED THAT:

21. Approval of this Contract by the DEPARTMENT in no way obligates the DEPARTMENT for any costs or other responsibilities, except as fiscal agent for the FHWA with respect to making federal funds available for the SERVICES performed by the CONSULTANT for the LOCAL AGENCY.
22. Upon completion or termination of this Contract, all documents prepared by the CONSULTANT, including tracings, drawings, estimates, specification, field notes, investigations, studies, etc., as instruments of SERVICE shall become the property of the LOCAL AGENCY.
23. No portion of the PROJECT work, hereto before defined, shall be sublet, assigned, or otherwise disposed of except as herein provided or with the prior written consent of the LOCAL AGENCY and approval by the DEPARTMENT and the FHWA. Consent to sublet, assign or otherwise dispose of any portion of the SERVICES shall not be construed to relieve the CONSULTANT of any responsibility for the fulfillment of this Contract.

24. All questions which may arise as to the quality and acceptability of work, the manner of performance and rate of progress of the work, and the interpretation of plans and specifications shall be decided by the LOCAL AGENCY'S PROJECT Manager. All questions as to the satisfactory and acceptable fulfillment of the terms of this Contract shall be decided by the LOCAL AGENCY.
25. Any change in SERVICES to be performed by the CONSULTANT involving extra compensation must be authorized in writing by the LOCAL AGENCY and approved by the DEPARTMENT and the FHWA prior to the performance thereof by the CONSULTANT and requires an amendment to this Contract.
26. In addition, the CONSULTANT shall comply with, and shall require any contractor or subcontractor to comply with, the following:
 - a. In connection with the performance of this Contract, the CONSULTANT (hereinafter in Appendix "A" referred to as the "Contractor") agrees to comply with the State of Michigan provisions for "Prohibition of Discrimination in State Contracts," as set forth in Appendix "A" attached hereto and made a part hereof.
 - b. During the performance of this Contract, the CONSULTANT for itself, its assignees, and successors in interest (hereinafter in Appendix "B" referred to as the "Contractor"), agrees to comply with the Civil Rights Act of 1964, being P.L. 88-352, 78 Stat. 241, as amended, being Title 42 U.S.C. Sections 1971, 1975a – 1975d, and 2000a – 2000h-6, and the Regulations of the United States DEPARTMENT of Transportation (49 CFR Part 21) issued pursuant to said Act, including Appendix "B" attached hereto and made a part hereof.
 - c. The parties hereto further agree that they accept the DEPARTMENT'S Minority Business Enterprises/Women's Business Enterprises (MBE/WBE) Program with respect to the PROJECT and will abide by the provisions set forth in Appendix "C" attached hereto and made a part hereof, being an excerpt from Title 42 CFR Part 23, more specifically 23.43(a)(1) and (2) thereof.
27. The CONSULTANT warrants that it has not employed or retained any company or person other than bona fide employees working solely for the CONSULTANT, to solicit or secure this Contract, and that it has not paid or agreed to pay any company or person, other than bona fide employees working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award, or making of this Contract. For breach or violation of this warranty, the LOCAL AGENCY shall have the right to annul this

Contract without liability, or at its discretion, to deduct from the Contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gifts or contingent fee.

28. The CONSULTANT specifically agrees that in the performance of SERVICES herein enumerated by it, or by an approved subcontractor, or anyone acting in its behalf, they will, to the best of their professional knowledge and ability, comply with any and all applicable state, federal and local statutes, ordinances and regulations.
29. No charges or claims for damages shall be made by the CONSULTANT for delays or hindrances from any cause whatsoever during the process of any portions of the SERVICES specified in this Contract, except as hereinafter provided.

In case of a substantial delay on the part of the LOCAL AGENCY in providing to the CONSULTANT either the necessary information or approval to proceed with the work, resulting, through no fault of the CONSULTANT, in delays of such extent as to require the CONSULTANT to perform its work under changed conditions not contemplated by the parties, the LOCAL AGENCY will consider supplemental compensation limited to increased costs incurred as a direct result of such delays. Any claim for supplemental compensation must be in writing and accompanied by substantiating data. Authorization of such supplemental compensation shall be by an amendment to this Contract subject to prior approval by the DEPARTMENT and the FHWA.

When delays are caused by circumstances or conditions beyond the control of the CONSULTANT as determined by the LOCAL AGENCY, the CONSULTANT shall be granted an extension of time for such reasonable period as may be mutually agreed upon between the parties, it being understood, however, that the permitting of the CONSULTANT to proceed to complete the SERVICES, or any part of them, after the date to which the time of completion may have been extended, shall in no way operate as a waiver on the part of the LOCAL AGENCY of any of its rights herein set forth.

30. In case the CONSULTANT deems extra compensation will be due it for work or materials not clearly covered in this Contract, or not ordered by the LOCAL AGENCY as a change, or due to changed conditions, the CONSULTANT shall notify the LOCAL AGENCY in writing of its intention to make claim for such extra compensation before beginning such work. Failure on the part of the CONSULTANT to give such notification will constitute a waiver of the claim for such extra compensation. The filing of such notice by the CONSULTANT shall not in any way be construed to establish the validity of the claim. Such extra compensation shall be

provided only by amendment to this Contract with approval of the DEPARTMENT and the FHWA.

31. Indemnification and Insurance: The CONSULTANT shall not commence work until the certificate of insurance required under this paragraph has been delivered to the LOCAL AGENCY. All insurance carriers must be acceptable to the LOCAL AGENCY and licensed and admitted to do business in the State of Michigan. A new certificate of insurance shall be provided to the LOCAL AGENCY each year at the time of policy renewal.
 1. Workers' Compensation Insurance. The CONSULTANT shall procure and maintain during the life of this Contract, Workers' Compensation Insurance, including employers Liability Coverage, in accordance with all applicable statutes of the State of Michigan. If CONSULTANT is a sole proprietor, workers compensation release must be provided.
 2. Commercial General Liability Insurance. The CONSULTANT shall procure and maintain during the life of the Contract, Commercial General Liability insurance on an "Occurrence Basis" with limits of liability not less than \$1,000,000 per occurrence, Personal Injury, Bodily Injury and Property Damage. Coverage shall include the following extensions: (A) Contractual Liability; (B) Products and Completed Operations Liability; (C) Independent Contractors Coverage; (D) Broad Form General Liability Extensions or equivalent; (E) Deletion of all Explosion, Collapse and Underground (XCU) Exclusions, if applicable. Coverage should include terrorist liability.
 3. Motor Vehicle Liability. The CONSULTANT shall procure and maintain during the life of this Contract Motor Vehicle Liability Insurance, including Michigan No-Fault Coverages, with limits of liability of not less than \$1,000,000 per occurrence combined single limit Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.
 4. Umbrella Liability Insurance. The CONSULTANT shall procure and maintain during the life of this Contract Umbrella Liability Insurance with limits of liability of not less than \$1,000,000 per occurrence.
 5. Professional Liability Insurance. The CONSULTANT shall procure and maintain during the life of this Contract, Professional liability insurance, issued on an "occurrence basis" or "claims made basis", with limits of liability of not less than \$1,000,000 per occurrence/aggregate, or per claim/aggregate if on a "claims made basis". If written on a "claims made basis", the policy must continue for a period of two (2) years following the termination or end date of the contract. Whether on an "occurrence basis"

or a "claims made basis", the policy shall include: a) per contract aggregate and b) deletion of all contractual liability exclusions and/or provisions.

6. Additional Insured. Commercial General Liability and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following shall be Additional Insureds: "The City of Troy, the Michigan State Transportation Commission, and the Michigan Department of Transportation all elected and appointed officials, all employees and volunteers, all boards, commissions and/or authorities and board members, including employers and volunteers thereof. This coverage shall be primary to the Additional Insureds, and not contributing with any other insurance or similar protection available to the Additional Insureds, whether other available coverage be primary, contributing or excess."

7. Cancellation Notice. Workers' Compensation Insurance, Commercial General Liability Insurance and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following: "It is understood and agreed that Sixty (60) days Advance Written Notice of Cancellation, Non-Renewal, Reduction and/or Material Change shall be sent to City of Troy, 500 West Big Beaver Road, Troy, Michigan 48084."

8. If any of the above coverages expire during the term of the Contract, the CONSULTANT shall deliver renewal certificates and/or policies to the City of Troy at least ten (10) days prior to the expiration date. Failure to comply with the insurance requirements contained in this agreement shall constitute a material violation and breach of the agreement and may result in termination of the agreement.

To the fullest extent permitted by law, CONSULTANT agrees to defend, pay in behalf of, indemnify and hold harmless the City of Troy, its elected and appointed officials, employees and volunteers and others working in behalf of the City of Troy against any and all claims, demands, suits, or loss, including all costs and attorneys fees connected therewith, and for any damages which may be asserted, claimed or recovered against or from the City of Troy, its elected and appointed officials, employees, volunteers or others working in behalf of the City of Troy by reason of personal injury, including bodily injury and death and/or property damage, including loss of use thereof, which arises out of or is in any way connected or associated with this Contract as well as to indemnify and save harmless the Michigan State Transportation Commission, and the DEPARTMENT, their officers, agents and employees from any and all claims and losses occurring or resulting to any person, firm or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this contract, and from any and all claims and losses occurring or resulting to any person, firm, or corporation who may be injured or damaged by the CONSULTANT in the performance of this contract.

32. This Contract shall be terminated upon advisement to the CONSULTANT by the LOCAL AGENCY that its SERVICES are completed and accepted.
33. The CONSULTANT'S signature on this Contract constitutes the CONSULTANT'S certification of "status" under penalty or perjury under the laws of the United States in respect to 49 CFR Part 29 pursuant to Executive Order 12549.
- The certification, which is included as a part of this Contract as Attachment "A," is Appendix A of 49 CFR Part 229, and applies to the CONSULTANT (referred to in Appendix A of 49 CFR Part 29 as "the prospective primary participant").
34. The CONSULTANT hereby agrees that the costs reported to the LOCAL AGENCY for this Contract shall represent only those items which are properly chargeable in accordance with this Contract. The CONSULTANT also hereby certifies that it has read the Contract terms and has made itself aware of the applicable laws, regulations, and terms of this Contract that apply to the reporting of costs incurred under the terms of this Contract.
35. Upon execution of this Contract by the parties hereto, the same shall become binding on the parties hereto and their successors and assigns, until such time as all work contemplated hereunder is complete, or until such time as this Contract is terminated by mutual consent of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals by their duly authorized agents and representatives the day and year first above written.

GREENSTAR & ASSOCIATES, L.L.C

By: Patricia A. Petitto
Patricia A. Petitto

CITY OF TROY

By: _____
Louise Schilling

Its: Mayor

By: _____
Tonni L. Bartholomew

Its: City Clerk

CERTIFICATION

I hereby certify that I am Patricia A. Petitto and a duly authorized representative of the firm of Greenstar & Associates, L.L.C., whose address is 4840 N. Adams, Suite 183, Rochester, MI 48306 and that neither I nor the above firm I here represent has:

(a) employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above Greenstar & Associates, L.L.C.) to solicit or secure this contract.

(b) agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the contract, or

(c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above Greenstar & Associates, L.L.C.) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the contract.

except as here expressly stated (if any):

I acknowledge that this certification is to be furnished to the Michigan Department of Transportation in connection with this contract involving participation of state and/or federal funds, and is subject to applicable state and federal laws, both criminal and civil.

6/28/06
Date

Patricia A. Petitto
Signature

APPENDIX A
PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS

In connection with the performance of work under this contract, the contractor agrees as follows:

1. In accordance with Act No. 453, Public Acts of 1976, the contractor hereby agrees not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or as a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, or marital status. Further, in accordance with Act No. 220, Public Acts of 1976 as amended by Act No. 478, Public Acts of 1980, the contractor hereby agrees not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of a handicap that is unrelated to the individual's ability to perform the duties of a particular job or position. A breach of the above covenants shall be regarded as a material breach of this contract.
2. The contractor hereby agrees that any and all subcontracts to this contract, whereby a portion of the work set forth in this contract is to be performed, shall contain a covenant the same as hereinabove set forth in Section 1 of this Appendix.
3. The contractor will take affirmative action to insure that applicants for employment and employees are treated without regard to their race, color, religion, national origin, age, sex, height, weight, marital status or a handicap that is unrelated to the individual's ability to perform the duties of a particular job or position. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
4. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, age, sex, height, weight, marital status or handicap that is unrelated to the individual's ability to perform the duties of a particular job or position.
5. The contractor or his collective bargaining representative will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the contractor's commitments under this appendix.
6. The contractor will comply with all relevant published rules, regulations, directives, and orders of the Michigan Civil Rights Commission which may be in effect prior to the taking of bids for any individual state project.
7. The contractor will furnish and file compliance reports within such time and upon such forms as provided by the Michigan Civil Rights Commission, said forms may also elicit information as to the practices, policies, programs, and employment statistics of each subcontractor as well as the contractor himself, and said contractor will permit access to his books, records, and accounts by the Michigan Civil Rights Commission and/or its agent, for purposes of investigation to ascertain compliance with his contract and relevance with rules, regulations, and orders of the Michigan Civil Rights Commission.
8. In the event that the Civil Rights Commission finds, after a hearing held pursuant to its rules, that a contractor has not complied with the contractual obligations under this agreement, the Civil Rights Commission may, as part of its order based upon such findings, certify said findings to the Administrative Board of the State of Michigan, which Administrative Board may order the cancellation of the contract found to have been violated and/or declare the contractor ineligible for future contracts with the state and its political and civil subdivisions, departments, and officers, and including the governing boards of institutions of higher education, until the contractor complies with said order of the Civil Rights Commission. Notice of said declaration of future ineligibility may be given to any or all of the persons with whom the contractor is declared ineligible to contract as a contracting party in future contracts. In any case, before the Civil Rights Commission in which cancellation of an existing contract is a possibility, the contracting agency shall be notified of such possible remedy and shall be given the option by the Civil Rights Commission to participate in such proceedings.
9. The contractor will include, or incorporate by reference, the provisions of the foregoing paragraphs (1) through (8) in every subcontract or purchase order unless exempted by the rules, regulations or orders of the Michigan Civil Rights Commission, and will provide in every subcontract or purchase order that said provisions will be binding upon each subcontractor or seller.

August 1985

APPENDIX B

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as following:

1. Compliance with Regulations: The contractor shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 27, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
2. Nondiscrimination: The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or natural origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
4. Information and Reports: The contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities, as may be determined by the Michigan Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the Michigan Department of Transportation, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the Michigan Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
 - (a) Withholding of payments to the contractor under the contract until the contractor complies, and/or
 - (b) Cancellation, termination, or suspension of the contract, in whole or in part.
6. Incorporation of Provisions: The contractor shall include the provisions of paragraphs 1 through 6 of every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the Michigan Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for non-compliance; provided, however that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the Michigan Department of Transportation to enter into such litigation to protect the interests of the state, and, in addition, the contractor may request the United States to enter into such litigation to protect the interest of the United States.

APPENDIX C

TO BE INCLUDED IN ALL FINANCIAL ASSISTANCE AGREEMENTS WITH LOCAL AGENCIES

General Requirements for Recipients

Excerpts from USDOT Regulation 49 CFR, Part 23, Section 23.43

- A. Policy: It is the policy of the Department that MBE as defined in 49 CFR, Part 23, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds. Consequently, the MBE requirements of 49 CFR, Part 23, apply to this contract.
- B. MBE Obligation: The recipient or its contractor agrees to ensure that MBE as defined in 49 CFR, Part 23, has the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with federal funds provided under this agreement. In this regard, all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR, Part 23, to ensure that MBE has the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of departmentally-assisted contracts.
- C. If, as a condition of assistance, the recipient has submitted and the department has approved a minority business enterprise affirmative action program which the recipient agrees to carry out, this program is incorporated into this financial assistance agreement by reference. This program shall be treated as a legal obligation and failure to carry out its terms shall be treated as a violation of this financial assistance agreement. Upon notification to this recipient of its failure to carry out the approved program, the Department shall impose such sanctions as noted in 49 CFR, Part 23, Subpart E, which sanctions may include termination of the agreement or other measures that may affect the ability of the recipient to obtain future departmental, financial assistance.
- D. The Department hereby advises each recipient, contractor, or subcontractor that failure to carry out the requirements set forth in Section 23.43(a) 49 CFR, Part 23, shall constitute a breach of contract, and after the notification of the USDOT, may result in termination of the agreement or contract by the Department or such remedy as the Department deems appropriate.

ATTACHMENT A

(This is a reproduction of Appendix A of 49 CFR Part 29)
CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS -
PRIMARY COVERED TRANSACTIONS

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification in addition to other remedies available to the federal government, the department or agency may terminate this transaction for cause of default.
4. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposed," and "voluntarily excluded" as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules impending Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals.
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally processed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency may terminate this transaction for cause or default.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - B. Have not within a three-year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
 - C. Are not presently indicated for or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - D. Have not within a three-year period preceding this application/proposal had one or more public transactions (federal, state, or local) terminated for cause or default.
2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

March 9, 1989

ATTACHMENT B
(This is a reproduction of Appendix B of 49 C.F.R. Part 29)
CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY
AND VOLUNTARY EXCLUSION-LOWER TIER COVERED TRANSACTIONS

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transaction," without notification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List (Telephone No. (517) 335-2513 or (517) 335-2514).
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

June 28, 2006

TO: John M. Lamerato, Acting City Manager

FROM: Brian Murphy, Assistant City Manager/Services
Steven J. Vandette, City Engineer 

SUBJECT: **Agenda Item** – Approval of Subcontract with Greenstar & Associates, L.L.C. for Right-of-Way Services for the Reconstruction and Widening of John R from Square Lake to South Boulevard
Project No. 02.204.5

RECOMMENDATION

Staff recommends that City Council approve the attached subcontract No. 05-5110/S1 with Greenstar & Associates, L.L.C. for right-of-way services for the reconstruction and widening of John R from Square Lake to South Boulevard. Furthermore, staff recommends that the Mayor and City Clerk be authorized to execute the subcontract.

INFORMATION

The City entered into a two-year contract with Greenstar & Associates, L.L.C. (GA) in accordance with Resolution #2006-04-174. Pat Petitto, a former city employee in Real Estate & Development, who as of April 1, 2006 has been working for the City as a contract employee as per our contract, owns GA.

Due to the fact that Pat is a contract employee, she is considered a consultant by MDOT. In order to use a consultant on a federally funded project, justification for using the consultant is required along with an agreement between the City and the consultant. The attached subcontract and justification were approved by MDOT on June 26, 2006 and if approved by City Council will allow the City to request reimbursement for the services provided by GA.

Compensation is based on an hourly rate of \$75 per hour, which is commensurate with the rate as previously approved by Resolution #2006-04-174. The maximum amount of this subcontract shall not exceed \$50,000.

FUNDING

The estimated cost for the right-of-way phase is \$1,000,000. Of this amount, \$800,000 in Transportation Economic Development funds Category "C" are available. The local share of the project to be paid for by the City is estimated to be \$200,000. Funds for the City of Troy's share are included in the 2006-07 Major Road fund, account number 401479.7989.022045.

Subcontract No. 05-5110/S1
Control Section No. EDCF 63544
Job No. 56247B
Fed. Project No. MG 0563 (032)
Fed. Item No. RR 4528
Troy Project No. 02.204.5

CITY OF TROY
GREENSTAR & ASSOCIATES, L.L.C
JOHN R, SQUARE LAKE TO SOUTH BOULEVARD
RIGHT OF WAY SERVICES CONTRACT
A TEDF-C PROJECT

THIS CONTRACT, made and entered into as of this date of _____, 2006, by and between Greenstar & Associates, L.L.C., 4840 N. Adams, Suite 183, Rochester, MI 48306, hereinafter referred to as the "CONSULTANT", and the City of Troy, hereinafter referred to as the "LOCAL AGENCY".

WITNESSETH:

WHEREAS, the LOCAL AGENCY is desirous of proceeding with acquisition of right of way for a road improvement PROJECT within its limits; and

WHEREAS, the LOCAL AGENCY desires to engage the professional services and assistance of the CONSULTANT to perform certain right of way acquisition services and other related work, said work to be hereinafter referred to as the "SERVICES", required in connection with the acquisition of right of way for improvements under the TEDF-C Program, said improvements to be hereinafter referred to as the "PROJECT."

Right of way acquisition services including title work provision of appraisals, negotiations, closings, maintaining and providing parcel files in acquisition of right of way for John R, Square Lake to South Boulevard.

WHEREAS, the LOCAL AGENCY has programmed the PROJECT with the Michigan Department of Transportation, hereinafter referred to as the "DEPARTMENT" for the construction with the use of TEDF-C Funds administration by the United States DEPARTMENT of Transportation, Federal Highway Administration, hereinafter referred to as the "FHWA"; and

WHEREAS, the CONSULTANT is willing to render the SERVICES desired by the LOCAL AGENCY for the considerations hereinafter expressed; and

WHEREAS, the parties hereto have reached an understanding regarding the performance of the SERVICES on the PROJECT and desire to set forth this understanding in the form of a written Contract;

NOW THEREFORE, it is hereby agreed by and between the parties hereto that:

THE CONSULTANT SHALL:

1. Perform right of way services, including but not limited to providing title work, appraisals of parcels to be acquired, review of appraisals, negotiations with property owners and preparation of conveyance documents as may be required, attendance at closing, and other similar activities.
2. Govern all SERVICES by the applicable codes and practices of the LOCAL AGENCY and the DEPARTMENT and the FHWA.
3. Submit for approval by the LOCAL AGENCY the fully executed purchase agreement or request for approval of unconditioned offer and condemnation authorization.
4. Submit original documents including but not limited to appraisals, title commitments and documentation, review appraisals, negotiators' logs, and such other activities that are required to be performed and documented by Federal, State, and local statutes and regulations pertaining to the SERVICES.
5. During the preparation of the documents, make such changes and revisions in said plans and supporting material as are considered necessary and desirable by the LOCAL AGENCY and the DEPARTMENT.
6. During negotiations, make all corrections and alterations in the acquisition plans for the PROJECT as may be deemed necessary by the LOCAL AGENCY and the DEPARTMENT as a result of errors or omissions. The CONSULTANT and the LOCAL AGENCY specifically agree that in the event problems arise that may be the result of errors and/or omissions by the CONSULTANT or due to a failure of the CONSULTANT to otherwise perform in accordance with this Contract, that the CONSULTANT will be held responsible with no cost to the LOCAL AGENCY or in accordance with any agreement reached by the LOCAL AGENCY'S dispute resolution process, if applicable.
7. Be available at additional reasonable charges for additional consulting and assistance to the LOCAL AGENCY and counsel, should condemnation be required, said consulting and assistance to include reappraisal of the parcel or parcels to the date of taking.
8. During the performance of the SERVICES, be responsible for any loss or damage to documents belonging to the LOCAL AGENCY while they are in

its possession. Restoration of lost or damaged documents shall be at the CONSULTANT'S expense.

9. Attend conferences and make trips to the offices of the LOCAL AGENCY and to the site of the work to confer with representatives of the LOCAL AGENCY or the DEPARTMENT or the FHWA as may be necessary in the carrying out of the work under this Contract.
10. Follow standard accounting practices and permit representatives of the LOCAL AGENCY and the DEPARTMENT and the FHWA to audit and inspect its PROJECT books and records at any reasonable time. Such records are to be kept available for three (3) years from the date of the final payment for work conducted under this Contract.
 - a. The CONSULTANT shall establish and maintain accurate RECORDS, in accordance with generally accepted accounting principles, of all expenses incurred for which payment is sought or made under this Contract, said RECORDS to be hereinafter referred to as the "RECORDS." Separate accounts shall be established and maintained for all costs incurred under this Contract.
 - b. The CONSULTANT shall maintain the RECORDS for at least three (3) years from the date of final payment of federal aid or state aid made by the DEPARTMENT to the LOCAL AGENCY under this Contract. In the event of a dispute with regard to the allowable expenses or any other issue under this Contract, the CONSULTANT shall thereafter continue to maintain the RECORDS at least until that dispute has been finally decided and the time for all available challenges or appeals of that decision has expired.
 - c. The DEPARTMENT, or its representative, may inspect, copy, or audit the RECORDS at any reasonable time after giving reasonable notice.
 - d. If any part of the work is subcontracted, the CONSULTANT shall assure compliance with subsections (a), (b), and (c) above for all subcontracted work.
11. Have in its employ a sufficient number of qualified employees available to complete the SERVICES within two (2) years of execution of this Contract, unless an extension of time is granted as provided in Section 29.
12. Permit the LOCAL AGENCY, the DEPARTMENT, the FHWA, and other public agencies interested in the plans and designs for the PROJECT to have full access thereto during the process of the SERVICES being performed thereon.

13. Have their professional endorsement upon all plans, specifications, estimates, and engineering data furnished by the LOCAL AGENCY.
14. Provide evidence of Workers' Compensation Insurance, said insurance to be as required by law or if sole proprietor, provide workers compensation insurance release.
15. Commence SERVICE as set forth in this Contract only upon receipt of written notice from the LOCAL AGENCY PROJECT manager that the CONSULTANT'S SERVICES are desired.
16. Submit billings to the LOCAL AGENCY, as hereinafter set forth in Section 19.

THE LOCAL AGENCY SHALL:

17. Furnish for the use of the CONSULTANT, the DEPARTMENT'S standards for the SERVICES and such other information as may be needed in a particular instance.
18. For and in consideration of the SERVICES rendered by the CONSULTANT as set forth in this Contract, pay the CONSULTANT on an hourly basis at a rate of \$75 per hour. This rate shall remain firm for the 2006 calendar year. Thereafter the hourly rate will be increased at a rate not to exceed the difference in the Consumer Price index between the current year (as close to 12 months as possible) and the previous year as calculated on the CPI Inflation Calculator available on the Bureau of Labor Statistics website www.BLS.gov/cpi/home.htm with the exception that annual rate increases shall not exceed three (3) percent. The CPI Inflation Calculator uses the average Consumer Price Index for a given year.
 - a. The maximum amount of this Contract shall not exceed Fifty Thousand Dollars (\$50,000.00) except by the execution of an amendment to the Contract by and between the parties hereto and with approval by the DEPARTMENT and the FHWA. Payment shall be made as set forth hereinafter.
19. Make payments to the CONSULTANT in accordance with the following procedures:
 - a. Progress payments may be made for reimbursement of amounts earned to date.
 - b. Partial payments will be made upon the submission by the CONSULTANT of a billing, accompanied by properly completed reporting forms and such other evidence of progress as may be

required by the LOCAL AGENCY. Partial payments shall be made only once a month.

- c. Final billing under this Contract shall be submitted in a timely manner but not later than three (3) months after completion of the SERVICES. Billing for work submitted later than three (3) months after completion of SERVICES will not be paid. Final payment will be made upon completion of audit by the LOCAL AGENCY and/or as appropriate, by representatives of the DEPARTMENT and the FHWA. In the event such audit indicates an overpayment, the CONSULTANT will repay the LOCAL AGENCY within sixty (60) days of the date of the invoice.
20. If SERVICES, or any part thereof, are terminated before completion, pay the CONSULTANT as follows:
- a. Pay the CONSULTANT actual cost, as defined herein, incurred for the work to be terminated up to the time of termination, plus an amount determined at the time of termination to compensate the CONSULTANT in full for work completed, as set forth in Section 19, subject to approval by the DEPARTMENT and the FHWA.
 - b. In no case shall the compensation paid to the CONSULTANT for SERVICES, or any part thereof, exceed the amount the CONSULTANT would receive had the SERVICES or the terminated portion thereof been completed.

IT IS FURTHER AGREED THAT:

21. Approval of this Contract by the DEPARTMENT in no way obligates the DEPARTMENT for any costs or other responsibilities, except as fiscal agent for the FHWA with respect to making federal funds available for the SERVICES performed by the CONSULTANT for the LOCAL AGENCY.
22. Upon completion or termination of this Contract, all documents prepared by the CONSULTANT, including tracings, drawings, estimates, specification, field notes, investigations, studies, etc., as instruments of SERVICE shall become the property of the LOCAL AGENCY.
23. No portion of the PROJECT work, hereto before defined, shall be sublet, assigned, or otherwise disposed of except as herein provided or with the prior written consent of the LOCAL AGENCY and approval by the DEPARTMENT and the FHWA. Consent to sublet, assign or otherwise dispose of any portion of the SERVICES shall not be construed to relieve the CONSULTANT of any responsibility for the fulfillment of this Contract.

24. All questions which may arise as to the quality and acceptability of work, the manner of performance and rate of progress of the work, and the interpretation of plans and specifications shall be decided by the LOCAL AGENCY'S PROJECT Manager. All questions as to the satisfactory and acceptable fulfillment of the terms of this Contract shall be decided by the LOCAL AGENCY.
25. Any change in SERVICES to be performed by the CONSULTANT involving extra compensation must be authorized in writing by the LOCAL AGENCY and approved by the DEPARTMENT and the FHWA prior to the performance thereof by the CONSULTANT and requires an amendment to this Contract.
26. In addition, the CONSULTANT shall comply with, and shall require any contractor or subcontractor to comply with, the following:
 - a. In connection with the performance of this Contract, the CONSULTANT (hereinafter in Appendix "A" referred to as the "Contractor") agrees to comply with the State of Michigan provisions for "Prohibition of Discrimination in State Contracts," as set forth in Appendix "A" attached hereto and made a part hereof.
 - b. During the performance of this Contract, the CONSULTANT for itself, its assignees, and successors in interest (hereinafter in Appendix "B" referred to as the "Contractor"), agrees to comply with the Civil Rights Act of 1964, being P.L. 88-352, 78 Stat. 241, as amended, being Title 42 U.S.C. Sections 1971, 1975a – 1975d, and 2000a – 2000h-6, and the Regulations of the United States DEPARTMENT of Transportation (49 CFR Part 21) issued pursuant to said Act, including Appendix "B" attached hereto and made a part hereof.
 - c. The parties hereto further agree that they accept the DEPARTMENT'S Minority Business Enterprises/Women's Business Enterprises (MBE/WBE) Program with respect to the PROJECT and will abide by the provisions set forth in Appendix "C" attached hereto and made a part hereof, being an excerpt from Title 42 CFR Part 23, more specifically 23.43(a)(1) and (2) thereof.
27. The CONSULTANT warrants that it has not employed or retained any company or person other than bona fide employees working solely for the CONSULTANT, to solicit or secure this Contract, and that it has not paid or agreed to pay any company or person, other than bona fide employees working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award, or making of this Contract. For breach or violation of this warranty, the LOCAL AGENCY shall have the right to annul this

Contract without liability, or at its discretion, to deduct from the Contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gifts or contingent fee.

28. The CONSULTANT specifically agrees that in the performance of SERVICES herein enumerated by it, or by an approved subcontractor, or anyone acting in its behalf, they will, to the best of their professional knowledge and ability, comply with any and all applicable state, federal and local statutes, ordinances and regulations.
29. No charges or claims for damages shall be made by the CONSULTANT for delays or hindrances from any cause whatsoever during the process of any portions of the SERVICES specified in this Contract, except as hereinafter provided.

In case of a substantial delay on the part of the LOCAL AGENCY in providing to the CONSULTANT either the necessary information or approval to proceed with the work, resulting, through no fault of the CONSULTANT, in delays of such extent as to require the CONSULTANT to perform its work under changed conditions not contemplated by the parties, the LOCAL AGENCY will consider supplemental compensation limited to increased costs incurred as a direct result of such delays. Any claim for supplemental compensation must be in writing and accompanied by substantiating data. Authorization of such supplemental compensation shall be by an amendment to this Contract subject to prior approval by the DEPARTMENT and the FHWA.

When delays are caused by circumstances or conditions beyond the control of the CONSULTANT as determined by the LOCAL AGENCY, the CONSULTANT shall be granted an extension of time for such reasonable period as may be mutually agreed upon between the parties, it being understood, however, that the permitting of the CONSULTANT to proceed to complete the SERVICES, or any part of them, after the date to which the time of completion may have been extended, shall in no way operate as a waiver on the part of the LOCAL AGENCY of any of its rights herein set forth.

30. In case the CONSULTANT deems extra compensation will be due it for work or materials not clearly covered in this Contract, or not ordered by the LOCAL AGENCY as a change, or due to changed conditions, the CONSULTANT shall notify the LOCAL AGENCY in writing of its intention to make claim for such extra compensation before beginning such work. Failure on the part of the CONSULTANT to give such notification will constitute a waiver of the claim for such extra compensation. The filing of such notice by the CONSULTANT shall not in any way be construed to establish the validity of the claim. Such extra compensation shall be

provided only by amendment to this Contract with approval of the DEPARTMENT and the FHWA.

31. Indemnification and Insurance: The CONSULTANT shall not commence work until the certificate of insurance required under this paragraph has been delivered to the LOCAL AGENCY. All insurance carriers must be acceptable to the LOCAL AGENCY and licensed and admitted to do business in the State of Michigan. A new certificate of insurance shall be provided to the LOCAL AGENCY each year at the time of policy renewal.

1. Workers' Compensation Insurance. The CONSULTANT shall procure and maintain during the life of this Contract, Workers' Compensation Insurance, including employers Liability Coverage, in accordance with all applicable statutes of the State of Michigan. If CONSULTANT is a sole proprietor, workers compensation release must be provided.

2. Commercial General Liability Insurance. The CONSULTANT shall procure and maintain during the life of the Contract, Commercial General Liability insurance on an "Occurrence Basis" with limits of liability not less than \$1,000,000 per occurrence, Personal Injury, Bodily Injury and Property Damage. Coverage shall include the following extensions: (A) Contractual Liability; (B) Products and Completed Operations Liability; (C) Independent Contractors Coverage; (D) Broad Form General Liability Extensions or equivalent; (E) Deletion of all Explosion, Collapse and Underground (XCU) Exclusions, if applicable. Coverage should include terrorist liability.

3. Motor Vehicle Liability. The CONSULTANT shall procure and maintain during the life of this Contract Motor Vehicle Liability Insurance, including Michigan No-Fault Coverages, with limits of liability of not less than \$1,000,000 per occurrence combined single limit Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.

4. Umbrella Liability Insurance. The CONSULTANT shall procure and maintain during the life of this Contract Umbrella Liability Insurance with limits of liability of not less than \$1,000,000 per occurrence.

5. Professional Liability Insurance. The CONSULTANT shall procure and maintain during the life of this Contract, Professional liability insurance, issued on an "occurrence basis" or "claims made basis", with limits of liability of not less than \$1,000,000 per occurrence/aggregate, or per claim/aggregate if on a "claims made basis". If written on a "claims made basis", the policy must continue for a period of two (2) years following the termination or end date of the contract. Whether on an "occurrence basis"

or a "claims made basis", the policy shall include: a) per contract aggregate and b) deletion of all contractual liability exclusions and/or provisions.

6. Additional Insured. Commercial General Liability and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following shall be Additional Insureds: "The City of Troy, the Michigan State Transportation Commission, and the Michigan Department of Transportation all elected and appointed officials, all employees and volunteers, all boards, commissions and/or authorities and board members, including employers and volunteers thereof. This coverage shall be primary to the Additional Insureds, and not contributing with any other insurance or similar protection available to the Additional Insureds, whether other available coverage be primary, contributing or excess."

7. Cancellation Notice. Workers' Compensation Insurance, Commercial General Liability Insurance and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following: "It is understood and agreed that Sixty (60) days Advance Written Notice of Cancellation, Non-Renewal, Reduction and/or Material Change shall be sent to City of Troy, 500 West Big Beaver Road, Troy, Michigan 48084."

8. If any of the above coverages expire during the term of the Contract, the CONSULTANT shall deliver renewal certificates and/or policies to the City of Troy at least ten (10) days prior to the expiration date. Failure to comply with the insurance requirements contained in this agreement shall constitute a material violation and breach of the agreement and may result in termination of the agreement.

To the fullest extent permitted by law, CONSULTANT agrees to defend, pay in behalf of, indemnify and hold harmless the City of Troy, its elected and appointed officials, employees and volunteers and others working in behalf of the City of Troy against any and all claims, demands, suits, or loss, including all costs and attorneys fees connected therewith, and for any damages which may be asserted, claimed or recovered against or from the City of Troy, its elected and appointed officials, employees, volunteers or others working in behalf of the City of Troy by reason of personal injury, including bodily injury and death and/or property damage, including loss of use thereof, which arises out of or is in any way connected or associated with this Contract as well as to indemnify and save harmless the Michigan State Transportation Commission, and the DEPARTMENT, their officers, agents and employees from any and all claims and losses occurring or resulting to any person, firm or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this contract, and from any and all claims and losses occurring or resulting to any person, firm, or corporation who may be injured or damaged by the CONSULTANT in the performance of this contract.

32. This Contract shall be terminated upon advisement to the CONSULTANT by the LOCAL AGENCY that its SERVICES are completed and accepted.
33. The CONSULTANT'S signature on this Contract constitutes the CONSULTANT'S certification of "status" under penalty or perjury under the laws of the United States in respect to 49 CFR Part 29 pursuant to Executive Order 12549.
- The certification, which is included as a part of this Contract as Attachment "A," is Appendix A of 49 CFR Part 229, and applies to the CONSULTANT (referred to in Appendix A of 49 CFR Part 29 as "the prospective primary participant").
34. The CONSULTANT hereby agrees that the costs reported to the LOCAL AGENCY for this Contract shall represent only those items which are properly chargeable in accordance with this Contract. The CONSULTANT also hereby certifies that it has read the Contract terms and has made itself aware of the applicable laws, regulations, and terms of this Contract that apply to the reporting of costs incurred under the terms of this Contract.
35. Upon execution of this Contract by the parties hereto, the same shall become binding on the parties hereto and their successors and assigns, until such time as all work contemplated hereunder is complete, or until such time as this Contract is terminated by mutual consent of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals by their duly authorized agents and representatives the day and year first above written.

GREENSTAR & ASSOCIATES, L.L.C

By: Patricia A. Petitto
Patricia A. Petitto

CITY OF TROY

By: _____
Louise Schilling

Its: Mayor

By: _____
Tonni L. Bartholomew

Its: City Clerk

CERTIFICATION

I hereby certify that I am Patricia A. Petitto and a duly authorized representative of the firm of Greenstar & Associates, L.L.C., whose address is 4840 N. Adams, Suite 183, Rochester, MI 48306 and that neither I nor the above firm I here represent has:

(a) employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above Greenstar & Associates, L.L.C.) to solicit or secure this contract.

(b) agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the contract, or

(c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above Greenstar & Associates, L.L.C.) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the contract.

except as here expressly stated (if any):

I acknowledge that this certification is to be furnished to the Michigan Department of Transportation in connection with this contract involving participation of state and/or federal funds, and is subject to applicable state and federal laws, both criminal and civil.

6/28/06

Date

Patricia A. Petitto

Signature

APPENDIX A
PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS

In connection with the performance of work under this contract, the contractor agrees as follows:

1. In accordance with Act No. 453, Public Acts of 1976, the contractor hereby agrees not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or as a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, or marital status. Further, in accordance with Act No. 220, Public Acts of 1976 as amended by Act No. 478, Public Acts of 1980, the contractor hereby agrees not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of a handicap that is unrelated to the individual's ability to perform the duties of a particular job or position. A breach of the above covenants shall be regarded as a material breach of this contract.
2. The contractor hereby agrees that any and all subcontracts to this contract, whereby a portion of the work set forth in this contract is to be performed, shall contain a covenant the same as hereinabove set forth in Section 1 of this Appendix.
3. The contractor will take affirmative action to insure that applicants for employment and employees are treated without regard to their race, color, religion, national origin, age, sex, height, weight, marital status or a handicap that is unrelated to the individual's ability to perform the duties of a particular job or position. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
4. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, age, sex, height, weight, marital status or handicap that is unrelated to the individual's ability to perform the duties of a particular job or position.
5. The contractor or his collective bargaining representative will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the contractor's commitments under this appendix.
6. The contractor will comply with all relevant published rules, regulations, directives, and orders of the Michigan Civil Rights Commission which may be in effect prior to the taking of bids for any individual state project.
7. The contractor will furnish and file compliance reports within such time and upon such forms as provided by the Michigan Civil Rights Commission, said forms may also elicit information as to the practices, policies, programs, and employment statistics of each subcontractor as well as the contractor himself, and said contractor will permit access to his books, records, and accounts by the Michigan Civil Rights Commission and/or its agent, for purposes of investigation to ascertain compliance with his contract and relevance with rules, regulations, and orders of the Michigan Civil Rights Commission.
8. In the event that the Civil Rights Commission finds, after a hearing held pursuant to its rules, that a contractor has not complied with the contractual obligations under this agreement, the Civil Rights Commission may, as part of its order based upon such findings, certify said findings to the Administrative Board of the State of Michigan, which Administrative Board may order the cancellation of the contract found to have been violated and/or declare the contractor ineligible for future contracts with the state and its political and civil subdivisions, departments, and officers, and including the governing boards of institutions of higher education, until the contractor complies with said order of the Civil Rights Commission. Notice of said declaration of future ineligibility may be given to any or all of the persons with whom the contractor is declared ineligible to contract as a contracting party in future contracts. In any case, before the Civil Rights Commission in which cancellation of an existing contract is a possibility, the contracting agency shall be notified of such possible remedy and shall be given the option by the Civil Rights Commission to participate in such proceedings.
9. The contractor will include, or incorporate by reference, the provisions of the foregoing paragraphs (1) through (8) in every subcontract or purchase order unless exempted by the rules, regulations or orders of the Michigan Civil Rights Commission, and will provide in every subcontract or purchase order that said provisions will be binding upon each subcontractor or seller.

APPENDIX B

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as following:

1. Compliance with Regulations: The contractor shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 27, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
2. Nondiscrimination: The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or natural origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
4. Information and Reports: The contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities, as may be determined by the Michigan Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the Michigan Department of Transportation, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the Michigan Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
 - (a) Withholding of payments to the contractor under the contract until the contractor complies, and/or
 - (b) Cancellation, termination, or suspension of the contract, in whole or in part.
6. Incorporation of Provisions: The contractor shall include the provisions of paragraphs 1 through 6 of every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the Michigan Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for non-compliance; provided, however that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the Michigan Department of Transportation to enter into such litigation to protect the interests of the state, and, in addition, the contractor may request the United States to enter into such litigation to protect the interest of the United States.

APPENDIX C

TO BE INCLUDED IN ALL FINANCIAL ASSISTANCE AGREEMENTS WITH LOCAL AGENCIES

General Requirements for Recipients

Excerpts from USDOT Regulation 49 CFR, Part 23, Section 23.43

- A. Policy: It is the policy of the Department that MBE as defined in 49 CFR, Part 23, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds. Consequently, the MBE requirements of 49 CFR, Part 23, apply to this contract.
- B. MBE Obligation: The recipient or its contractor agrees to ensure that MBE as defined in 49 CFR, Part 23, has the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with federal funds provided under this agreement. In this regard, all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR, Part 23, to ensure that MBE has the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of departmentally-assisted contracts.
- C. If, as a condition of assistance, the recipient has submitted and the department has approved a minority business enterprise affirmative action program which the recipient agrees to carry out, this program is incorporated into this financial assistance agreement by reference. This program shall be treated as a legal obligation and failure to carry out its terms shall be treated as a violation of this financial assistance agreement. Upon notification to this recipient of its failure to carry out the approved program, the Department shall impose such sanctions as noted in 49 CFR, Part 23, Subpart E, which sanctions may include termination of the agreement or other measures that may affect the ability of the recipient to obtain future departmental, financial assistance.
- D. The Department hereby advises each recipient, contractor, or subcontractor that failure to carry out the requirements set forth in Section 23.43(a) 49 CFR, Part 23, shall constitute a breach of contract, and after the notification of the USDOT, may result in termination of the agreement or contract by the Department or such remedy as the Department deems appropriate.

ATTACHMENT A

(This is a reproduction of Appendix A of 49 CFR Part 29)

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS -
PRIMARY COVERED TRANSACTIONS

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification in addition to other remedies available to the federal government, the department or agency may terminate this transaction for cause of default.
4. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposed," and "voluntarily excluded" as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules impending Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals.
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally processed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency may terminate this transaction for cause or default.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - B. Have not within a three-year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
 - C. Are not presently indicated for or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - D. Have not within a three-year period preceding this application/proposal had one or more public transactions (federal, state, or local) terminated for cause or default.
2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

March 9, 1989

ATTACHMENT B

(This is a reproduction of Appendix B of 49 C.F.R. Part 29)
CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY
AND VOLUNTARY EXCLUSION-LOWER TIER COVERED TRANSACTIONS

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause; have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transaction," without notification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List (Telephone No. (517) 335-2513 or (517) 335-2514).
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

June 22, 2006

TO: John M. Lamerato, Acting City Manager

FROM: Brian Murphy, Assistant City Manager/Services
Steven J. Vandette, City Engineer 

SUBJECT: **AGENDA ITEM** - Addendum No. 1: Contract 04-2 – Maple Road Water Main Replacement, Coolidge to Crooks

RECOMMENDATION

It is recommended that City Council approve Addendum No. 1 in the amount of \$48,333.30 to the Maple Road Water Main Replacement contract with Aielli Construction Co.

SUMMARY

During the preliminary engineering phase of this project several attempts were made to acquire an easement across 2785 W. Maple to allow for the complete replacement of the water main from Coolidge to Crooks. The property owner repeatedly refused to grant an easement until the project was actually under construction and the water main work was approaching the property. After granting an easement 600 feet of water main was added to the project and the construction continued uninterrupted. This additional water main added \$28,000 to the cost of the project. Also, due to conflicts with existing underground utilities the new water main was shifted under the existing sidewalk, which caused more sidewalk, at additional cost, to be replacement than had been provided for in the contract.

Since it is not practical or cost effective to stop the contractor for days or weeks until a change order can be approved for minor increases in contract quantities, the work continues on until final completion of the project. If the approved 10% contingency is sufficient to cover added costs, as is usually the case, final payment to the contractor is made and the project is closed out. If, as in this case, project costs exceed the authorized amount, council approval is needed prior to processing payment for the additional work. The amount exceeding the 10% contingency on this project is \$48,333.30.

FUNDING

Funds are available to complete this project in the 2005/06 Water Fund, account number 555.7970.015015. The budgeted amount includes funds for construction, inspection and contingencies.

June 28, 2006

TO: John M. Lamerato, Acting City Manager

FROM: Brian P. Murphy, Assistant City Manager/Services

SUBJECT: AGENDA ITEM – Request for Acceptance of Three Easements and One Warranty Deed from Quattro Development Company, Inc. – Sidwell #88-20-15-428-012

In connection with the Longfellow Site Condominium development located on the west side of Rochester Road, north of Longfellow Drive, Section 15, the Real Estate and Development Department has acquired three easements and one warranty deed for Rochester Road right-of-way from the property owner Quattro Development Company, Inc. The consideration on each document is \$1.00.

SIDWELL #	OWNER NAME	TYPE OF DOCUMENT
88-20-15-428-012	Quattro Development Company, Inc.	Warranty Deed – road right-of-way
88-20-15-428-012	Quattro Development Company, Inc.	Easement – storm sewer
88-20-15-428-012	Quattro Development Company, Inc.	Easement - non-access greenbelt
88-20-15-428-012	Quattro Development Company, Inc.	Easement - sanitary sewer

Management recommends that City Council accept the attached documents.

WARRANTY DEED

Sidwell # 88-20-15-428-012
Project # 05.915.3
Resolution #

The Grantor(s) Quattro Development Company, Ink, a Michigan Corporation, whose address is: 47858 Van Dyke, Suite 410, Shelby Township, MI 48317, convey(s) and warrant(s) to the City of Troy, a Michigan Municipal Corporation, Grantee, whose address is 500 West Big Beaver Road, Troy, Michigan 48084, the following described premises situated in the City of Troy, County of Oakland and State of Michigan:

The East 32 feet of the following described property:

Part of R.11 E., City of Troy, Oakland County, Michigan, commencing at the East ¼ corner of Section 15; thence S 00°16'21"E, 165.00 feet to the Point of Beginning; thence continuing S 00°16'21" E, 201.24 feet to a point on the Northerly line of Longfellow Drive (60 foot wide); thence along said line N 89°35'28" W, 475.00 feet to a point on the Easterly line of "Pinemeadow Subdivision" (Liber 142, Page 40-42 O.C.R.); thence along said line N 00°16'21" W, 201.20 feet; thence S 89°35'43" E, 475 feet to the Point of Beginning, EXCEPT the Easterly 43 feet taken for road purposes.

For the sum of One Dollar (\$1.00)
subject to easements and building and use restrictions of record and further subject to

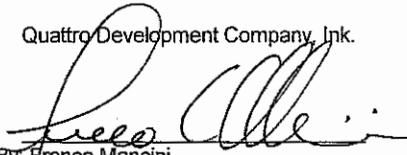
Dated this 27 day of June, 2006.

Signed in presence of:

_____ None Required _____

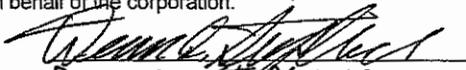
_____ None Required _____

Quattro Development Company, Ink.


By: Franco Mancini
Its: President

STATE OF MICHIGAN)
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this 27 day of June, 2006, by Franco Mancini, President, of Quattro Development Company, Ink, a Michigan corporation, on behalf of the corporation.


Dennis C. Stephens

Acting In Oakland County, Michigan
Notary Public, Oakland County, Michigan
My commission expires: 10/20/2010

County Treasurer's Certificate		City Treasurer's Certificate	
When recorded return to: City Clerk City of Troy 500 West Big Beaver Troy, MI 48084	Send subsequent tax bills to: Grantee	Drafted by: Dennis C. Stephens City of Troy 500 West Big Beaver Troy, MI 48084	

Tax Parcel # Recording Fee Transfer Tax

PERMANENT EASEMENT

Sidwell #88-20-15-428-012

Project #05.915.3

Resolution #

Quattro Development Company, Ink, a Michigan Corporation, Grantor, whose address is 47857 Van Dyke, Suite 410, Shelby Township, MI 48317, for and in consideration of the sum of One Dollar (\$1.00) paid by the CITY OF TROY, a Michigan Municipal Corporation, Grantee, whose address is 500 West Big Beaver Road, Troy, Michigan, grants to the Grantee the right to construct, operate, maintain, repair and/or replace Sanitary Sewer, said easement for land situated in the City of Troy, Oakland County, Michigan, described as:

SEE EXHIBIT "A" ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF

and to enter upon sufficient land adjacent to said improvement(s) for the purpose of the construction, operation, maintenance, repair and/or replacement thereof.

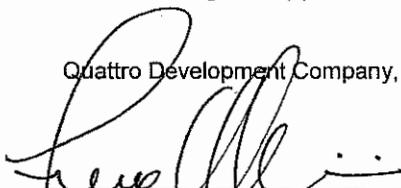
The premises so disturbed by the exercise of any of the foregoing powers shall be reasonably restored to its original condition by the Grantee.

This instrument shall be binding upon and inure to the benefit of the parties hereto, their heirs, representatives, successors and assigns and the covenants contained herein shall run with the land.

IN WITNESS WHEREOF, the undersigned hereunto affixed his signature(s) this 27 day of June A.D. 2006.

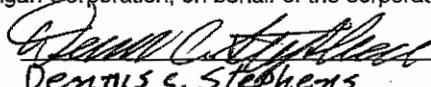
In presence of:

Quattro Development Company, Ink

 (L.S.)
By: Franco Mancini
Its: President

STATE OF MICHIGAN)
COUNTY OF OAKLAND)

The foregoing instrument as acknowledged before me this 27 day of June, 2006, by Franco Mancini, President of Quattro Development Company, Ink., a Michigan Corporation, on behalf of the corporation.


Dennis C. Stephens
Notary Public, Oakland County, Michigan
Acting in Oakland County
My Commission Expires 

(Corporations)

Prepared by:

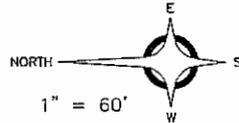
Return to:

Dennis C. Stephens
500 West Big Beaver
Troy, Michigan 48084

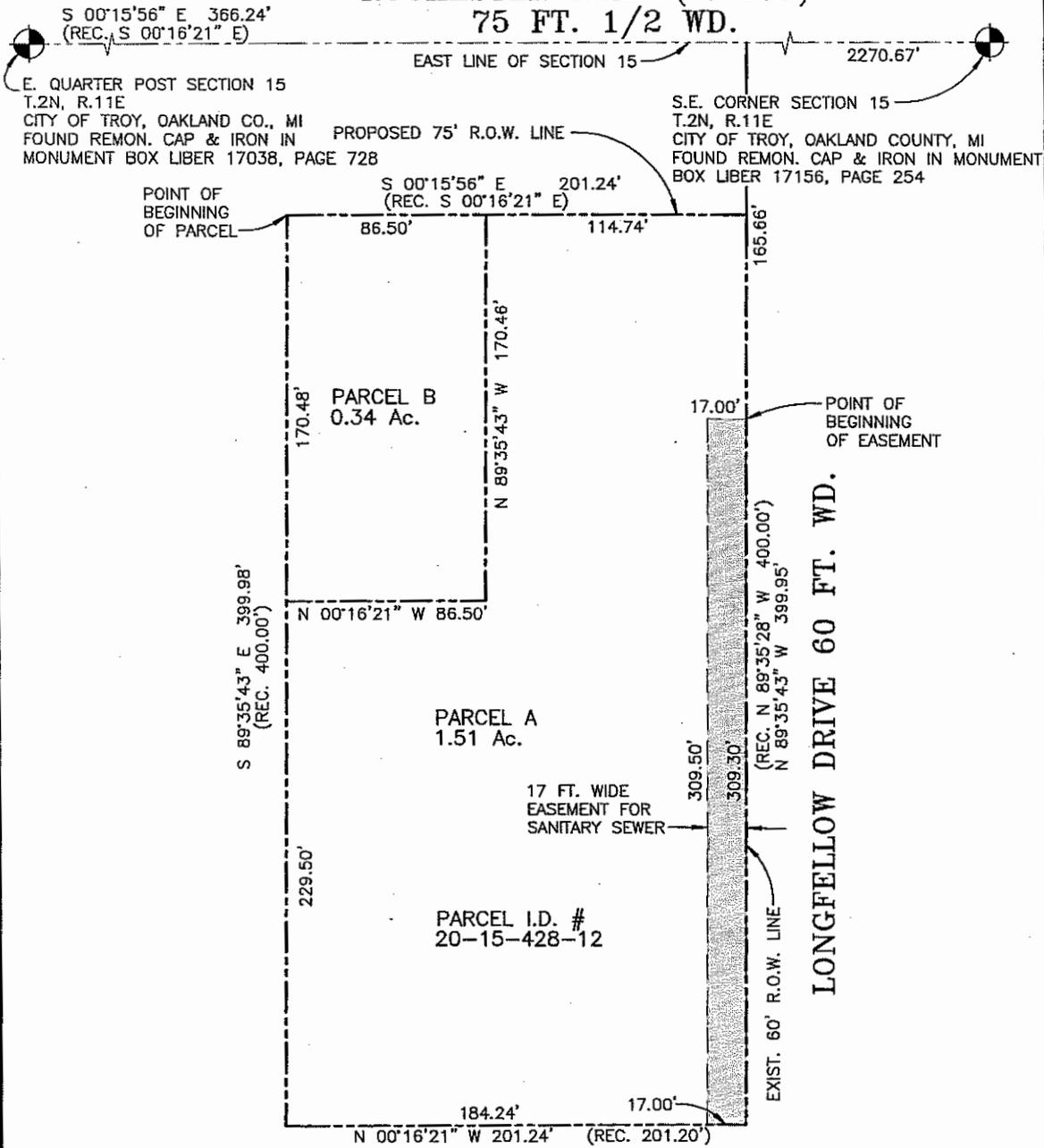
City Clerk, City of Troy
500 West Big Beaver Road
Troy, Michigan 48084

ANDERSON, ECKSTEIN AND WESTRICK, INC.
 51301 SCHOENHERR ROAD
 SHELBY TWP., MI. 48315
 PHONE: (586) 726-1234
 FAX: (586) 726-8780
 aewinc@aewinc.com
 www.aewinc.com

EASEMENT EXHIBIT "A"



ROCHESTER ROAD (M-150) 75 FT. 1/2 WD.



PINEMEADOW SUBDIVISION
 LIBER 142 PAGE 40-42
 OAKLAND COUNTY RECORDS

GRANTEE (TO):	CITY OF TROY	PARCEL I.D. NO.:	20-15-428-12
ADDRESS:	500 WEST BIG BEAVER	GRANTOR (FROM):	QUATTRO DEVELOPMENT
CITY, ST., & ZIP:	TROY, MICHIGAN 48084	ADDRESS:	47858 VAN DYKE, SUITE 410
		CITY, ST., & ZIP:	SHELBY TOWNSHIP, MI 48317

EXHIBIT "A"

DESCRIPTION
PARCEL 20-15-428-012
PERMANENT SANITARY SEWER EASEMENT

A PERMANENT SANITARY SEWER EASEMENT, BEING A PART OF THE SOUTHEAST QUARTER OF SECTION 15, TOWN 2 NORTH, RANGE 11 EAST, CITY OF TROY, OAKLAND COUNTY, MICHIGAN, BEING DESCRIBED AS:

COMMENCING AT THE EAST QUARTER POST OF SECTION 15; THENCE SOUTH 0 DEGREES 15 MINUTES 56 SECONDS EAST (RECORD SOUTH 00 DEGREES 16 MINUTES 21 SECONDS EAST) 366.24 FEET ALONG THE EAST LINE OF SECTION 15; THENCE NORTH 89 DEGREES 35 MINUTES 43 WEST 165.66 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 89 DEGREES 35 MINUTES 43 SECONDS WEST 309.30 FEET ALONG THE NORTHERLY RIGHT OF WAY LINE OF LONGFELLOW DRIVE (60.00 FEET WIDE); THENCE NORTH 00 DEGREES 16 MINUTES 21 SECONDS WEST 17.00 FEET; THENCE SOUTH 89 DEGREES 35 MINUTES 43 SECONDS EAST 309.50 FEET; THENCE SOUTH 00 DEGREES 24 MINUTES 17 SECONDS WEST 17.00 FEET TO THE POINT OF BEGINNING.

PERMANENT EASEMENT

Sidwell #88-20-15-428-012

Project #05.915.3

Resolution #

Quattro Development Company, Ink, a Michigan Corporation, Grantor, whose address is 47857 Van Dyke, Suite 410, Shelby Township, MI 48317, for and in consideration of the sum of One Dollar (\$1.00) paid by the CITY OF TROY, a Michigan Municipal Corporation, Grantee, whose address is 500 West Big Beaver Road, Troy, Michigan, grants to the Grantee the right to construct, operate, maintain, repair and/or replace Storm Sewer, said easement for land situated in the City of Troy, Oakland County, Michigan, described as:

SEE EXHIBIT "A" ATTACHED HERETO AND BY REFERANCE MADE A PART HEREOF

and to enter upon sufficient land adjacent to said improvement(s) for the purpose of the construction, operation, maintenance, repair and/or replacement thereof.

The premises so disturbed by the exercise of any of the foregoing powers shall be reasonably restored to its original condition by the Grantee.

This instrument shall be binding upon and inure to the benefit of the parties hereto, their heirs, representatives, successors and assigns and the covenants contained herein shall run with the land.

IN WITNESS WHEREOF, the undersigned hereunto affixed his signature(s) this 27 day of June A.D. 2006.

Quattro Development Company, Ink

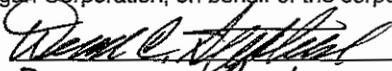


By: Franco Mancini
Its: President

In presence of:

STATE OF MICHIGAN)
COUNTY OF OAKLAND)

The foregoing instrument as acknowledged before me this 27 day of June, 2006, by Franco Mancini, President of Quattro Development Company, Ink., a Michigan Corporation, on behalf of the corporation.


Dennis C. Stephens

Notary Public, Oakland County, Michigan
Acting in Oakland County
My Commission Expires 10/20/2012

(Corporations)

Prepared by:

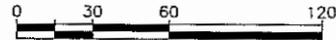
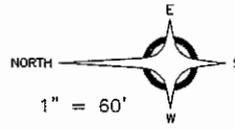
Return to:

Dennis C. Stephens
500 West Big Beaver
Troy, Michigan 48084

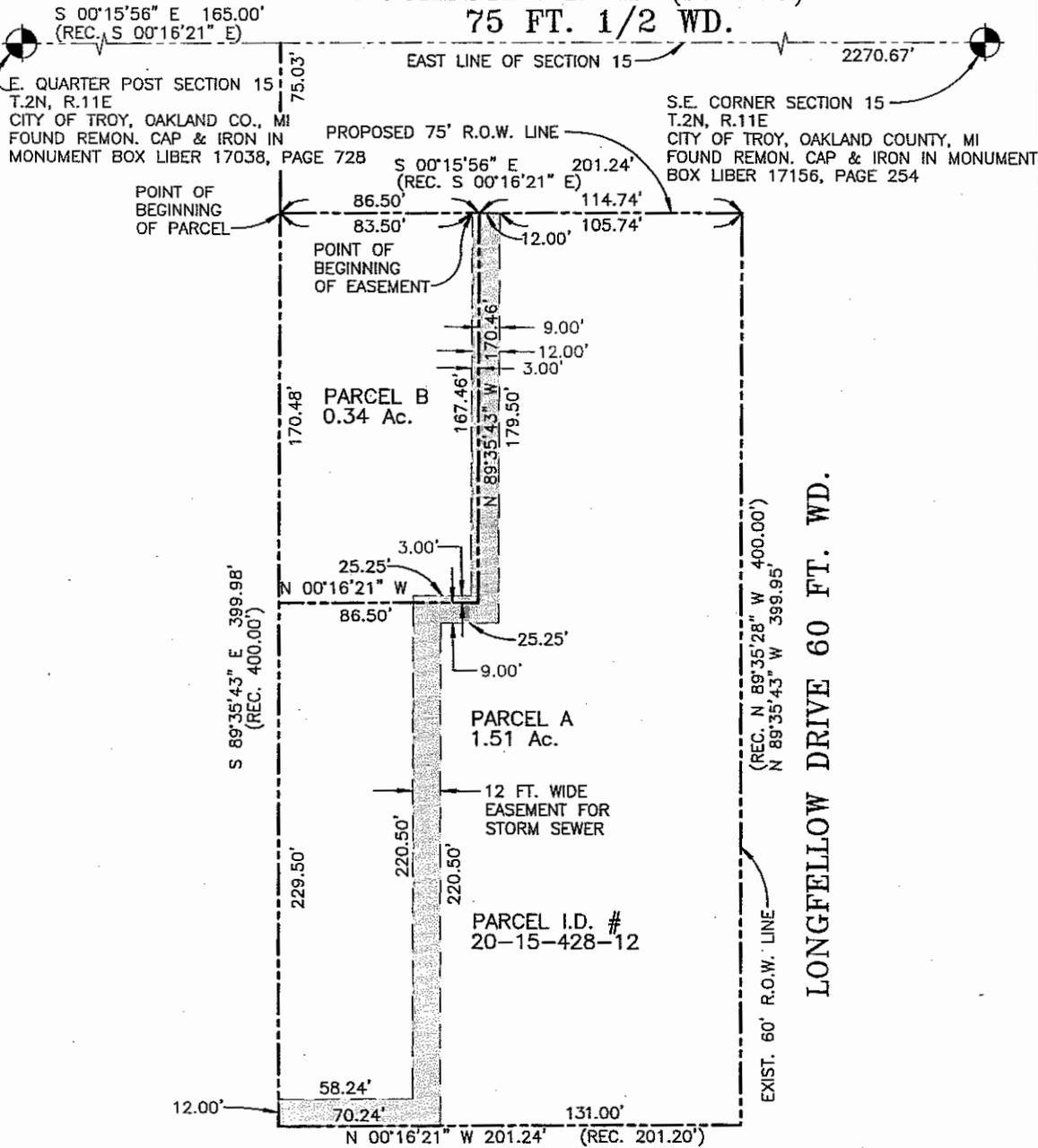
City Clerk, City of Troy
500 West Big Beaver Road
Troy, Michigan 48084

ANDERSON, ECKSTEIN AND WESTRICK, INC.
 51301 SCHOENHERR ROAD
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 PHONE: (586) 726-1234
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EASEMENT EXHIBIT "A"



ROCHESTER ROAD (M-150) 75 FT. 1/2 WD.



PINEMEADOW SUBDIVISION
LIBER 142 PAGE 40-42
OAKLAND COUNTY RECORDS

GRANTEE (TO):	CITY OF TROY	PARCEL I.D. NO.:	20-15-428-12
ADDRESS:	500 WEST BIG BEAVER	GRANTOR (FROM):	QUATTRO DEVELOPMENT
CITY, ST., & ZIP:	TROY, MICHIGAN 48084	ADDRESS:	47858 VAN DYKE, SUITE 410
		CITY, ST., & ZIP:	SHELBY TOWNSHIP, MI 48317

EXHIBIT "A"

DESCRIPTION
PARCEL 20-15-428-012
PERMANENT STORM SEWER EASEMENT

A PERMANENT STORM SEWER EASEMENT, BEING A PART OF THE SOUTHEAST QUARTER OF SECTION 15, TOWN 2 NORTH, RANGE 11 EAST, CITY OF TROY, OAKLAND COUNTY, MICHIGAN, BEING DESCRIBED AS:

COMMENCING AT THE EAST QUARTER POST OF SECTION 15; THENCE SOUTH 0 DEGREES 15 MINUTES 56 SECONDS EAST (RECORD SOUTH 00 DEGREES 16 MINUTES 21 SECONDS EAST) 165.00 FEET ALONG THE EAST LINE OF SECTION 15; THENCE NORTH 89 DEGREES 35 MINUTES 43 WEST 75.03 FEET TO THE WESTERLY RIGHT OF WAY LINE OF ROCHESTER ROAD (75.00 FEET WIDE HALF WIDTH); THENCE SOUTH 00 DEGREES 15 MINUTES 56 SECONDS EAST 83.50 FEET ALONG THE WESTERLY RIGHT OF WAY LINE OF ROCHESTER ROAD TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 00 DEGREES 26 MINUTES 22 SECONDS EAST 12.00 FEET ALONG THE WESTERLY RIGHT OF WAY LINE OF ROCHESTER ROAD; THENCE NORTH 89 DEGREES 35 MINUTES 28 SECONDS WEST 179.50 FEET; THENCE NORTH 00 DEGREES 16 MINUTES 21 SECONDS WEST 25.25 FEET; THENCE NORTH 89 DEGREES 35 MINUTES 43 SECONDS WEST 220.50 FEET; THENCE NORTH 00 DEGREES 16 MINUTES 21 SECONDS WEST 70.24 FEET; THENCE SOUTH 89 DEGREES 35 MINUTES 43 SECONDS EAST 12.00 FEET; THENCE SOUTH 00 DEGREES 16 MINUTES 21 SECONDS EAST 58.24 FEET; THENCE SOUTH 89 DEGREES 35 MINUTES 43 SECONDS EAST 220.50 FEET; THENCE SOUTH 00 DEGREES 16 MINUTES 21 SECONDS EAST 25.26 FEET; THENCE SOUTH 89 DEGREES 35 MINUTES 43 SECONDS EAST 167.46 FEET TO THE POINT OF BEGINNING.

PERMANENT EASEMENT

Sidwell #88-20-15-428-012

Project #05.915.3

Resolution #

Quattro Development Company, Ink, a Michigan Corporation, Grantor, whose address is 47857 Van Dyke, Suite 410, Shelby Township, MI 48317, for and in consideration of the sum of One Dollar (\$1.00) paid by the CITY OF TROY, a Michigan Municipal Corporation, Grantee, whose address is 500 West Big Beaver Road, Troy, Michigan, grants to the Grantee a non-accessible greenbelt easement, said easement for land situated in the City of Troy, Oakland County, Michigan, described as:

SEE EXHIBIT "A" ATTACHED HERETO AND BY REFERANCE MADE A PART HEREOF

The premises so disturbed by the exercise of any of the foregoing powers shall be reasonably restored to its original condition by the Grantee.

This instrument shall be binding upon and inure to the benefit of the parties hereto, their heirs, representatives, successors and assigns and the covenants contained herein shall run with the land.

IN WITNESS WHEREOF, the undersigned hereunto affixed his signature(s) this 27 day of June A.D. 2006.

In presence of:

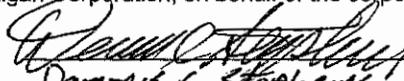
Quattro Development Company, Ink

 (L.S.)

By: Franco Mancini
Its: President

STATE OF MICHIGAN)
COUNTY OF OAKLAND)

The foregoing instrument as acknowledged before me this 27 day of June, 2006, by Franco Mancini, President of Quattro Development Company, Ink., a Michigan Corporation, on behalf of the corporation.


Dennis C. Stephens
Notary Public, Oakland County, Michigan
Acting in Oakland County
My Commission Expires 10/19/2010

(Corporations)

Prepared by:

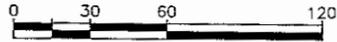
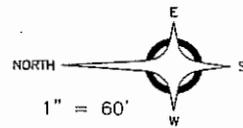
Return to:

Dennis C. Stephens
500 West Big Beaver
Troy, Michigan 48084

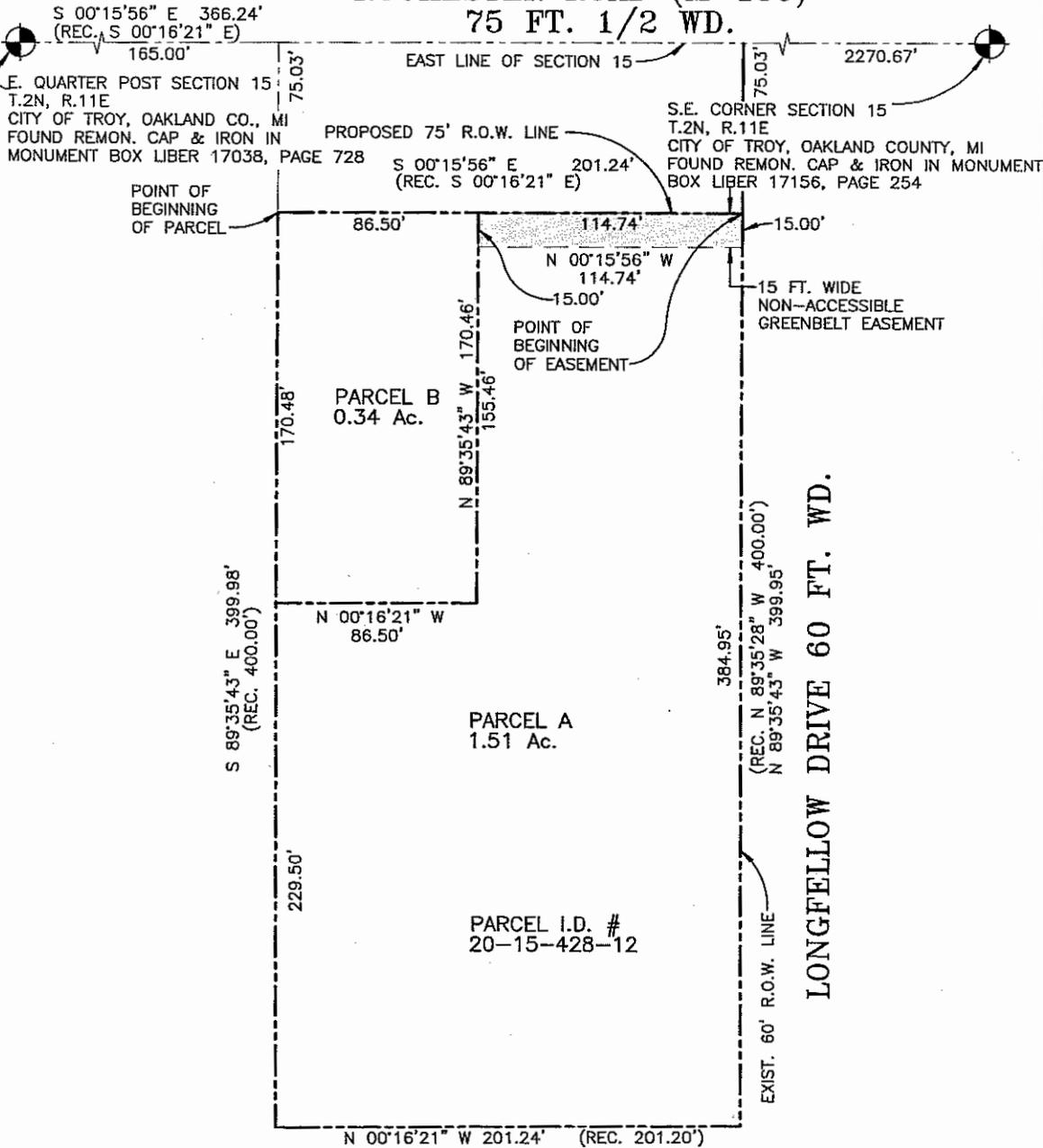
City Clerk, City of Troy
500 West Big Beaver Road
Troy, Michigan 48084

ANDERSON, ECKSTEIN AND WESTRICK, INC.
 51301 SCHOENHERR ROAD
 SHELBY TWP., MI 48315
 PHONE: (586) 726-1234
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 bewinc@aeawinc.com
 www.bewinc.com

EASEMENT EXHIBIT "A"



ROCHESTER ROAD (M-150)
 75 FT. 1/2 WD.



PINEMEADOW SUBDIVISION
 LIBER 142 PAGE 40-42
 OAKLAND COUNTY RECORDS

GRANTEE (TO):	CITY OF TROY	PARCEL I.D. NO.:	20-15-428-12
ADDRESS:	500 WEST BIG BEAVER	GRANTOR (FROM):	QUATRO DEVELOPMENT
CITY, ST., & ZIP:	TROY, MICHIGAN 48084	ADDRESS:	47858 VAN DYKE, SUITE 410
		CITY, ST., & ZIP:	SHELBY TOWNSHIP, MI 48317

EXHIBIT "A"

DESCRIPTION
PARCEL 20-15-428-012
NON-ACCESSIBLE GREENBELT EASEMENT

A PERMANENT NON-ACCESSIBLE GREENBELT EASEMENT, BEING A PART OF THE SOUTHEAST QUARTER OF SECTION 15, TOWN 2 NORTH, RANGE 11 EAST, CITY OF TROY, OAKLAND COUNTY, MICHIGAN, BEING DESCRIBED AS:

COMMENCING AT THE EAST QUARTER POST OF SECTION 15; THENCE SOUTH 00 DEGREES 15 MINUTES 56 SECONDS EAST 366.24 FEET ALONG THE EAST LINE OF SECTION 15; THENCE NORTH 89 DEGREES 35 MINUTES 43 SECONDS WEST 75.03 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 89 DEGREES 35 MINUTES 43 SECONDS WEST 15.00 FEET; THENCE NORTH 00 DEGREES 15 MINUTES 56 SECONDS WEST 114.74 FEET; THENCE SOUTH 89 DEGREES 35 MINUTES 43 SECONDS EAST 15.00 FEET TO THE WESTERLY RIGHT OF WAY LINE OF ROCHESTER ROAD; THENCE SOUTH 00 DEGREES 15 MINUTES 56 SECONDS EAST 114.74 FEET ALONG THE WESTERLY RIGHT OF WAY LINE OF ROCHESTER ROAD TO THE POINT OF BEGINNING.

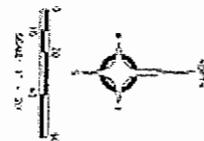
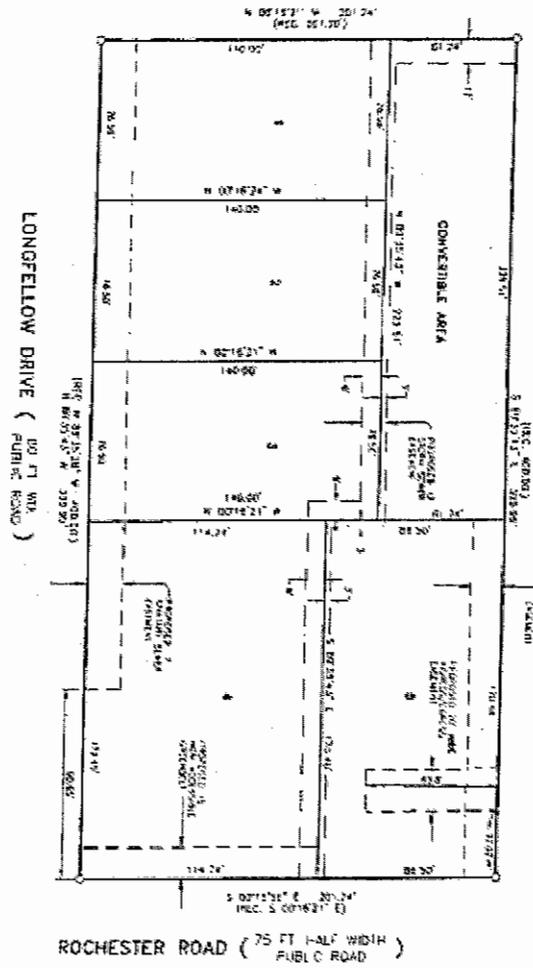
LIBER 36729 PG 235

LONGFELLOW CONDOMINIUM

LEGEND

- 1 Unit number
- 2 Common Area
- 3 Building Footprint
- 4 Building Footprint
- 5 Unit Boundary
- 6 Unit Boundary
- 7 Unit Boundary
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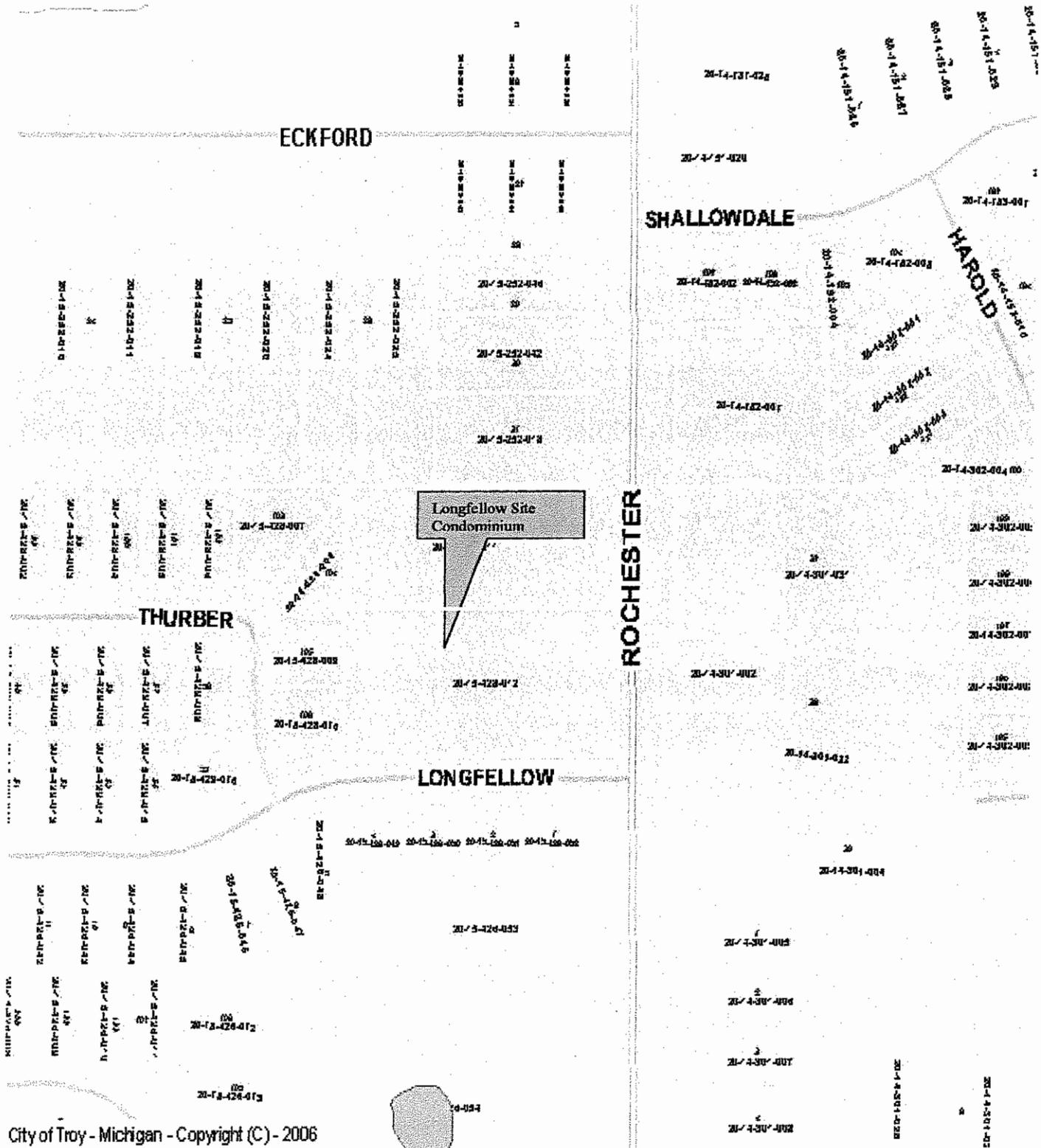
Unit No.	Area (sq. ft.)
1	1,000
2	1,000
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4	1,000
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8	1,000
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I, *[Signature]*
 CHIEF STATE LAND SURVEYOR
 NO. 3870
 STATE OF MARYLAND

UNIT LIMIT DIMENSIONS
 PROPOSED
 SEPTEMBER 21, 2009
 MUST BE BUILT
 SHEET 5

LONGFELLOW SITE CONDO LOCATION





TO: Members of the Troy City Council
FROM: Lori Grigg Bluhm, City Attorney
Susan M. Lancaster, Assistant City Attorney
DATE: June 29, 2006
SUBJECT: D & K Hannawa, L.L.C. v. City of Troy, et. al

As required by state statute, D & K Hannawa, L.L.C. filed a Complaint against the City of Troy and all neighboring property owners within 300 feet. The lawsuit seeks vacation of easements for private alleys on Lots 1 and 2 of Supervisor's Plat No. 23. The vacation of the easements is necessary to allow D & K Hannawa to proceed with its proposed development of site condominiums on the property that is north of Maple Road and west of Crooks Road. Although the easements call for private alleys, they were never developed as such.

The City filed an answer to the Complaint, and has continued to monitor the case to insure compliance with the local and state laws. The Plaintiffs have proposed the attached Consent Judgment, which we recommend for approval. The State of Michigan has already authorized the entry of the proposed attached Consent Judgment, which terminates the easements for private alleys on the current plat. The Consent Judgment also requires that the City of Troy be allowed to approve the amended plat prior to approval by the Michigan Department of Consumer and Industry Services, Office of Land Survey and Remonumentation.

William H. Thompson, Esq., the attorney for D & K Hannawa L.L.C, has indicated that all property owners within 300 feet of the property have been served with the Complaint and that some property owners have appeared or filed an Answer to the Complaint. For those who have not made formal appearances, there have been default judgments entered against those persons. Thompson reports that he has not received any telephone calls or correspondence from any of the neighbors who did not file an Answer objecting to the relief.

We are requesting that City Council approve the attached proposed Consent Judgment, as well as authorizing the Assistant City Attorney to execute the Consent Judgment on behalf of the City of Troy. This action would finalize this case, and vacate the private alley easements.

If you have any questions concerning the above, please let us know.

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

D & K HANNAWA, L.L.C.,
 a Michigan limited liability company,
 Plaintiff,

Honorable Michael Warren

v

No. 2006-071869-CH

DELTA-DONI, L.L.C., a Michigan limited liability company,
 JOSEPH M. JACOB, an individual, JENNIFER A. JACOB,
 an individual, M & L, L.L.C., a Michigan limited liability company,
 THE BRAVER FAMILY PARTNERSHIP, a Florida General Partnership,
 TEMPLE CITY ASSOCIATES, L.L.C., a Michigan limited liability company,
 MOSHOULA YAKSICH, Trustee of the Moshoula Yaksich Trust
 Dated February 11, 1993, as Amended, SOPHIA PAPATHEODORE,
 an individual, ATHAN PAPATHEODORE, an individual, PATRICIA
 PAPATHEODORE, an individual, R. ZORA PROPERTIES, L.L.C.,
 a Michigan limited liability company, MAPLE DEVELOPMENT
 COMPANY, L.L.C., a Michigan limited liability company,
 PACIFIC MID-WEST TRUST, a Texas Trust dated 4-01-2001,
 FISHER CORPORATION, a Michigan corporation, EATON
 HYDRAULICS, INC., f/k/a Vickers, Incorporated,
 a Delaware corporation, THE DETROIT EDISON COMPANY,
 a Michigan corporation, TEDS, L.L.C., a Michigan limited liability
 company, D & J INVESTMENTS CO., L.L.C., a Michigan limited
 liability company, 1742 CROOKS ROAD L.L.C., a Michigan
 limited liability company, REOMORRALLI PROPERTY, L.L.C.,
 a Michigan limited liability company, THE CITY OF TROY,
 a Michigan municipal corporation, THE COUNTY OF OAKLAND,
 a Michigan municipal corporation, RUDY D. LOZANO, Chairman
 of THE ROAD COMMISSION FOR OAKLAND COUNTY,
 JAY B. RISING, STATE TREASURER FOR THE STATE OF
 MICHIGAN, JOHN P. McCULLOCH, Drain Commissioner,
 THE OAKLAND COUNTY DRAIN COMMISSION,
 CONSUMERS ENERGY COMPANY, a Michigan Corporation,
 MICHIGAN BELL TELEPHONE COMPANY, a Michigan corporation,
 SBC TELEHOLDINGS, INC., a Delaware corporation, &
 CTT PARTNERS, L.L.C. d/b/a COLLIERS INTERNATIONAL;
 a Michigan limited liability company,
 Defendants.

**CONSENT JUDGMENT TO
 VACATE THE PRIVATE
 ALLEY BURDENING LOTS
 1 AND 2 IN SUPERVISOR'S
 PLAT NO. 23**

SULLIVAN, WARD, ASHER & PATTON, P.C.

CHRISTOPHER P. BAKER, P41770
 WILLIAM H. THOMPSON, P35122
 Sullivan, Ward, Asher & Patton, P.C.
 Attorneys for Plaintiff
 25800 Northwestern Hwy., Ste. 1000
 Southfield, MI 48075-1000
 (248) 746-0700

ALBERT CALILLE, P26819
 Attorney for Defendant Michigan Bell, ONLY
 444 Michigan Avenue, Suite 1750
 Detroit, MI 48226
 (313) 223-0964

LORI GRIGG BLUHM, P46908
SUSAN M. LANCASTER, P33168
City of Troy-City Attorney's Office
Attorneys for City of Troy, Only
500 W. Big Beaver Rd.
Troy, MI 48098
(248) 524-3320

GEORGE H. HATHAWAY, P31448
Attorney for Detroit Edison Company
2000 Second Ave. - 688 WCB
Detroit, MI 48226
(313) 235-8959

AHMAD M. ROBY, P58665
OAKLAND COUNTY CORPORATION COUNSEL
Attorney for Defendants Oakland County &
Jon P. McColloch, Oakland County Drain
Commissioner, ONLY
1200 N. Telegraph Road
Pontiac, MI 48341-0419
(248) 858-8640

BARBARA A. SCHMIDT, P40530
Attorney for Michigan Dept. of Labor &
Economic Growth, successor to the
State Treasurer under the Land Division Act
P.O. Box 30755
Lansing, MI 48909
(517) 373-7540

KEITH J. NORMAN, P26579
Attorney for Defendant Rudy Lozano,
Chairman, Oakland County Road Commission
31001 Lahser Rd.
Beverly Hills, MI 48025
(248) 645-2000

KIMBERLY L. SAVAGE, P68267
Attorney for Defendant Consumers Power
Company, Only
One Energy Plaza, EPI-420
Jackson, MI 49201-2276

CHRISTOPHER KOUZA, P61462
ELIAS MUAWAD, P41632
Attorneys for Defendant R. Zora
Properties, L.L.C., Only
38700 Woodward Ave., Suite 209
Bloomfield Hills, MI 48304
(248) 594-4700

SULLIVAN WARD, ASHER & PATTON, P.C.

**CONSENT JUDGMENT TO VACATE THE PRIVATE ALLEY
BURDENING LOTS 1 AND 2 IN SUPERVISOR'S PLAT NO. 23**

At a session of said Court, held in the
City of Pontiac, Oakland County, Michigan
on the _____ day of _____, 2006

Present: Hon. _____
Circuit Court Judge

WHEREAS, this matter having come to be heard upon the complaint of Plaintiff D & K
Hannawa, LLC to vacate the private alley burdening Lots 1 and 2 in Supervisor's Plat No. 23,
part of the SE ¼ of Section 29, T2N, R11E, City of Troy, Oakland County, Michigan; and
Plaintiff having represented to this Court that all parties required by MCL 560.224a(1) to be
joined have been so joined, and that those parties have either stipulated to this Judgment,
consented to the vacation of the easements for private alley burdening Lots 1 and 2 in

SULLIVAN, WARD, ASHER & FATTON, P.C.

Supervisor's Plat No. 23, been given notice of the proceedings leading to this Judgment, or been defaulted;

NOW, THEREFORE, IT IS ORDERED AND ADJUDGED THAT:

1. The easements for the private alley burdening Lots 1 and 2 in Supervisor's Plat No. 23, part of the SE ¼ of Section 29, T2N, R11E, City of Troy, Oakland County, Michigan, as recorded in Liber 15 Page 58 of Plats, Oakland County Records, are hereby vacated.

2. Only lawfully existing recorded easements located within the boundary of the amended plat are hereby preserved, and the amended plat shall show only lawfully existing recorded easements, and shall be accompanied by a title commitment or policy of title insurance and a written statement of the surveyor that he or she, in determining the type, width, and location of any utility easements shown, has searched, or caused to be searched, the records of the Register of Deeds for any recorded easements burdening the subject lands which were created between the date of a title commitment or a title policy and the submittal date of the amended plat and shall provide a copy of those records to the City of Troy and the Michigan Department of Labor and Economic Growth, Office of Land Survey and Remonumentation upon submission of the amended plat.

3. Plaintiff must record this Judgment in the Office of the Register of Deeds for the County of Oakland, State of Michigan, within 30 days of entry of this Judgment, as required by MCL 560.228.

4. Plaintiff shall prepare and file, within 90 days of the entry of this Judgment by this Court, an amended plat only for Lots 1 and 2 in Supervisor's Plat No. 23, part of the SE ¼ of Section 29, T2N, R11E, City of Troy, Oakland County, Michigan in recordable form as required by the Land Division Act for a final plat, for the review and written approval of the City of Troy and the Michigan Department of Labor and Economic Growth, Office of Land Survey and Remonumentation, in accordance with MCL 560.229 and this Judgment.

5. This Judgment will be declared null and void *nunc pro tunc* should the amended plat not be prepared and filed as required by this Judgment and by the requirements of MCL 560.229 within 90 days from the entry of this Judgment.

6. This Court shall retain jurisdiction over this matter until final approval of the proposed amended plat has been granted by the City of Troy and the Michigan Department of Labor and Economic Growth, Office of Land Survey and Remonumentation, and said amended plat is recorded with the Oakland County Register of Deeds.

7. This resolves the last pending claim in this matter and closes this case.

CIRCUIT COURT JUDGE

Stipulated and agreed:

ALBERT CALILLE, P26819
Attorney for Defendant Michigan Bell

SUSAN M. LANCASTER, P33168
Attorney for Defendant City of Troy

KEITH J. NORMAN, P26579
Attorney for Defendant Oakland County
Road Commission

BARBARA A. SCHMIDT, P40530
Attorney for Defendant Michigan Department of Labor
& Economic Growth

GEORGE H. HATHAWAY, P31448
Attorney for Defendant Detroit Edison

WILLIAM H. THOMPSON, P35122
Attorney for Plaintiff

W0466557

SULLIVAN, WARD, ASHER & PATTON, P.C.



TO: Members of the Troy City Council
FROM: Lori Grigg Bluhm, City Attorney
Christopher J. Forsyth, Assistant City Attorney
DATE: June 29, 2006
SUBJECT: In Re: Hooters lawsuit

Attached please find a copy of a summons and complaint, filed by Hooters of Troy Inc. against the City of Troy.

Hooters of Troy, Inc. is seeking an Order of Superintending Control, which essentially is a ruling from the Oakland County Circuit Court that overrules the City's decision to deny the requested transfer of the liquor license to Hooters of Troy, Inc. In addition to this unusual relief, they are also asking for costs, attorney fees, and incidental damages caused by a delay in opening the restaurant in the proposed new location.

According to the allegations in the complaint, Troy City Council acted arbitrarily and capriciously in denying the requested transfer of the Class C liquor license and entertainment permit license transfer from the Sign of the Beefcarver (The Wagon Wheel) to Hooters of Troy, Inc.. According to the statements in the complaint, Hooters has leased the building formerly occupied by the Wagon Wheel at Rochester Road and Big Beaver Road. Not later than September of this year, Hooters had planned to move its restaurant from its current location on John R Road to the Wagon Wheel site. At the June 19th Council meeting, City Council denied the requested transfer.

In the complaint, Hooters alleges that the denial of the requested liquor license transfer violated the owner's due process rights and/or equal protection rights that are guaranteed under the Michigan and United States Constitutions. Hooters is also requesting costs, attorney fees, and damages incurred by Hooters as a result of the delay in moving its operations to the Rochester Road Location.

Absent objections, the City Attorney's Office will assume representation of the City in this case. If you have any questions concerning the above, please let us know.

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

In re HOOTERS OF TROY, INC.
RECEIVED FOR FILING
OAKLAND COUNTY CLERK

Plaintiff.

06



'06 JUN 27 P3:22

Hc

OAKLAND COUNTY JUDGE JOHN J. McDONALD
HOOTERS OF TR V NONE

EDWARD G. LENNON PLLC
Edward G. Lennon (P42278)
Attorney for Plaintiff
322 N. Old Woodward
Birmingham, MI 48009
(248) 723-1276

HYMAN LIPPITT, P.C.
Stephen McKenney (P65673)
Co-counsel for Plaintiff
322 N. Old Woodward
Birmingham, MI 48009
(248) 646-8292

COMPLAINT

There is no other pending or resolved civil action arising out of the transaction or occurrence alleged in this Complaint.

Plaintiff, Hooters of Troy, Inc., a Georgia Corporation, by and through its attorneys, Edward G. Lennon PLLC and Hyman Lippitt, P.C., for its Complaint, states as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff, Hooters of Troy, Inc. ("Hooters"), is a Georgia Corporation authorized to conduct business in the State of Michigan and which conducts business in Oakland County, Michigan.

2. Hooters seeks the review and reversal of an arbitrary and capricious decision of the City of Troy ("Troy") denying, without legitimate basis, Hooters' request for transfer of a Class C liquor license.

3. Hooters is entitled to review of Troy's decision, but has no prescribed procedural remedy other than the filing of this action.

4. Hooters seeks, under MCR 3.302, a superintending control order approving Hooters' request to transfer a Class C liquor license.

FACTS AND CLAIMS

5. Hooters is a subsidiary corporation of Hooters of America, Inc., an Atlanta based operator and franchiser of over 375 Hooters restaurants located in 46 states, Argentina, Aruba, Austria, Brazil, Canada, Chili, England, Guatemala, Mexico, Singapore, Switzerland, Taiwan, Taipei, and Venezuela. Hooters of America, Inc. and its related and/or affiliated entities have been conducting business since 1983. Such entities operate entertainment-related businesses, including a golf tour, an auto racing series, a magazine and a casino.

6. Hooters currently operates a restaurant with a Class C Liquor License at 1686 John R Road in Troy (the "John R Restaurant"). The John R Restaurant abuts a residential neighborhood.

7. On January 6, 2006, Hooters entered into an agreement with Sign of the Beefcarver, Inc. to purchase Sign of the Beefcarver, Inc.'s 2005 Class C Liquor License and SDM License ("Liquor License"). Sign of the Beefcarver, Inc. had operated a restaurant under the name of Wagon Wheel Saloon at 2950 Rochester Road, Troy, MI. (Hereinafter, Sign of the Beefcarver, Inc. will be referred to as "Wagon Wheel".)

8. In addition to agreeing to purchase the Wagon Wheel Liquor License, Hooters also agreed to lease the property at which Wagon Wheel operated its restaurant, 2950 Rochester Road, Troy, MI ("Rochester Road Restaurant"). The Rochester Road Restaurant was and is located in an area

occupied exclusively by other commercial businesses. Hooters intends to close its John R Restaurant and move its operations to the Rochester Road Restaurant once the Hooters-Wagon Wheel transactions are consummated.

9. Among other things, the sale of the Liquor License is contingent upon approval of the transfer of the Liquor License by the Michigan Liquor Control Commission ("MLCC") and local authority (i.e., Troy). Michigan law and the MLCC require Troy's approval of the Liquor License transfer request.

10. On January 17, 2006, Hooters submitted a request to the MLCC to transfer the Liquor License from Wagon Wheel to Hooters.

11. Pursuant to Hooters' request to transfer the Wagon Wheel Liquor License to Hooters, on March 14, 2006, the MLCC issued a Notice of Impending Investigation.

12. Pursuant to the request to transfer the Liquor License from Wagon Wheel to Hooters, Troy also began an investigation. Hooters provided all information and documents requested by Troy during its investigation.

13. Troy police officials found no reason to deny the request to transfer the Liquor License.

14. Troy building officials found only minor conditions that needed to be corrected prior to approving the transfer of the Liquor License.

15. Other Troy employees and staff members have recommended that Troy approve the Liquor License transfer request.

16. On May 8, 2006, Hooters' representatives met with Troy's Liquor License Advisory Committee ("Advisory Committee"). After discussing the merits

of approving the transfer of the Liquor License, effectively moving Hooters from a location adjacent to a residential neighborhood to an area surrounded by solely commercial businesses, the Advisory Committee unanimously recommended that the City Council approve the Liquor License transfer.

17. Hooters' representatives then appeared at a June 19, 2006 Troy City Council meeting. At that meeting, the Troy City Council, by a 4 to 3 vote, denied the request for a Liquor License transfer. The Troy City Council presented no legitimate reasons for its decision to deny the Liquor License transfer request.

18. Because the Troy City Council voted to deny the request to transfer the Liquor License, the MLCC will not approve the Liquor License transfer request.

19. Troy's action, through its City Council, in denying the Liquor License transfer request, was arbitrary and capricious in that:

- a. no legitimate reasons were given for the decision to deny the Liquor License transfer;
- b. the governing considerations for granting the request to transfer were wholly ignored;
- c. the decision is contrary to the fact that for many years other businesses similar to Hooters conducted operations at the location to which Hooters seeks to transfer its business; and
- d. the decision was not authorized by law and not supported by competent, material and substantial evidence.

20. Hooters' due process rights guaranteed under the Michigan and United States Constitutions have been violated as a result of the arbitrary and capricious denial of the Liquor License transfer request.

21. Hooters' equal protection rights guaranteed under the Michigan and United States Constitutions have been violated as a result of the arbitrary and capricious denial of the Liquor License transfer request.

22. It is anticipated that, as a result of Troy's action in denying the request to transfer the Liquor License, Hooters will incur damages, including reduced profits, as a result of the delay in opening the Rochester Road Restaurant.

Wherefore, for the above reasons, Hooters seeks:

- a. a superintending control order approving the transfer of Hooters' Class C Liquor License;
- b. its costs and attorney fees in having to pursue this action; and
- c. all actual damages, including pre-complaint and post-complaint interest, incurred by Hooters as a result of the delay in moving its operations to the Rochester Road Restaurant.

Respectfully submitted,

EDWARD G. LENNON PLLC


EDWARD G. LENNON (P42278)
Attorney for Plaintiff

Dated: June 27, 2006

June 28, 2006

TO: John M. Lamerato, Acting City Manager

FROM: Brian Murphy, Assistant City Manager/Services
Steven Vandette, City Engineer

SUBJECT: Agenda Item - Private Agreement for North Hills Christian Reform
Church - Project No. 06.915.3

The Engineering Department has reviewed and approved plans for this project, which includes water main and paving.

The Owner has provided a check for escrow and cash fees in the amount of the estimated cost of public improvements, as required.

Approval is recommended.

Prepared by: Gary Streight, P.E.
Civil Engineer

cc: Tonni Bartholomew, City Clerk (Original Agreement)
James Nash, Financial Services Director

Enclosed Private Agreement

G:\Projects\Projects - 06.915.3\Private Agreement Cover Letter.doc

**CONTRACT FOR INSTALLATION OF MUNICIPAL IMPROVEMENTS
(PRIVATE AGREEMENT)**

PROJECT NO.	06.915.3	PROJECT LOCATION:	3150 Adams
RESOLUTION NO.		DATE OF COUNCIL APPROVAL:	

KNOW ALL MEN BY THESE PRESENT; That the City of Troy, a Michigan Municipal Corporation of the County of Oakland, State of Michigan, hereinafter referred to as "City" and **North Hills Christian Reform Church** whose address is **3150 Adams Rd., Troy, MI 48084** and whose telephone number is **248-359-3500** hereinafter referred to as "Owners".

WITNESSETH, FIRST: That the City agrees to allow the installation of **water main and paving** in accordance with plans prepared by **Nowak & Fraus** whose address is **46777 Woodward Ave, Pontiac, MI 48342** and whose telephone number is **248-332-7931**, and approved BY THE City of Troy Engineering Department.

SECOND: That the Owners agree to contribute the approximate contract price of **\$12,432.00**. This amount will be transmitted to the City Clerk for installation of said improvements in the form of (check one):

- Cash
- Certificate of Deposit
- Irrevocable Bank Letter of Credit
- Check
- Performance Bond & 10% Cash

Said funds shall be placed on deposit with the City upon the execution of this contract and shall be disbursed to the owner by the City after final inspection and approval by the City of Troy Engineering Department. In addition, the owners agree to contribute the following cash fees:

* Plan Review and Construction Inspection Fee (Public Improvements)	\$	1,007.00
Engineering Review Fee (Private Improvements) (PA1)	\$	1,211.82
Water Main Testing Fee (PA2)	\$	650.00
Street Cleaning/Road Maintenance (Refundable)	\$	5,000.00
TOTAL:	\$	\$7,868.82

* 8.1% (.081) of approximate contract price

CONTRACT FOR INSTALLATION OF MUNICIPAL IMPROVEMENTS**(PRIVATE AGREEMENT)****PROJECT NO. 06.915.3****PROJECT LOCATION:****3150 Adams****RESOLUTION NO.****DATE OF COUNCIL APPROVAL:**

THIRD: Owners agree to arrange for a pre-construction meeting with the City Engineer and the contractor prior to start of work. All municipal improvements must be completely staked in the field under the direct supervision of a registered civil engineer or registered land surveyor, according to the approved plans.

FOURTH: Owners hereby acknowledge the benefit to their property conferred by the construction of the aforementioned and agree and consent to pay the total sum of **\$ 20,300.82** for the construction of said public utilities in lieu of the establishments of any special district by the City. Further, owners acknowledge that the benefit to their property conferred by the improvement is equal to, or in excess of, the aforementioned amount.

FIFTH: Owners agree that if, for any reason, including, but not limited to, field changes or specification changes as required by the City, the total cost of completion of such improvement shall exceed the sum deposited with the City in accordance with Paragraph SECOND hereof, that Owners will immediately remit such additional amount to the City upon request and the City will disburse such additional amounts in accordance with Paragraph SECOND hereof.

SIXTH: Owners agree to indemnify and save harmless the City, their agents and employees, from and against all loss or expense (including costs and attorneys' fees) by reason of liability imposed by law upon the City, its agents and employees for damages because of bodily injury, including death, at any time resulting therefrom sustained by any person or persons or on account of damage to property, including work, provided such injury to persons or damage to property is due or claimed to be due to negligence of the Owner, his contractor, or subcontractors, employees or agents, Owner further agrees to obtain and convey to the City all necessary easements for such public utilities as required by the City Engineer.

CONTRACT FOR INSTALLATION OF MUNICIPAL IMPROVEMENTS
(PRIVATE AGREEMENT)

PROJECT NO. 06 915.3

PROJECT LOCATION:

3150 Adams

RESOLUTION NO.

DATE OF COUNCIL APPROVAL:

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed in duplicate on this 27 day of June, 2006.

OWNERS

CITY OF TROY

By:

By:

Wesley D Van Houten

Please Print or Type

Louise E. Schilling, Mayor

Wesley D Van Houten

Please Print or Type

Tonni Bartholomew, City Clerk

STATE OF MICHIGAN, COUNTY OF OAKLAND

On this 27 day of June, A.D. 2006, before me personally appeared Wesley D Van Houten known by me to be the same person(s) who executed this instrument and who acknowledged this to be his/her/their free act and deed.

Dawn Taylor

DAWN TAYLOR
Notary Public, State of Michigan
County of Macomb
My Commission Expires Jul. 6, 2010
Acting in the County of Calhoun

NOTARY PUBLIC, Oakland County, Michigan
macomb

My commission expires: July 6, 2010

June 27, 2006

TO: John M. Lamerato, Acting City Manager

FROM: Brian P. Murphy, Assistant City Manager/Services
William Nelson, Fire Chief
Carol K. Anderson, Parks and Recreation Director

SUBJECT: Agenda Item – Fireworks Permit – Troy Daze Festival

On June 5, 2006, a permit application from Mad Bomber Fireworks, Inc. of Kingsbury, Indiana was received by the City of Troy for a public fireworks display to be conducted at the close of this year's Troy Daze Festival.

BACKGROUND

Michigan's Fireworks Law requires that before anyone can conduct a fireworks display, a permit must be obtained from the local unit of government. The law states that any person or group that would like to conduct a fireworks display must apply to the local unit of government for a permit. The law defines local unit of government as the council or commission of a city or village, or the township board of a township.

With this in mind, Mad Bomber Fireworks Productions, Inc. is requesting that City Council grant a permit for a public fireworks display to occur on Sunday, September 17, 2006 at Boulan Park.

RECOMMENDATION

The Fire Prevention Division has reviewed the permit application and recommends that City Council issue a fireworks permit to Mad Bomber Fireworks Productions, Inc. Attached for Council's review is the permit application along with the permit to be signed and issued.

Permit for Fireworks Display
 Michigan Department of Labor & Economic Growth
 Bureau of Construction Codes & Fire Safety
 Office of the State Fire Marshal
 P.O. Box 30254
 Lansing, MI 48909
 517-241-9302

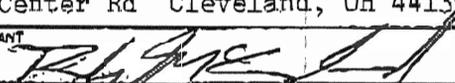
Authority: Compliance: Penalty:	1968 PA 388 Required Misdemeanor	The Department of Labor & Economic Growth will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, marital status, disability, or political beliefs. If you need assistance with reading, writing, hearing, etc., under the Americans with Disabilities Act, you may make your needs known to this agency.
---------------------------------------	--	--

This permit is not transferable. Possession of this permit authorizes the herein named person to possess, transport and display fireworks in the amounts, for the purpose of and at the place listed below only.

<input checked="" type="checkbox"/> Public Display		<input type="checkbox"/> Agricultural Pest Control	
ISSUED TO RANDY MCLASLAND		AGE (18 or over) 34	
ADDRESS 530 TIMBER LAKE DR., LOWELL, IN 46356			
NAME OF ORGANIZATION, GROUP, FIRM OR CORPORATION FIREWORKS PARTNERS INC., DBA MAD BOMBER PRODUCTIONS			
ADDRESS P.O. BOX 418, KINGSBURY, IN 46345			
NUMBER AND TYPES OF FIREWORKS 360 2.5" DISPLAY SHELLS 376 3" DISPLAY SHELLS 2916 SHOT BARRAGE BOXES			
EXACT LOCATION OF DISPLAY BOULAN PARK, 3671 CROOKS RD.			
CITY, VILLAGE, TOWNSHIP TROY		DATE 09/17/06	TIME DARK
BOND OR INSURANCE FILED <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			AMOUNT \$1M
Issued by action of the <input type="checkbox"/> council <input type="checkbox"/> commission <input type="checkbox"/> board of <input type="checkbox"/> city <input type="checkbox"/> village <input type="checkbox"/> township of _____ on the _____ day of _____ 20____ (Signature and Title of Council/Commission/Board Representative)			

Application for Fireworks Display Permit
 Michigan Department of Labor & Economic Growth
 Bureau of Construction Codes & Fire Safety
 P.O. Box 30700
 Lansing, MI 48909
 517-373-3413

Authority: Compliance: Penalty:	1868 PA 358 Voluntary Permit will not be issued	The Department of Labor & Economic Growth will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, marital status, disability, or political beliefs. If you need assistance with reading, writing, hearing, etc., under the Americans With Disabilities Act, you may make your needs known to this agency.
---------------------------------------	---	--

<input checked="" type="checkbox"/> Public Display		<input type="checkbox"/> Agricultural Pest Control	DATE OF APPLICATION 5/30/06
NAME OF APPLICANT DBA Mad Bomber Fireworks Productions		ADDRESS P.O. Box 418 Kingsbury, IN 46345	AGE (18 or over)
IF A CORPORATION, NAME OF PRESENT Andrew James		ADDRESS 14509 Clark St. Crown Point, IN 46307	
IF A NON-RESIDENT APPLICANT, NAME OF MICHIGAN ATTORNEY OR RESIDENT AGENT John Granato		ADDRESS 303 Brotherton Wakefield, MI 49968	TELEPHONE NUMBER 906-224-9871
NAME OF PYROTECHNIC OPERATOR Randy McCasland		ADDRESS 530 Timberlake Dr. Lowell, IN 46356	AGE (18 or over) 34
NO. YEARS EXPERIENCE 16	NO. DISPLAYS 300+	WHERE MI, IL, IN, IA, MN, MD, FL, WI, MO	
NAME OF ASSISTANT Mike Gardner		ADDRESS Griffith, IN	AGE 25
NAME OF OTHER ASSISTANT Rick James		ADDRESS Dyer, IN	AGE 44
EXACT LOCATION OF PROPOSED DISPLAY Boulan Park, Crooks Road Troy, MI			
DATE OF PROPOSED DISPLAY September 17th, 2006		TIME OF PROPOSED DISPLAY Evening, Dusk	
NUMBER OF FIREWORKS	KIND OF FIREWORKS TO BE DISPLAYED		
360	2.5" Display Shells		
376	3" Display Shells		
2916 shot	Barrage Boxes		
MANNER AND PLACE OF STORAGE PRIOR TO DISPLAY (Subject to Approval of Local Fire Authorities) Kingsbury Industrial Park High X Bunker Area			
AMOUNT OF BOND OR INSURANCE (To be set by local government) \$5,000,000		NAME OF BONDING CORPORATION OR INSURANCE COMPANY Britton-Gallagher and Associates, Inc.	
ADDRESS OF BONDING CORPORATION OR INSURANCE COMPANY 6240 SOM Center Rd Cleveland, OH 44139			
SIGNATURE OF APPLICANT 			

ACORD CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
01/20/2006

PRODUCER (440)248-4711 FAX (440)248-5406
Britton-Gallagher and Associates, Inc.
6240 SOM Center Rd.
Cleveland, OH 44139

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED Fireworks Partners Inc. dba
Mad Bomber Fireworks Productions
P.O. Box 418
Kingsbury, IN 46345

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: Lexington Insurance Co.	
INSURER B: Granite State Insurance Co.	
INSURER C: Arch Specialty Ins Company	
INSURER D: Liberty Mutual Ins. Group	
INSURER E:	

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L TR INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	GENERAL LIABILITY	7410451	01/05/2006	01/05/2007	EACH OCCURRENCE	\$ 1000000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurrence)	\$
	<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				MED EXP (Any one person)	\$
					PERSONAL & ADV INJURY	\$ 1000000
					GENERAL AGGREGATE	\$ 2000000
					PRODUCTS - COMP/OP AGG	\$ 2000000
					GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC	
B	AUTOMOBILE LIABILITY	CA32790354	01/05/2006	01/05/2007	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
	<input checked="" type="checkbox"/> ANY AUTO				BODILY INJURY (Per person)	\$
	<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident)	\$
	<input type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident)	\$
	<input checked="" type="checkbox"/> HIRED AUTOS					
	<input checked="" type="checkbox"/> NON-OWNED AUTOS					
	GARAGE LIABILITY					
	<input type="checkbox"/> ANY AUTO					
C	EXCESS/UMBRELLA LIABILITY	ULP000396501	01/05/2006	01/05/2007	EACH OCCURRENCE	\$ 4,000,000
	<input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE	\$ 4,000,000
	<input type="checkbox"/> DEDUCTIBLE					\$
	<input checked="" type="checkbox"/> RETENTION \$ 10,000					\$
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	WC7345311836	12/25/2005	12/25/2006	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?				E.L. EACH ACCIDENT	\$ 1,000,000
	If yes, describe under SPECIAL PROVISIONS below				E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000
	OTHER				E.L. DISEASE - POLICY LIMIT	\$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS
This Insured has a total of \$5,000,000 coverage.

Operation: Fireworks Display
Additional Insured: City of Troy & Troy Daze Committee including Architects & Engineers, All elected and appointed officials, all employees & volunteers additional insured on ISO form B of Broaden.

CERTIFICATE HOLDER

City of Troy
500 W. Big Beaver Rd.
Troy, MI 48084

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

Jeanne Kearney

June 15, 2006

TO: John M. Lamerato, Acting City Manager,
FROM: Jeanette Bennett, Purchasing Director
SUBJECT: **Agenda Item:** Bid Waiver - Contract Extension – Alarm Installation,
Monitoring and Maintenance

RECOMMENDATION

City management recommends extending the contract for alarm installation, monitoring, and maintenance with Vigilante Security, Inc. of Lathrup Village, MI expiring December 31, 2007, under the same terms and conditions as the original contract approved in 1994. Monitoring prices will remain at 1994 RFP prices with the exception of the hourly call-out price that has been requested to increase from \$45/hour to \$61.65 per hour due to labor and gasoline increases. This change is consistent with the CPI Inflation Calculator that has increased by 37% between 1994 and 2006.

It should be noted that after installation very few problems occur with the alarms. Approximately eight (8) \$45 call-outs occurred for various reasons during the 2005-06 fiscal year. The request to increase the hourly contract rate would have impacted the entire contract by \$133.20.

BACKGROUND

On July 25, 1994 (Resolution 94-624) Troy City Council approved a five-year contract with an option to renew for two additional years for alarm installation, monitoring, and maintenance in various City buildings with Vigilante Security, Inc. Since Council approval thresholds have changed since this date, the contract has been administratively extended on a yearly basis under the same prices, terms, and conditions.

Vigilante has again expressed an interest in extending the contract until December 31, 2007, and adding the remaining contract term of the newly built facilities (Community Center and Nature Center) that are concluding five-year monitoring commitments January 31, 2007 (see attachment). The alarm systems were installed during construction of both of these facilities. Also, during the new contract period, the DPW facility will be upgraded to a more complex system and will be deleted from this contract. The Engineering Field Office will move and require installation of new devices. The same terms and conditions as the original contract would apply.

June 15, 2006

To: John M. Lamerato, Acting City Manager

Alarm Installation, Monitoring, and Maintenance

Page 2 of 2

BACKGROUND - continued

The recommendation to extend the contract with Vigilante Security, Inc. is made for the following reasons:

- ✓ Vigilante Security, Inc. has kept contract prices firm for 12 years. They have provided consistent acceptable service levels and, due to security issues, it is important to have continuity of access to City buildings and operations.
- ✓ Once alarms are installed, the main contract cost is monitoring. If a new provider were sought, all the buildings would be required to be upgraded to that provider's equipment and subject to 2006 monitoring costs.
- ✓ In conjunction with the Workplace Security Issues Committee initiatives as a result of 9/11, some buildings are being upgraded to a more sophisticated SimplexGrinnell system as funds are available. The DPW facility will be upgraded by the end of summer 2006 and projects at the Library, City Hall, and Community Center may be implemented in future fiscal years.
- ✓ When all City locations are combined into one contract, it is estimated that the contract will total approximately \$10,000 plus any changes to installations required during the contract term.

BUDGET

Funds for this contract are available in the departmental security operating accounts.

JB/jb

VIGILANTE ALARMS

Department	Alarm Type	Monitoring Monthly Cost	Expiration Date
Community Center	Burglar / Fire	\$80.00 (\$50 + \$30)	1/31/07
Nature Center	Burglar / Fire	\$60.00 (\$30 + \$30)	1/31/07

P&R – Aquatic Center	Fire	\$27.55	7/31/06
P&R – Sylvan Glen Pro Shop	Burglar	\$30.00	7/31/06
P&R – Sanctuary Lake Golf Course – Contract Addition	Burglar / Fire	\$92.50	7/31/06
Troy Library	Burglar / Fire Alarmnet	\$119.50 (\$99+\$15+\$5.50)	7/31/06
Museum Site	Burglar / Fire	\$77.00	7/31/06
Radio Building	Waterflow & Low Temperature, Door Entry, Smoke Detector	\$29.00	7/31/06
Fire Stations #1,2,3,4,5	Waterflow & Low Temperature	145.00	7/31/06
Fire Station #6	Waterflow & Low Temperature	\$29.00	7/31/06
Police / Fire Training Center – Contract Addition	Fire Alarm / Waterflow	\$34.50	7/31/06
Engineering Field Office – Contract Addition	Burglar	\$30.00	Relocation – August 2006
DPW Yard	Waterflow	\$29.00	Upgrade to Simplex System 07/06
	Callouts – All locations	\$45.00/hour	

Monthly Cost Discounted 5% for all locations included on the Master Bill

DATE: June 28, 2006

TO: John M. Lamerato, Acting City Manager

FROM: Brian P. Murphy, Assistant City Manager/Services
Mark F. Miller, Planning Director

SUBJECT: Agenda Item – Preliminary Site Condominium Approval – Tuscan Estates Site Condominium, west side of Dequindre Road, south of Wattles Road, Section 24 – R-1C

RECOMMENDATION

The Planning Commission recommended approval of Tuscan Estates Site Condominium at the June 13, 2006 Regular meeting, with one condition:

1. Inclusion of an access drive for the City to maintain the detention pond.

City Management agrees with the Planning Commission and recommends approval of the Tuscan Estates Site Condominium application, as submitted.

GENERAL INFORMATION

Name of Owner / Applicant:

The owner of the property is Tony Fanelli. The engineer is Fred W. Barnes Associates, Inc.

Location of subject property:

The property is located west side of Dequindre Road, south side of Wattles Road, Section 24.

Size of subject parcel:

The parcel is approximately 4.3 acres in area.

Description of proposed development:

The applicant is proposing an 11-unit site condominium, with access to Dequindre Road. The interior street terminates in a stub street at the northern property line. Note that portions of units #6 and #7 would utilize a property presently owned by the City of Troy and utilized for a detention basin. The proposed layout would require reconfiguration and reduction of the City property, prior to Final Site Condominium Approval.

Current use of subject property:

The property is vacant. A portion of the property is used as a City-owned detention basin.

Current use of adjacent parcels:

North: Single family residential.

South: Single family residential.

East: Single family residential (City of Sterling Heights).

West: Single family residential.

Current zoning classification:

The property is currently zoned R-1C One Family Residential.

Zoning classification of adjacent parcels:

North: R-1C One Family Residential.

South: R-1D One Family Residential.

East: R-60 One Family Residential (City of Sterling Heights).

West: R-1C One Family Residential.

Future Land Use Designation:

The property is designated on the Future Land Use Plan as Low Density Residential.

ANALYSIS

Compliance with area and bulk requirements of the R-1C One Family Residential District:

Lot Area: Minimum lot area in the R-1C district is 10,500 square feet. The applicant meets this requirement.

Lot Width: The applicant is utilizing the lot averaging option, which allows a 10 percent reduction in lot width, to 76.5 feet. The applicant meets this requirement.

Height: Maximum permitted height is 2 stories or 25 feet. The applicant will be required to meet this requirement.

Setbacks: Front: 30 feet required. 30 feet provided.
Side (least one): 10 feet. 10 feet provided. Note that a 50-foot setback from Dequindre is required for units #1 and #11.
Side (total two): 20 feet. 20 feet provided.
Rear: 40 feet. 40 feet provided.

Minimum Floor Area: 1,200 square feet. The applicant will be required to meet this requirement.

Maximum Lot Coverage: 30%. The applicant will be required to meet this requirement.

The applicant meets the area and bulk requirements of the R-1C One Family Residential District.

Off-street parking and loading requirements:

The applicant will be required to provide 2 off-street parking spaces per unit.

Environmental provisions:

The applicant proposes a landscaped berm within a 20-foot wide non-accessible greenbelt on the west side of Dequindre.

Storm water detention:

The applicant proposes a detention pond in the southwest corner of the property. The City of Troy requires ownership of all ponds used for detention or retention of storm water within single-family developments. The pond will need to be designed to City standards.

Natural features and floodplains:

The Natural Features Map indicates there are wetlands and floodplains located on the property. A wetlands determination was prepared by King & MacGregor Environmental, Inc., on December 29, 2005. The site visit was conducted on July 7, 2005. The report indicates there are two small wetlands on the property but neither is State-regulated. This needs to be verified by the MDEQ prior to Final Site Plan Approval.

The Topographic Survey indicates that the boundaries of the 100-year and 500-year floodplain, as per a LOMR dated October 18, 2005. The applicant will require a permit from the MDEQ to construct homes within the 100-year floodplain. Additionally, basements will not be permitted within the floodplain.

Subdivision Control Ordinance, Article IV Design Standards

Lots: All units meet the minimum area and bulk requirements of the Zoning Ordinance.

Streets: The proposed development has direct vehicular access to Dequindre. The interior street will be a 60-foot wide public street.

Sidewalks: The applicant is proposing to construct an 8-foot wide sidewalk on the west side of Dequindre. The applicant is also proposing to construct a 5-foot wide sidewalk on both sides of the proposed interior street.

Utilities: The parcel is served by public water and sewer. The applicant proposes bioswales along the north and south property lines to assist in storm water removal.

Attachments:

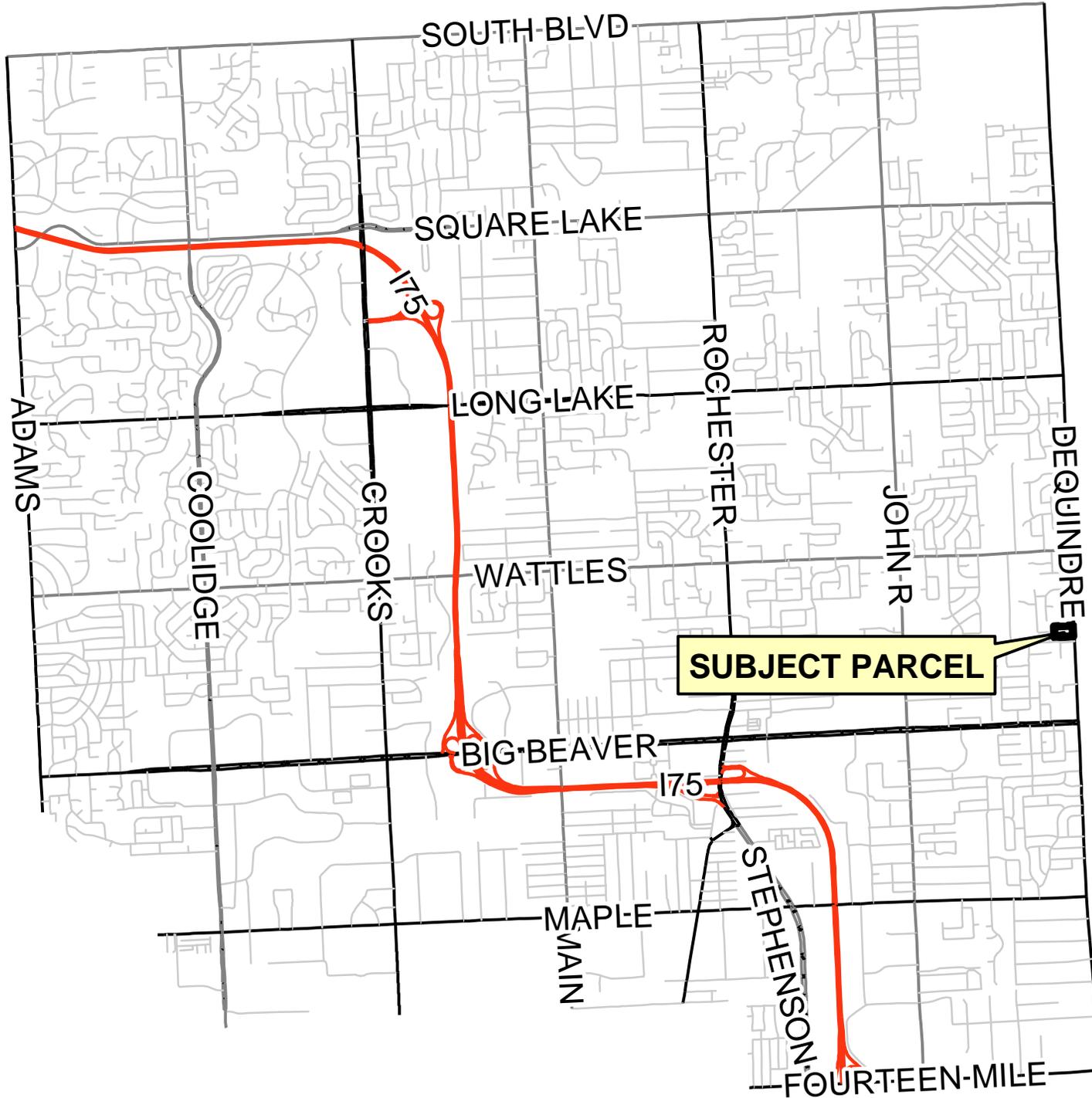
1. Maps.

cc: Applicant
File/Tuscany Estates Site Condominium

Prepared by RBS/MFM

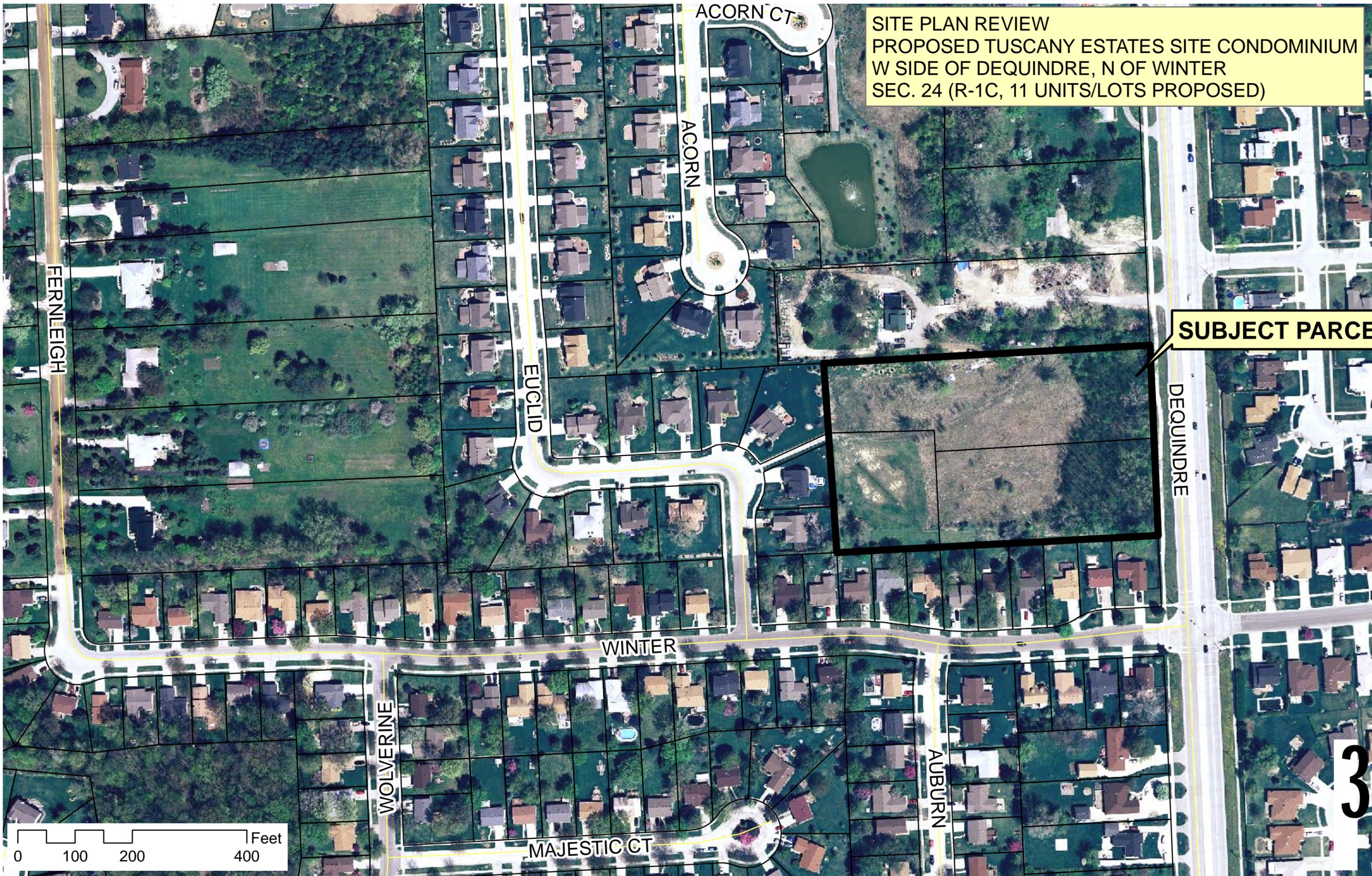
G:\SUBDIVISIONS & SITE CONDOS\Tuscany Estates Site Condo Sec 24\CC Prelim Approval Tuscany Estates Site Condo 07 10 06.doc

CITY OF TROY



SITE PLAN REVIEW
PROPOSED TUSCANY ESTATES SITE CONDOMINIUM
W SIDE OF DEQUINDRE, N OF WINTER
SEC. 24 (R-1C, 11 UNITS/LOTS PROPOSED)

SUBJECT PARCEL

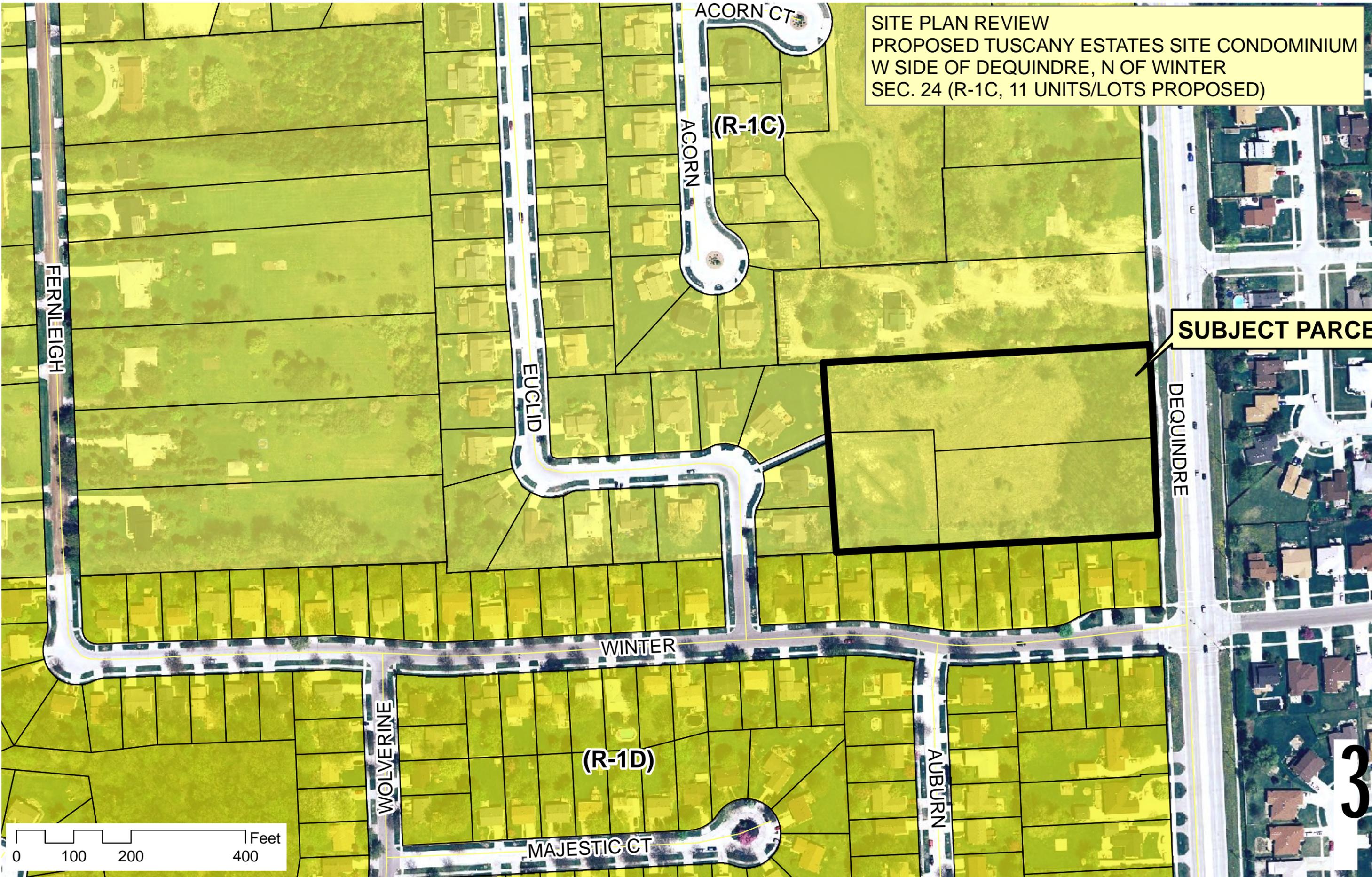


0 100 200 400 Feet

3

SITE PLAN REVIEW
PROPOSED TUSCANY ESTATES SITE CONDOMINIUM
W SIDE OF DEQUINDRE, N OF WINTER
SEC. 24 (R-1C, 11 UNITS/LOTS PROPOSED)

SUBJECT PARCEL



0 100 200 400 Feet

3

10-04-05 RLM
05-524 TONY PANELI SECTION 24 DEQUINDRE TROY

DESCRIPTION OF PROPERTY (FROM RECORD)

20-24-226-109

PART OF THE E 1/2 OF THE E 1/2 OF SECTION 24, T2N, R1 E, CITY OF TROY, OAKLAND COUNTY, MICHIGAN, BEGINNING AT A POINT DISTANT N00°13'41" E 165.00 FEET FROM THE NORTHEAST CORNER OF LOT 221 OF BEAVER TRAILS SUBDIVISION NO. 2, THENCE S69°44'14" W 306.30 FEET; THENCE N01°11'59" W 42.96 FEET; THENCE S69°44'14" W 160.00 FEET; THENCE N01°11'59" W 122.04 FEET; THENCE N69°44'14" E 370.49 FEET; THENCE S00°13'41" W 165.00 FEET; THENCE S00°13'41" W 165.00 FEET TO THE POINT OF BEGINNING.

20-24-226-110

PART OF THE E 1/2 OF THE E 1/2 OF SECTION 24, T2N, R1 E, CITY OF TROY, OAKLAND COUNTY, MICHIGAN, BEGINNING AT A POINT DISTANT N69°22'00" W 622.46 FEET FROM THE EAST CORNER OF SECTION 24, THENCE N01°11'59" W 199.40 FEET; THENCE N69°44'14" E 160.00 FEET; THENCE S01°11'59" E 207.96 FEET; THENCE S69°44'14" W 160.00 FEET; THENCE S01°11'59" W 6.56 FEET TO THE POINT OF BEGINNING.

20-24-226-111

PART OF THE E 1/2 OF THE E 1/2 OF SECTION 24, T2N, R1 E, CITY OF TROY, OAKLAND COUNTY, MICHIGAN, BEGINNING AT THE NE CORNER OF LOT 221 BEAVER TRAIL SUBDIVISION NO. 2, THENCE S69°44'14" W 306.30 FEET; THENCE N01°11'59" W 165.00 FEET; THENCE N69°44'14" E 370.49 FEET; THENCE S00°13'41" W 165.00 FEET TO THE POINT OF BEGINNING.

DESCRIPTION OF PROPERTY (AS SURVIVED)

PART OF THE SE 1/4 OF THE NE 1/4 OF SECTION 24, T2N, R1 E, CITY OF TROY, OAKLAND COUNTY, MICHIGAN, DESCRIBED AS: COMMENCING AT THE E 1/4 CORNER OF SECTION 24, THENCE S69°44'14" W 60.00 FEET TO THE WEST RIGHT OF WAY LINE OF DEQUINDRE ROAD (60 FEET HALF WIDTH) AND THE NE CORNER OF BEAVER TRAIL SUBDIVISION NO. 2, PART OF THE SE 1/4 OF SECTION 24, T2N, R1 E, CITY OF TROY, OAKLAND COUNTY, MICHIGAN, RECORDED IN LIBER 134 OF PLATS, PAGES 20-21-22-23, OAKLAND COUNTY RECORDS FOR A POINT OF BEGINNING; THENCE CONTINUING S69°44'14" W 562.27 FEET ALONG PART OF THE NORTH LINE OF BEAVER TRAIL SUBDIVISION NO. 2 TO THE EAST LINE OF BEAVER CREEK SUBDIVISION; PART OF THE NE 1/4 OF THE SE 1/4 OF SECTION 24, T2N, R1 E, CITY OF TROY, OAKLAND COUNTY, MICHIGAN, RECORDED IN LIBER 224 OF PLATS, PAGES 30-31, OAKLAND COUNTY RECORDS THENCE N00°11'59" W 330.00 FEET ALONG THE EAST LINE OF BEAVER CREEK SUBDIVISION; THENCE N69°44'14" E 571.80 FEET TO THE WEST RIGHT OF WAY OF DEQUINDRE ROAD (60 FEET HALF WIDTH); THENCE S00°27'17" W 329.90 FEET ALONG THE WEST RIGHT OF WAY OF DEQUINDRE ROAD (60 FEET HALF WIDTH) TO THE POINT OF BEGINNING. CONTAINING 167095 SQUARE FEET OR 4.2951 ACRES, MORE OR LESS.

SUBJECT TO RESTRICTIONS, RESERVATIONS AND EASEMENTS, IF ANY.

BEARING DATA ORIGINATES FROM BEAVER CREEK SUBDIVISION, RECORDED IN LIBER 224 OF PLATS, PAGES 30-31, OAKLAND COUNTY RECORDS AND BEAVER TRAIL SUBDIVISION NO. 2, RECORDED IN LIBER 134 OF PLATS, PAGES 20-21-22-23, OAKLAND COUNTY RECORDS.

THIS PROPERTY LIES WITHIN AN AREA DESIGNATED AS ZONE A-2 (AREAS OF 100 YEAR FLOOD, BASE FLOOD ELEVATIONS AND FLOOD HAZARD FACTORS DETERMINED AS DEPICTED BY THE FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO. 260180 0004 E, DATED SEPTEMBER 16, 1996, PROVIDED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY.

SITE DATA
EXISTING SITE AREA = 4.2051 ACRES
EXISTING ZONING = R-1C
PROPOSED DEVELOPMENT
- 11 UNIT SITE CONDOMINIUM, WITH 60' WIDE PUBLIC ROAD OFF DEQUINDRE WITH A STUB STREET TO THE NORTH PARCEL.

R-1-C	REQUIRED	PROPOSED
FRONT LOT WIDTH	85'	80'
LOT DEPTH	125'	128.4' ±
LOT AREA	10,500 S.F.	10,577 S.F. (UNIT 3)

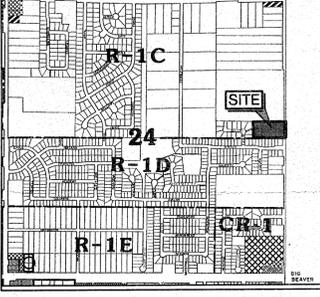
SETBACKS

FRONT	30'
90' FROM DEQUINDRE ROAD	
SIDE	10' / 20' TOTAL
REAR	40'

LOT AVERAGING CALCULATIONS

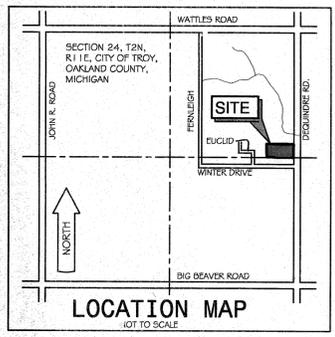
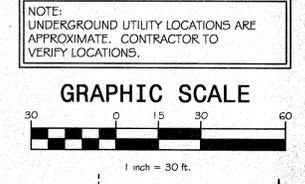
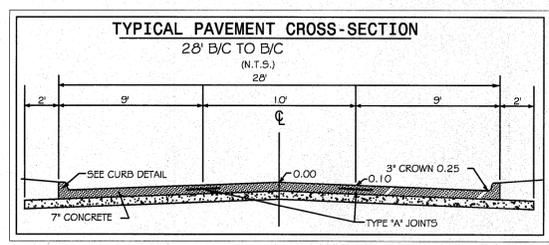
LOT#	AREA	WIDTH
2	14,773	110.00
3	10,649	80.00
4	13,098	100.00
5	11,363	81.36
6	11,369	80.00
7	14,079	80.00
8	10,868	80.00
9	11,029	80.00
10	10,949	80.00
11	14,925	110.00
AVERAGE	12,153.73	87.40

ZONING MAP



NOTE:
PARCEL #20-24-226-110 IS CURRENTLY OWNED BY THE CITY OF TROY FOR DETENTION BASIN OPERATION AND MAINTENANCE. THE CITY MANAGER AND CITY ENGINEER HAVE AGREED TO ACCEPT THE REVISED DETENTION EASEMENT AREA TO REPLACE THE EXISTING DETENTION.

TUSCANY ESTATES
PART OF THE E 1/2 OF THE E 1/2 OF SECTION 24, T2N, R1 E, CITY OF TROY, OAKLAND COUNTY, MICHIGAN



BENCHMARKS

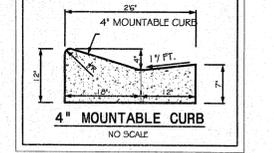
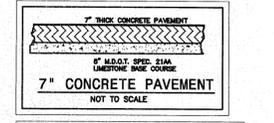
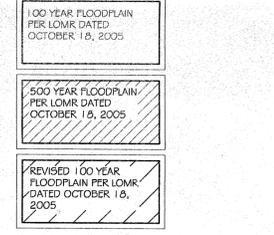
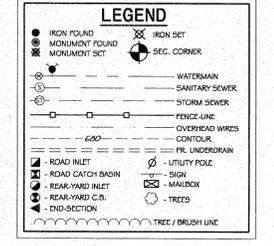
BENCH MARK NO. 1 (SHOWN)
NORTH RIM OF STORM MANHOLE IN SHEDWALK, WEST SIDE DEQUINDRE, 350' NORTH OF WINTER DRIVE. ELEV. 634.16

BENCH MARK NO. 2 (SHOWN)
SET MAG NAIL IN THE EAST FACE OF 1 1/2" MAPLE, 50' EAST OF THE NORTHWEST PROPERTY CORNER. ELEV. 636.46

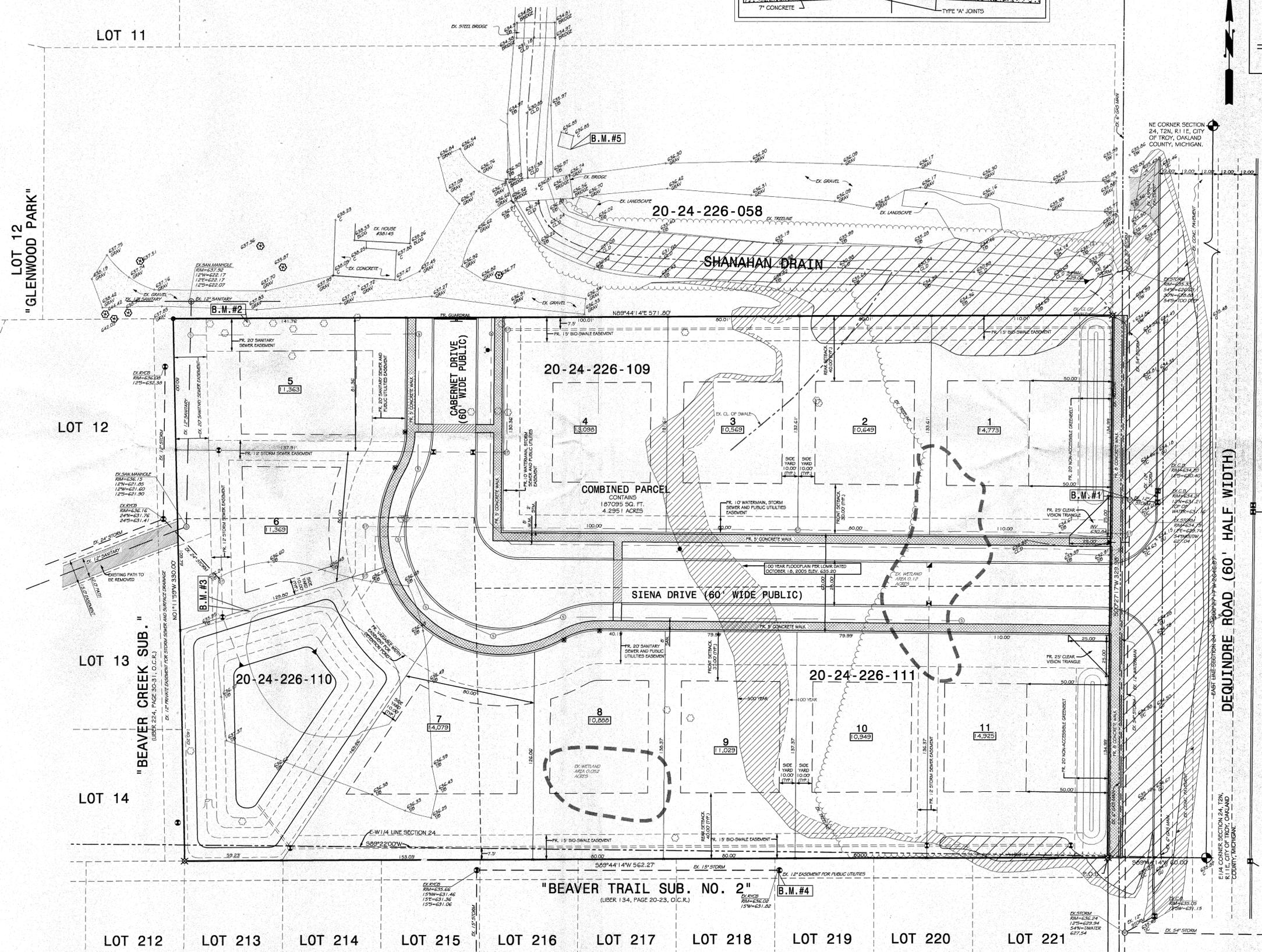
BENCH MARK NO. 3 (SHOWN)
MARKER 'X' ON THE TOP OF 24" CONCRETE END SECTION AT THE NORTHWEST CORNER OF DETENTION POND AT THE NORTHWEST END OF SITE. GRADE. ELEV. 634.24

BENCH MARK NO. 4 (SHOWN)
MARKER 'Y' ON THE NORTH RIM OF CATCH BASIN WITH BEETIVE COVER, 5' SOUTH OF THE SOUTH PROPERTY LINE, 220' WEST OF DEQUINDRE, 5' EAST OF TRANSFORMER. ELEV. 635.99

BENCH MARK NO. 5 (SHOWN)
SOUTHEAST CORNER OF CONCRETE DUMPSTER PAD, 325' WEST OF DEQUINDRE, 100' NORTH OF THE NORTH PROPERTY LINE, 5' EAST OF THE SHANAHAN DRAIN. ELEV. 636.82



NOTE:
DEQ PERMIT REQUIRED FOR WORK IN THE FLOODPLAIN



REVISION	DATE	REVISION	DATE
72 HOURS BEFORE YOU DIG CALL MISS DIG 800-482-7171 (TOLL FREE)	APR. 28/06	REVISED PER CITY REVIEW	

FRED W. BARNES ASSOCIATES, INC.
39160 CHANTILLY DRIVE STERLING HEIGHTS, MI 48313
PHONE (810) 217-2161

SCALE: 1" = 30'	DATE: 10-24-05	PROJECT: TUSCANY ESTATES
HORIZ.: F.W.B.	VERT.: S.T.F.	DESIGN BY: F.W.B.
		DRAWN BY: S.T.F.
		CHECKED BY: F.W.B.
		DRAWING: PRELIMINARY SITE PLAN

REC'D
JUN - 5 2006
PLANNING DEPT.
PROJECT NO. 05-524
SHEET NO. 3

DATE: June 29, 2006

TO: John M. Lamerato, Acting City Manager

FROM: Brian P. Murphy, Assistant City Manager/Services
Steven J. Vandette, City Engineer
Mark F. Miller, Planning Director

SUBJECT: Agenda Item – Final Site Condominium Approval – Longfellow Site Condominium, west side of Rochester Road, north side of Longfellow, Section 15 – R-1C

RECOMMENDATION

On June 6, 2005, City Council granted preliminary approval of the proposed 5-unit site condominium.

The Engineering Department granted approval of the engineering plans based upon the City's development standards; therefore, the development will not cause or exacerbate drainage problems on contiguous properties, due to surface run-off from the proposed development. In addition, the petitioner executed a contract for installation of municipal improvements and provided the required escrow deposits and cash fees. The proposed site condominium complies with all applicable ordinance requirements. City Management recommends approval of the Final Plan for Longfellow Site Condominium.

GENERAL INFORMATION

Name of Owner / Applicant:

The owner and applicant is Franco Mancini of Quattro Development.

Location of subject property:

The property is located on the west side of Rochester Road and the north side of Longfellow, in Section 15.

Size of subject parcel:

The parcel is approximately 1.85 net acres in area.

Description of proposed development:

The applicant is proposing a 5-unit site condominium, with access to both Rochester and Longfellow.

Current use of subject property:

Two single-family homes presently sit on the property. The applicant proposes to remove one of the homes and retain the other home.

Current use of adjacent parcels:

North: Single family residential.
South: Single family residential.
East: Single family residential.
West: Single family residential.

Current zoning classification:

The property is currently zoned R-1C One Family Residential.

Zoning classification of adjacent parcels:

North: R-1C One Family Residential.
South: R-1C One Family Residential.
East: R-1T One Family Attached.
West: R-1C One Family Residential.

Future Land Use Designation:

The property is designated on the Future Land Use Plan as Medium Density Residential.

ANALYSIS

Compliance with area and bulk requirements of the R-1C One Family Residential District:

Lot Area: Minimum lot area in the R-1C district is 10,500 square feet. However, the applicant is utilizing the Lot Averaging Option, which permits a 10 percent reduction in lot area to 9,450 square feet.

Lot Width: The minimum required lot width is 85 feet. The applicant has utilized the lot averaging option, which permits a 10 percent reduction in lot widths, to 76.5 feet.

Height: Maximum permitted height is 2 stories or 25 feet.

Setbacks: Front: 30 feet required. 30 feet provided.
Side (least one): 10 feet. 10 feet provided.
Side (total two): 20 feet. 20 feet provided.
Rear: 40 feet. 40 feet provided.

Minimum Floor Area: 1,200 square feet.

Maximum Lot Coverage: 30%.

The applicant meets the area and bulk requirements of the R-1C One Family Residential District.

Off-street parking and loading requirements:

The applicant will be required to provide 2 off-street parking spaces per unit.

Environmental provisions, including Tree Preservation Plan:

The applicant has submitted a Tree Survey and Landscape Plan.

A wetland determination was prepared for the site by S & R Environmental on April 15, 2005. The determination states there are no regulated wetlands on the property.

Storm water detention:

The applicant proposes to utilize the existing detention basin in Shallowbrook Subdivision on the east side of Rochester Road.

Natural features and floodplains:

The Natural Features Map indicates there are no significant natural features located on the property.

Subdivision Control Ordinance, Article IV Design Standards

Lots: All units meet the minimum area and bulk requirements of the Zoning Ordinance. The site plan is unclear regarding the potential of the Convertible Condominium area.

Streets: The proposed development has direct vehicular access to both Rochester and Longfellow. The applicant will be utilizing existing streets.

Sidewalks: The applicant is proposing an 8-foot wide sidewalk on the west side of Rochester Road. There is an existing 5-foot wide sidewalk on the north side of Longfellow.

Utilities: The parcel is served by public water and sewer.

Attachments:

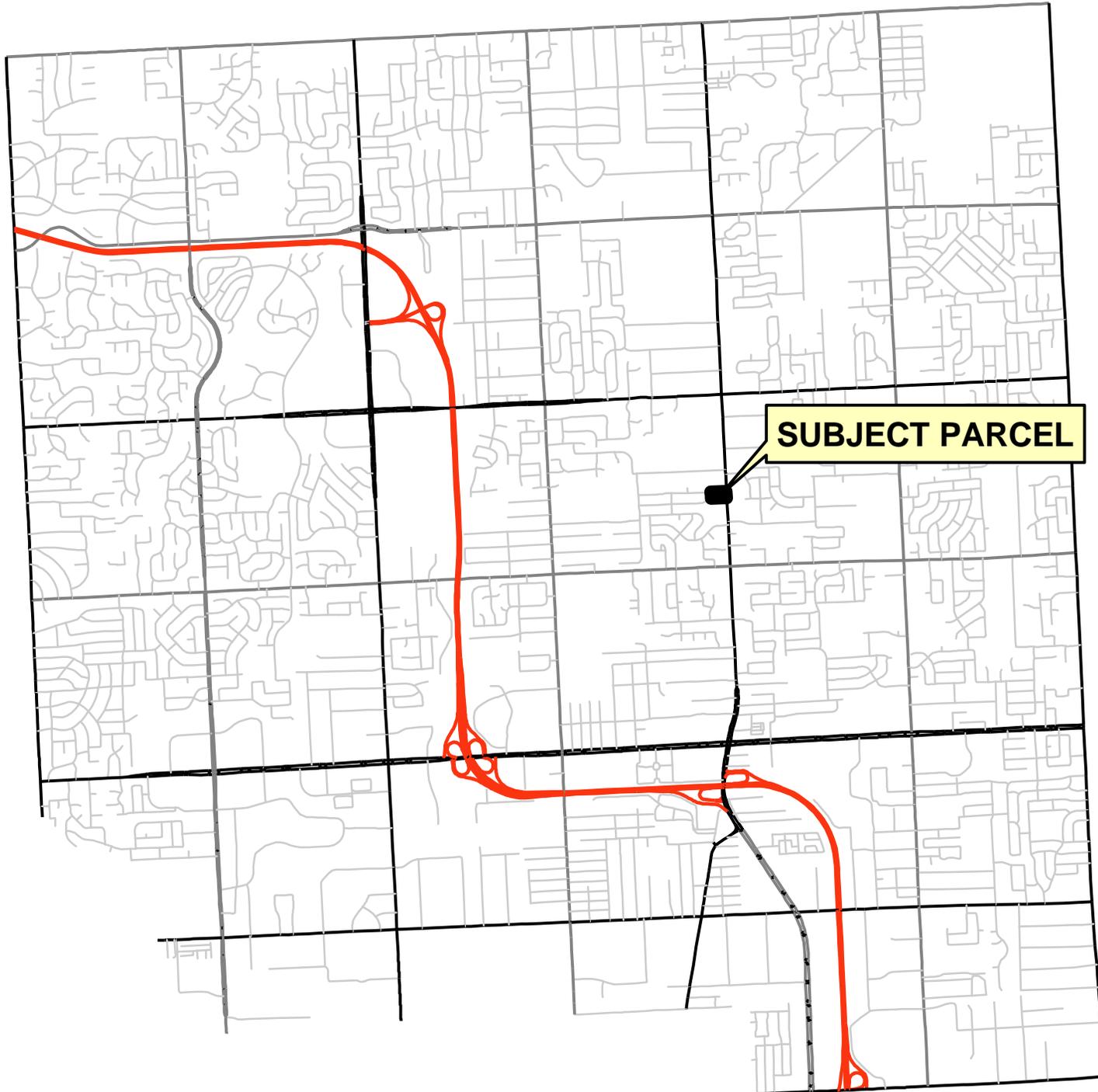
1. Maps.

cc: Applicant
File/Longfellow Site Condominium

Prepared by RBS/MFM

G:\SUBDIVISIONS & SITE CONDOS\Longfellow Site Condo Sec. 15\CC Final Approval Longfellow Site Condo 07 10 06.doc

CITY OF TROY



SITE PLAN REVIEW
PROPOSED LONGFELLOW SITE CONDOMINIUM
W SIDE OF ROCHESTER, N SIDE OF LONGFELLOW
SEC. 15 (R-1C, 5 LOTS/UNITS)

SUBJECT PARCEL



ECKFORD

SHADOW

HAROLD

POE

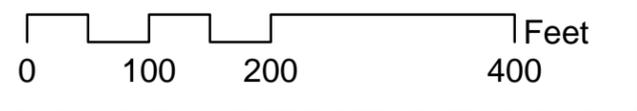
THURBER

ROCHESTER

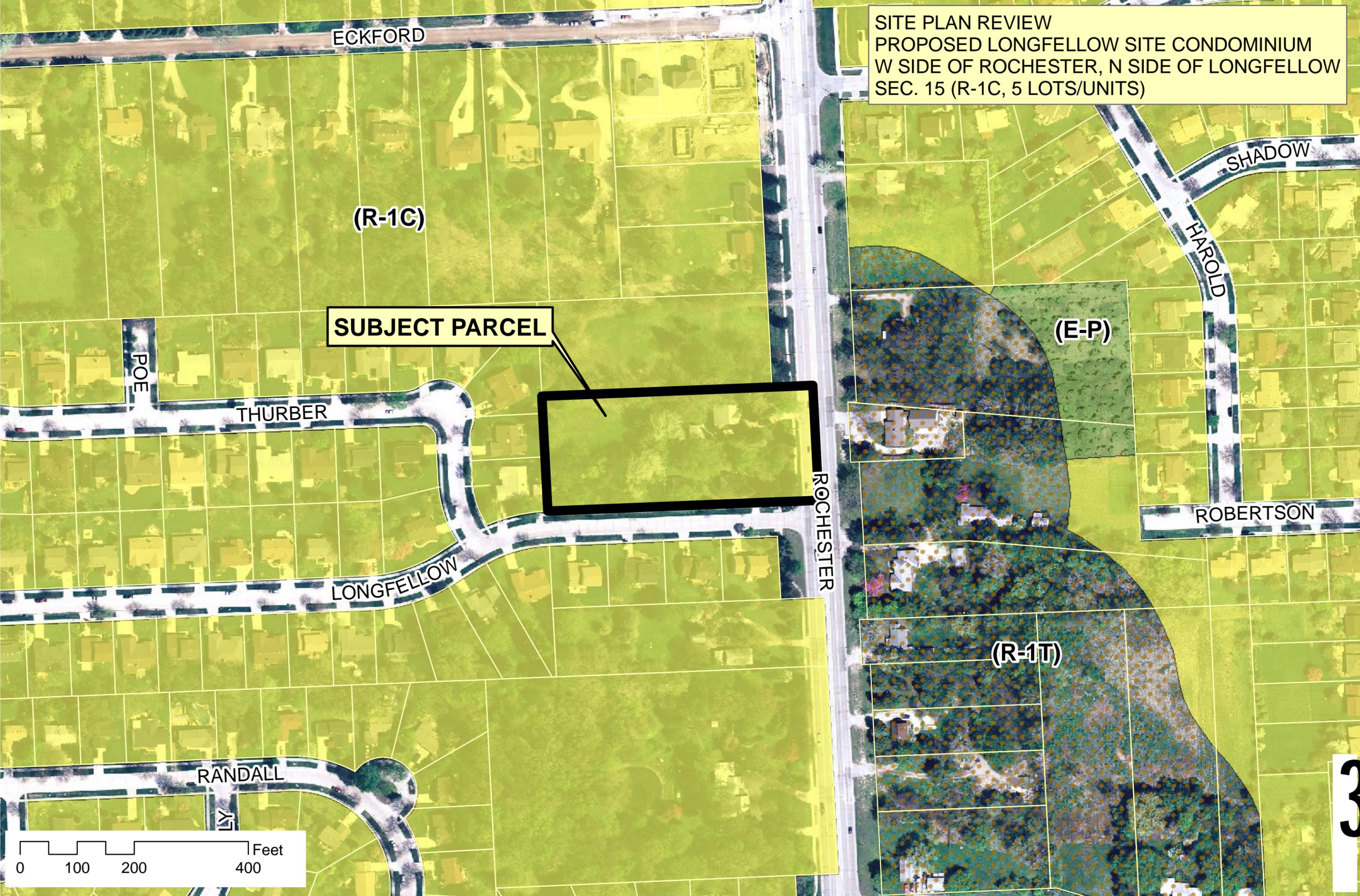
ROBERTSON

LONGFELLOW

RANDALL



SITE PLAN REVIEW
PROPOSED LONGFELLOW SITE CONDOMINIUM
W SIDE OF ROCHESTER, N SIDE OF LONGFELLOW
SEC. 15 (R-1C, 5 LOTS/UNITS)



SUBJECT PARCEL

0 100 200 400 Feet

E-8 Private Agreement for Longfellow Site Condominiums – Project No. 05:915.3

Resolution #2006-04-183-E-8

RESOLVED, That the Contract for the Installation of Municipal Improvements (Private Agreement) between the City of Troy and Quattro Development Co., Inc. is hereby **APPROVED** for the installation of sanitary sewer, storm sewer and soil erosion controls on the site and in the adjacent right of way, and the Mayor and City Clerk are **AUTHORIZED TO EXECUTE** the documents, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

RECEIVED
APR 19 2006
ENGINEERING

**CONTRACT FOR INSTALLATION OF MUNICIPAL IMPROVEMENTS
(PRIVATE AGREEMENT)**

PROJECT NO. 05.915.3

PROJECT LOCATION:

SE ¼ Sec 15

RESOLUTION NO. 2006-04-183-E-8

DATE OF COUNCIL APPROVAL: April 17, 2006

KNOW ALL MEN BY THESE PRESENT; That the City of Troy, a Michigan Municipal Corporation of the County of Oakland, State of Michigan, hereinafter referred to as "City" and Quattro Development Co. whose address is 47858 Van Dyke, Suite 410, Shelby Twp., MI and whose telephone number is 586-726-1231 hereinafter referred to as "Owners".

WITNESSETH, FIRST: That the City agrees to allow the installation of Sanitary sewer, storm sewer, and soil erosion in accordance with plans prepared by Anderson, Eckstein & Westrick, Inc. whose address is 53445 Grand River Ave., New Hudson, MI 48165 and whose telephone number is 248-446-0480 and approved prior to construction by the City specifications of the City shall be complied with for this construction.

SECOND: That the Owners agree to contribute the approximate contract price of \$ 49,693.00. This amount will be transmitted to the City Clerk for installation of said improvements in the form of (check one):

Cash	<input type="checkbox"/>
Certificate of Deposit	<input type="checkbox"/>
Irrevocable Bank Letter of Credit	<input checked="" type="checkbox"/>
Check	<input type="checkbox"/>
Performance Bond & 10% Cash	<input type="checkbox"/>

Said funds shall be placed on deposit with the City upon the execution of this contract and shall be disbursed to the owner by the City only upon presentation of duly executed waivers of lien and sworn statements satisfactory to the City, and after final inspection and approval by the Engineering Department for the City. In addition, the owners agree to deposit and contribute \$11,793.00 cash fee per the attached **Detailed Summary of Required Escrow Deposits Cash Deposits and Cash Fees.**

CONTRACT FOR INSTALLATION OF MUNICIPAL IMPROVEMENTS**(PRIVATE AGREEMENT)**

PROJECT NO. 05.915.3

PROJECT LOCATION:

SE ¼ Sec 15

RESOLUTION NO. 2006-04-183-E-8

DATE OF COUNCIL APPROVAL: April 17, 2006

THIRD: Owners agree to arrange for a pre-construction meeting with the City Engineer and the contractor prior to start of work. All municipal improvements must be completely staked in the field under the direct supervision of a registered civil engineer or registered land surveyor, according to the approved plans.

FOURTH: Owners hereby acknowledge the benefit to their property conferred by the construction of the aforementioned and agree and consent to pay the total sum of \$61,486.00 for the construction of said public utilities in lieu of the establishments of any special district by the City. Further, owners acknowledge that the benefit to their property conferred by the improvement is equal to, or in excess of, the aforementioned amount.

FIFTH: Owners agree that if, for any reason, the total cost of completion of such improvement shall exceed the sum deposited with the City in accordance with Paragraph SECOND hereof, that Owners will immediately remit such additional amount to the City upon request and City will disburse such additional amount in accordance with Paragraph SECOND hereof. In the event the total cost of completion shall be less than the sum deposited with City in accordance with Paragraph SECOND hereof, City will reimburse to the Owners the excess funds remaining after disbursement of funds.

SIXTH: Owners agree to indemnify and save harmless City, their agents and employees, from and against all loss or expense (including costs and attorneys' fees) by reason of liability imposed by law upon the City, its agents and employees for damages because of bodily injury, including death, at any time resulting therefrom sustained by any person or persons or on account of damage to property, including work, provided such injury to persons or damage to property is due or claimed to be due to negligence of the Owner, his contractor, or subcontractors, employees or agents, Owner further agrees to obtain and convey to the City all necessary easements for such public utilities as required by the City Engineer.

CONTRACT FOR INSTALLATION OF MUNICIPAL IMPROVEMENTS
(PRIVATE AGREEMENT)

PROJECT NO. 05.915.3

PROJECT LOCATION:

SE ¼ Sec 15

RESOLUTION NO. 2006-04-183-E-8

DATE OF COUNCIL APPROVAL: April 17, 2006

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed in duplicate on this
17 day of April, 2006.

OWNERS

By: *Franco C. Mancini*

FRANCO C. MANCINI

Please Print or Type

Please Print or Type

CITY OF TROY

By:

Louise E. Schilling

Louise E. Schilling, Mayor

Tonni Bartholomew

Tonni Bartholomew, City Clerk

STATE OF MICHIGAN, COUNTY OF OAKLAND

On this 11th day of April, A.D. 2006, before me personally appeared Franco Mancini known by me to be the same person(s) who executed this instrument and who acknowledged this to be his/her/their free act and deed.

Laurel Nottage

NOTARY PUBLIC, Oakland County, Michigan

Acting in Oakland County

My commission expires: 10-12-2011

Detailed Summary of Required Escrow Deposits or Performance Bond, Cash Fees & Deposits
Longfellow Site Condominium
5 Units - Section 15

ESCROW DEPOSITS:

Sanitary Sewers	\$18,190
Rear Yard Drains	\$14,610
Grading	\$2,500
Soil Erosion Control Measures	\$124
Monuments and Lot Corner Irons	\$210
Temporary Access Road	\$1,000
Sidewalks - ON SITE	\$4,287
Sidewalks - OFF SITE	\$2,772
Deposit for the Repair of Damage to Existing Public Streets Used for Access	\$6,000
TOTAL ESCROW DEPOSITS (REFUNDABLE):	\$49,693

CASH FEES (NON-REFUNDABLE):

Soil Erosion and Sedimentation Control Permits (SUB 10)	\$124
Testing Services (SUB 11)	\$745
Engineering Review and Inspection (PA 1)	\$4,025
(PA 3) TOTAL CASH FEES (NON-REFUNDABLE):	\$4,895

CASH DEPOSITS (REFUNDABLE):

Sidewalk Closures	\$162
Deposit for Maintenance & Cleaning of Ex. Public Streets Used for Access	\$2,000
Punchlist & Restoration Deposit	\$4,736
(PA 3) TOTAL CASH DEPOSITS (REFUNDABLE):	\$6,898

Stormwater detention for this development will be provided by: An existing detention basin

Engineer: Anderson, Eckstein & Westrick
Developer: Franco Mancini



TO: Members of Troy City Council
FROM: Lori Grigg Bluhm, City Attorney
DATE: June 29, 2006
SUBJECT: Restated and Amended Consent Judgment- K-Mart/ Sheffield

On May 9, 1973, a Consent Judgment was entered that covered the 113 acres in the Southeast quarter of Section 19, which was owned by Sheffield Development Company. Since that time, there were several divisions and transfers of property, which resulted in amendments to the original consent judgment on November 22, 1977, September 25, 1980, November 4, 1992, and December 10, 1998.

The last amendment (December 10, 1998) required the K-Mart Data Center to comply with the site plan that was attached to the Amendment to the Consent Judgment. Since that time, there have been some modifications to the ownership of the Property, and K-Mart needs to change to location of the satellite dish to relocate it closer to the building. This change requires a change to the site plan. Any modification to the site plan requires an amendment to the Consent Judgment, since it is incorporated into the Consent Judgment. This request for a fifth amendment provided City Administration with an excellent opportunity to restate the Consent Judgment, with all of the amendments, into a clearer and more concise document.

Most of the provisions in this Restated and Amended Consent Judgment are merely restatements of previous consent judgment provisions. The changes brought by the proposed 5th Amendment concern only the K-Mart Data Center property (Parcels F and G). There is a new site plan that has modified the location of the satellite dish, and this new site plan would be incorporated by reference into the Amended and Restated Consent Judgment.

The Planning Commission reviewed this item at their June 27, 2006 meeting, and have recommended approval.

If you have any questions concerning this proposed consent judgment, please let us know.

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

SHEFFIELD DEVELOPMENT COMPANY,
A Michigan Co-Partnership, Predecessor
To DIAMOND TROY JV, LLC, a Delaware
Limited Liability Company, GM EQUITIES
LLC, A Michigan Limited Liability Company,
And SHEFFIELD OFFICE L.P., a Delaware
Partnership, and K-MART CORPORATION, a
Michigan Corporation,

Plaintiffs,

Case No. 70-69246

Vs.

CITY OF TROY, a Michigan Municipal Corporation

Defendants.

_____ /

RESTATED AND AMENDED CONSENT JUDGMENT

At a session of Court, held in the Oakland County
Courthouse, in the City of Pontiac, Michigan on:

PRESENT: HON. _____
CIRCUIT COURT JUDGE

This Restated and Amended Consent Judgment governs Property
(described in Exhibit A) in the City of Troy, and re-states and re-incorporates the
Original Judgment, entered May 9, 1973; as well as the Order Amending

Judgment, entered November 22, 1977; the Stipulation to Modify Judgment and Order, entered September 25, 1980; the Third Order Amending Judgment, entered on November 4, 1992; and the Consent Fourth Order Amending Judgment, entered on December 10, 1998. In addition, the Restated and Amended Judgment sets forth additional amendments that are stipulated to between the parties, which would be a fifth amendment to the Original Judgment. These provisions have been consolidated into one integral Restated and Amended Consent Judgment.

RECITALS

- A. On May 9, 1973, this Court entered a Consent Judgment (hereafter Original Judgment), placing limitations and conditions on real property (hereafter Property) that is located in the SE ¼ of Section 19 of the City of Troy, which was previously owned by SHEFFIELD DEVELOPMENT COMPANY, the original Plaintiff.
- B. The original Plaintiff in this case was SHEFFIELD DEVELOPMENT COMPANY, a Michigan Co-Partnership. The PRUDENTIAL INSURANCE COMPANY, a New Jersey corporation, became a successor in interest, and therefore a successor Plaintiff as of the Third Order Amending Judgment (November 4, 1992). WHC-SIX REAL ESTATE LIMITED PARTNERSHIP, a Delaware Limited partnership, and K-MART CORPORATION, a Michigan Corporation, became successors in interest, and therefore successor Plaintiffs, as of the Consent Fourth Order Amending Judgment (December 10, 1998). DIAMOND TROY JV, LLC, a

Delaware limited liability company, GM EQUITIES LLC, a Michigan limited liability company, and SHEFFIELD OFFICE L.P., a Delaware limited partnership, and K-MART CORPORATION, a Michigan Corporation, are now the successors in interest, and therefore successor Plaintiffs.

- C. The legal description of the Property covered by this Restated and Amended Consent Judgment is as follows:

A part of the SE ¼ of Section 19, T2N, R11E, City of Troy, Oakland County Michigan, Being more particularly described as follows:
Commencing at the East quarter corner of Section 19;
Thence S. 89° 49' 05" W. 1379.48 ft.; Thence S. 00° 16' 35" W. 615.18 ft.; Thence S. 89° 49' 05" W. 708.54 ft.; Thence N. 00° 21' 23" E. 142.59 ft.; Thence S. 89° 49' 05" W. 553.02 ft.; Thence S. 00° 21' 23" W. 2287.59 ft.; Thence N. 89° 30' 00" E. 1398.63 ft.; Thence N. 00° 01' 30" W. 1155.04 ft.; Thence N. 89° 30' 00" E. 1260.00 ft.; Thence N. 00° 01' 30" W. 370.28 ft.; Thence S. 89° 58' 30" W. 460.0 ft.; Thence N. 00° 01' 30" W. 500 ft.; Thence N. 89° 58' 30" E. 460.0 ft.; Thence N. 00° 01' 30" W. 720.0 ft. to the point of beginning. (hereafter "Property")

- D. The Property, which is approximately 113 acres, has been divided into separate parcels. Each parcel is governed by separate provisions, which are reincorporated in this Restated and Amended Consent Judgment.

NOW THEREFORE, IT IS HEREBY ORDERED:

1. Plaintiffs DIAMOND TROY JV, LLC, a Delaware limited liability company, GM EQUITIES LLC, a Michigan limited liability company, and SHEFFIELD OFFICE L.P., a Delaware limited partnership, and K-MART CORPORATION, a Michigan Corporation, are successors in interest to the original Plaintiff, SHEFFIELD DEVELOPMENT CO., and are substituted as the Plaintiffs in this case.

2. This Restated and Amended Consent Judgment shall replace the Original Judgment and all previous amendments, and shall constitute the Judgment of the Court in this case.
3. The Recitals in Paragraphs A thru D are hereby incorporated and made a part of this Restated and Amended Consent Judgment.

Provisions Concerning Parcel A

4. Parcel A of the Property, which totals approximately 54 acres, is legally described as:

A part of the S.E. ¼ of Section 19, T2N, R11E,
City of Troy, Oakland County, Michigan, being
More particularly described as follows:
Commencing at a point S. 89° 49' 05" W. 60.00 ft. from the
East ¼ corner of Section 19;
Thence S. 89° 49' 05" W. 1319.48 ft.;
Thence S. 00° 16' 35" W. 615.18 ft.;
Thence S. 89° 49' 05" W. 708.54 ft.;
Thence N. 00° 21' 23" E. 142.59 ft.;
Thence S. 89° 49' 05" W. 553.02 ft.;
Thence S. 00° 21' 23" W. 2185.58 ft.;
Thence N. 89° 30' 00" E. 360.04 ft.;
Thence N. 00° 21' 23" E. 1528.00 ft.;
Thence N. 65° 09' 05" E. 366.53 ft.;
Thence N. 89° 49' 05" E. 1495.00 ft.;
Thence N. 00° 01' 30" W. 256.43 ft.;
Thence N. 89° 58' 30" E. 400.00 ft.;
Thence N. 00° 01' 30" W. 719.84 ft. to the point of beginning;

(Depicted on the aerial and diagram, attached as Exhibit A)

5. Parcel A is hereby determined to be usable for all uses permitted in the R-1B (One Family Residential) Zoning Classification of the Zoning Ordinance of the City of Troy, and subject to the restrictions and limitations hereinafter contained, and subject to all other provisions of the

Zoning Ordinance of the City of Troy, all standards and regulations of the City of Troy, and all other applicable provisions of the Troy City Code.

6. Plaintiff is hereby permanently restrained and enjoined from using Parcel A for any uses not permitted in the R-1B (One Family Residential) Zoning Classification of the Zoning Ordinance of the City of Troy, and all other limitations and restrictions contained in this Restated and Amended Consent Judgment.
7. A minimum of ten (10) acres of primarily wooded land on Parcel A shall be dedicated as a community park area.

Provisions Concerning Parcel B

8. Parcel B of the Property, which totals approximately 7.96 acres, is legally described as:

T2N, R11E, SEC 19 PART OF SE 1/4 BEG AT PT DIST N 00-21-23 E 102.01 FT & N 89-30-00 E 360.04 FT FROM S 1/4 COR, TH N 00-21-23 E 531.94 FT, TH S 89-38-37 E 439.04 FT, TH N 45-21-23 E 47.66 FT, TH S 00-21-23 W 55.08 FT, TH S 44-20-20 E 85.69 FT, TH S 89-38-37 E 154.00 FT, TH S 00-21-23 W 439.38 FT, TH S 89-30-00 W 687.09 FT TO BEG

(Depicted on the aerial and diagram, attached as Exhibit A)

9. Parcel B is usable for all the uses permitted in the O-M (Office Mid-Rise) Zoning Classification of the Zoning Ordinance of the City of Troy with the exception of westernmost portion of the Property, which is described below, which is:

T2N, R11E, SEC 19 PART OF SE 1/4 BEG AT PT DIST N 00-21-23 E 102.01 FT & N 89-30-00 E 360.04 FT FROM S 1/4 COR, TH N 00-21-23 E 531.94 FT, TH S 89-38-37 E 234.37 FT, TH S 00-01-30 E 528.40 FT, TH S 89-30-00 W 237.91 FT TO BEG.

10. The above described portion of Parcel B (the westernmost portion) is hereby determined to be usable for all the uses permitted in the P-1 (Vehicular Parking) Zoning Classification of the Zoning Ordinance of the City of Troy. Plaintiff is hereby permanently restrained and enjoined from using that portion of Parcel B for any purposes not permitted in the P-1 (Vehicular Parking) Zoning Classification. No buildings shall be constructed on that westernmost portion of Parcel B, which shall be used solely for parking purposes, greenbelts and landscaping.

Provisions Concerning Parcel C

11. Parcel C of the Property, which totals approximately 5.81 acres, is legally described as:

T2N, R11E, SEC 19 PART OF SE 1/4 BEG AT PT DIST N 00-21-23 E 102.01 FT & N 89-30-00 E 1047.13 FT FROM S 1/4 COR, TH N 00-21-23 E 439.38 FT, TH N 89-38-37 W 154.00 FT, TH N 44-20-20 W 85.69 FT, TH N 00-21-23 E 55.08 FT, TH N 45-21-23 E 86.15 FT, TH N 00-21-23 E 57.38 FT, TH S 89-38-37 E 146.00 FT, TH N 00-21-23 E 139.00 FT, TH S 89-38-37 E 262.76 FT, TH S 00-01-30 E 808.79 FT, TH S 89-30-00 W 260.82 FT TO BEG.

(Depicted on the aerial and diagram, attached as Exhibit A)

12. Parcel C is usable for all the uses permitted in the O-M (Office Mid-Rise) Zoning Classification of the Zoning Ordinance of the City of Troy.

Provisions Concerning Parcel D

13. Parcel D of the Property, which totals approximately 7.92 acres, is legally described as:

T2N, R11E, SEC 19 PART OF SE 1/4 BEG AT PT DIST N 00-21-23 E 102.01 FT & N 89-30-00 E 360.04 FT & N 00-21-23 E 531.94 FT FROM S 1/4 COR, TH N 00-21-23 E 508.00 FT, TH S 89-38-37 E 431.50 FT, TH N 00-21-23 E 125.00 FT, TH S 89-37-38 E 439.98 FT, TH S 00-01-30 E 156.00 FT, TH S 89-38-37 E 104.95 FT, TH ALG CURVE CONCAVE ELY, RAD 285.00 FT, CHORD BEARS S 14-35-19 W 143.81 FT, DIST OF 145.38 FT, TH S 00-01-30 E 46.61 FT, TH N 89-38-37 W 262.76 FT, TH S 00-21-23 W 139 FT, TH N 89-38-37 W 146 FT, TH S 00-21-23 W 57.38 FT, TH S 45-21-23 W 133.81 FT, TH N 89-38-37 W 439.04 FT TO BEG.

(Depicted on the aerial and diagram, attached as Exhibit A)

14. Parcel D is usable for all the uses permitted in the O-M (Office Mid-Rise)

Zoning Classification of the Zoning Ordinance of the City of Troy with the exception of the westernmost portion of the Parcel, which is described as:

T2N, R11E, SEC 19 PART OF SE 1/4 BEG AT PT DIST N 00-21-23 E 102.01 FT & N 89-30-00 E 360.04 FT & N 00-21-23 E 531.94 FT FROM S 1/4 COR, TH N 00-21-23 E 508.00 FT, TH S 89-38-37 E 230.98 FT TH S 00-01-30 E 508.14 FT, TH N 89-38-37 W 234.37 FT TO BEG.

15. The above described westernmost portion of Parcel D is hereby

determined to be usable for all the uses permitted in the P-1 (Vehicular Parking) Zoning Classification of the Zoning Ordinance of the City of Troy. Plaintiff is hereby permanently restrained and enjoined from using that portion of Parcel D for any purposes not permitted in the P-1 (Vehicular Parking) Zoning Classification. No buildings shall be constructed on that westernmost portion of Parcel D, which shall be used solely for parking purposes, greenbelts and landscaping.

16. To the extent that the parking, density, set backs, tax parcel assignments or tax split laws, rules, and regulations were satisfied prior to the transfer of the property into a separate Parcel D, and would be satisfied if the

property legally were consolidated, then the City would not enforce these restrictions against Plaintiffs or their successors and assigns on this Parcel.

Provisions Concerning Parcel E

17. Parcel E of the Property, which totals approximately 11.04 acres, is legally described as:

T2N, R11E, SEC 19 PART OF SE 1/4 BEG AT PT DIST N 00-21-23 E 102.01 FT & N 89-30-00 E 360.04 FT & N 00-21-23 E 1039.94 FT FROM S 1/4 COR, TH N 00-21-23 E 488.06 FT, TH N 65-09-05 E 366.53 FT, TH N 89-49-05 E 536.38 FT, TH S 00-01-30 E 524.20 FT, TH N 89-38-37 W 439.98 FT, TH S 00-21-23 W 125.00 FT, TH N 89-38-37 W 431.50 FT TO BEG.

(Depicted on the aerial and diagram, attached as Exhibit A)

18. Parcel E is usable for all the uses permitted in the O-M (Office Mid-Rise) Zoning Classification of the Zoning Ordinance of the City of Troy with the exception of the westernmost and northernmost portion of the Parcel, which is described as:

T2N, R11E, SEC 19 PART OF SE 1/4 BEG AT PT DIST N 00-21-23 E 102.01 FT & N 89-30-00 E 360.04 FT & N 00-21-23 E 1039.94 FT FROM S 1/4 COR, TH N 00-21-23 E 488.06 FT, TH N 65-09-05 E 366.53 FT, TH N 89-49-05 E 536.38 FT, TH S 00-01-30 E 100.00 FT, TH S 89-49-05 W 514.24 FT, TH S 65-09-05 W 140.01 FT, TH S 00-01-30 E 484.75 FT, TH N 89-38-37 W 230.98 FT TO BEG.

19. The above described westernmost and northernmost portion of Parcel E is hereby determined to be usable for all the uses permitted in the P-1 (Vehicular Parking) Zoning Classification of the Zoning Ordinance of the City of Troy. Plaintiff is hereby permanently restrained and enjoined from using that portion of Parcel E for any purposes not permitted in the P-1

(Vehicular Parking) Zoning Classification. No buildings shall be constructed on that westernmost and northernmost portion of Parcel E, which shall be used solely for parking purposes, greenbelts and landscaping.

20. The office building, at 3310 W. Big Beaver Rd. (225,889 square feet) was and is required to be at least 200 feet from the property line of the adjacent Beach-Wood Recreation Association, Inc. and 300 feet from Lot #55 (2331 Chelsea Court), and 325 feet from Lot # 34 (2207 Babcock Drive), which are in the Sheffield Manor Subdivision, in the City of Troy.

Provisions Concerning Parcel F

21. Parcel F of the Property, which totals approximately 4.61 acres, is legally described as:

Part of the Southeast $\frac{1}{4}$ of Section 19, Town 2 North, Range 11 East, City of Troy, Oakland County, Michigan being more particularly described as follows:

Beginning at a point which is North 00 degrees 21 minutes 23 seconds East 102.01 feet along the North and South $\frac{1}{4}$ line of Section 19, and North 89 degrees 30 minutes 00 seconds East, 360.04 feet and North 00 degrees 21 minutes 23 seconds East, 1008.94 feet and South 89 degrees 38 minutes 37 seconds East, 872.52 feet from the South $\frac{1}{4}$ corner of Section 19, Town 2 North, Range 11 East; Thence North 00 degrees 01 minutes 30 seconds West, 680.20 feet; thence North 89 degrees 49 minutes 05 seconds East, 327.00 feet; Thence South 00 degrees 01 minutes 30 seconds East 537.20 feet; Thence Southwesterly 275 .60 feet along a curve concave to the Southeast (radius of 285.00 feet, central angle of 55 degrees 24 minutes 21 seconds, long chord bears South 56 degrees 54 minutes 21 seconds West 264.99 feet); Thence North 89 degrees 38 minutes 37 seconds West, 104.94 feet to the point of beginning.

(Depicted on the aerial and diagram, attached as Exhibit A)

22. The 1998 Amendment to the Original Consent Judgment (now incorporated into this Restated and Amended Consent Judgment) required the building at 2240 Cunningham (hereafter referred to as the Data Center) on Parcel F to be at least 140 feet away from any residential lot line. Landscaping was required for the entire 140-foot setback area, with the exception that 30 parking spaces can be located within the setback area that would count towards the amount of parking required by the City for the Data Center development.
23. Plaintiffs were required by the 1998 amendments to the original consent judgment (now incorporated into this Restated and Amended Consent Judgment) to complete landscaping for Parcel F in accordance with the Planting Plan (with a revision date of October 30, 1998), which is attached as Exhibit C (3 pages).
24. Plaintiff was and is required; pursuant to the provisions of the 1998 amendments to the original consent judgment (now incorporated into this Restated and Amended Consent Judgment), to operate the building at the Data Center in a manner that shall never cause the noise level from the building to exceed 65 decibels at any residential lot line.
25. The 1998 amendments to the Consent Judgment (now incorporated into this Restated and Amended Consent Judgment) also requires all rooftop equipment for the building at the Data Center to be totally screened from view from all sides. In addition, the height of the screening elements shall be at least equal to the height of the equipment being screened. This

- screening was required to be in place prior to the issuance of occupancy permits for the building at the Data Center, and must remain intact.
26. Parcel F shall be developed only in accordance with the attached Site Plan, which is attached as Exhibit D, and is hereby approved.
27. Plaintiffs and/or their successors shall be entitled to develop a new curb cut from Cunningham Drive, to provide ingress and egress to Parcel F, in accordance with the attached Site Plan.
28. In accordance with the attached site plan, Plaintiffs and/or their successors shall not be required to provide more than 209 parking spaces on the Parcel to service the existing Data Center.
29. Plaintiffs shall be permitted to affix a satellite dish and generator to the property on Parcel F, in accordance with the Site Plan attached as Exhibit D.
30. Plaintiffs shall provide sufficient screening around the satellite dish and generator in a manner that is consistent with the terms of this Consent Judgment, as well as the City of Troy Ordinances, Development Standards, Rules and/or Regulations.
31. In accordance with the attached site plan, Plaintiffs and/or their successors shall not be required to provide landscaping on more than One Thousand Nine Hundred Ninety Four (1,994) square feet of land, which is located along the east-west boundary line behind the Data Center.

Provisions Concerning Parcel G

32. Parcel G of the Property, which totals approximately 11.81 acres, is legally described as:

Part of the Southeast $\frac{1}{4}$ of Section 19, Town 2 North, Range 11 East, City of Troy, Oakland County, Michigan being more particularly described as follows:

Beginning at a point which is North 00 degrees 21 minutes 23 seconds East 102.01 feet along the North and South $\frac{1}{4}$ line of Section 19, and North 89 degrees 30 minutes 00 seconds East, 360.04 feet and North 00 degrees 21 minutes 23 seconds East, 1008.94 feet and South 89 degrees 38 minutes 37 seconds East, 872.52 feet and North 00 degrees 01 minutes 30 seconds West, 680.20 feet and North 89 degrees 49 minutes 05 seconds East, 327.00 feet from the South $\frac{1}{4}$ corner of Section 19, Town 2 North, Range 11 East; thence North 89 degrees 49 minutes 05 seconds East, 631.62 feet; Thence South 00 degrees 01 minutes 30 seconds East, 88.57 feet; Thence North 89 degrees 58 minutes 30 seconds East 400 feet; Thence South 00 degrees 01 minutes 30 seconds East 440.77 feet; Thence South 89 degrees 30 minutes 00 seconds West 1007.36 feet; Thence Southwesterly 24.33 feet along a curve concave to the Southeast (radius of 285.00 feet, central angle of 04 degrees 53 minutes 29 seconds, long chord bears South 87 degrees 03 minutes 20 seconds West 24.32 feet); Thence North 00 degrees 01 minutes 30 seconds West, 537.20 feet to the point of beginning.

(Depicted on the aerial and diagram, attached as Exhibit A)

33. Parcel G includes the Parcel G-1 that was not subject to the original consent judgment, which was the southern portion of the Lutheran Church of the Master, adjacent to Coolidge Highway. Subsequently this land was combined with the properties that were part of the original consent judgment.

34. Parcel G-1 of the Property, which totals approximately 1.42 acres is legally described as:

T2N, R11E, SEC 19 PART OF SE 1/4 BEG AT PT DIST N 00-21-23 E 102.01 FT & N 89-30-00 E 360.04 FT & N 00-21-23 E 1528.00 FT & N 65-09-05 E 366.53 FT & N 89-49-05 E 1495.00 FT & S 00-01-30 E 88.57 FT FROM S 1/4 COR, TH N 89-58-30 E 400.00 FT, TH S 00-01-30 E 155.01 FT, TH S 89-58-30 W 400.00 FT, TH N 00-01-30 W 155.01 FT TO BEG.

(Depicted on the aerial and diagram, attached as Exhibit A)

35. Plaintiffs were required by the 1998 amendments to the original consent judgment (now incorporated into this Restated and Amended Consent Judgment) to complete landscaping for Parcel G in accordance with the Planting Plan (with a revision date of October 30, 1998), which is attached as Exhibit C (3 pages).
36. Plaintiffs were and are also required to maintain the landscaped and parking areas of Parcel F at the same level of maintenance as occurs on the Property to the south, which is known as the K-Mart headquarters building, located at 3100 W. Big Beaver Rd., Troy, MI.

Provisions Concerning Parcels B, C, D, E, F and G

37. In addition to the previously stated provisions regarding the individual parcels, the following provisions apply to Parcels B, C, D, E, F and G: Plaintiff was and is required to comply with the Landscaping Plan (attached as Exhibit B) that buffers the Sheffield Office Development from the adjacent residential property. This landscaping was required to be installed in the first planting season following September 25, 1980, with replacements required for any plant that died within two years of the original installation, except as set forth in the paragraph below.

38. In addition to the previously stated provisions regarding the individual parcels, the following provisions apply to Parcels B, C, D, E, F and G: The Landscaping Plan (attached as Exhibit B), also required and requires Plaintiff to maintain in perpetuity the landscaping and planted materials erected on the berms that are required on the Landscaping Plan (Exhibit B), and which are owned by Plaintiff and serve as a buffer to the adjacent residential property, including Lot #34, Sheffield Manor Subdivision (2207 Babcock Drive); and Lot #55, Sheffield Manor Subdivision (2331 Chelsea Court). This perpetual maintenance requires replacement of any dead planted materials that are located on the berms.

39. In addition to the previously stated provisions regarding the individual parcels, the following provisions apply to Parcels B, C, D, E, F and G: Plaintiff shall have an easement from Beach-Wood Recreation Association to allow Plaintiff or its successors or assigns to come on the property of Beach-Wood Recreation Association to perform the necessary landscaping installation and/or maintenance, as set forth in the preceding paragraph.

40. In addition to the previously stated provisions regarding the individual parcels, the following provisions apply to Parcels B, C, D, E, F and G: Plaintiff agrees that if the neighboring residential property owners or their successors at 2207 Babcock Dr. and/or 2331 Chelsea Court, Troy, MI are required to initiate litigation to enforce the provisions of the required landscaping installation and maintenance, as set forth above, then Plaintiff

will reimburse the participating neighboring residential property owners in the amount of their actual reasonable attorney fees.

41. In addition to the previously stated provisions regarding the individual parcels, the following provisions apply to Parcels B, C, D, E, F and G: Plaintiff also agreed to pay Beach-Wood Recreational Association the sum of \$18,000.00, to be held in escrow by Charles L. Burleigh, Jr.. This escrowed amount was to be used to pay the costs of landscaping the south berm located on the Beach-Wood Recreational Association property, in accordance with the Landscaping Plan (attached as Exhibit B). Any amount of the \$18,000 that was not necessary to complete the landscape improvements on the south berm was unrestricted.

42. In addition to the previously stated provisions regarding the individual parcels, the following provisions apply to Parcels B, C, D, E, F and G: Plaintiff granted Beach-Wood Recreational Association an easement to maintain a fence on Plaintiff's property twelve (12) feet from the south edge (base) of the berm between Plaintiff's property and the Beach-Wood Property. This easement is provided to allow for grading, soil preparation, and seeding of the south face of the south berm located on the Beach Wood Recreational Associational property, and to provide light from one or more fixtures on a pole in the parking lot (the location of which could be determined by Plaintiff) of the Project to illuminate the bathhouse area of the Beach-Wood property for purposes of security.

43. In addition to the previously stated provisions regarding the individual parcels, the following provisions apply to Parcels B, C, D, E, F and G: Pursuant to the original consent judgment the Plaintiffs were permitted to construct 850,000 square feet of office development.
44. In addition to the previously stated provisions regarding the individual parcels, the following provisions apply to Parcels B, C, D, E, F and G: There shall be a minimum of 3,000 parking spaces on Parcels B, C, D, E, F and G. These parking spaces shall conform to the layout standards of the City of Troy Zoning Ordinance.
45. In addition to the previously stated provisions regarding the individual parcels, the following provisions apply to Parcels B, C, D, E, F and G: Plaintiff and its successors have constructed 645,699 square feet of the original 850,000 feet office development allowance on Parcel B, C, D and E as follows: 3250 W. Big Beaver Rd. (149,134 square feet) on Parcel B; 3270 W. Big Beaver Rd. (110,140 square feet) on Parcel C; 3290 W. Big Beaver Rd. (160,536 square feet) on Parcel D; and 3310 W. Big Beaver Rd. (225,889 square feet) on Parcel E. In addition, pursuant to a revision in 1977, 225,000 feet of the original allowed gross square footage for office development was transferred to Parcels F and G, which results in a total amount of gross office square footage that would exceed the original consent judgment's allocation of 850,000 square feet if used. Of this amount, 89,158 square feet has been used for the construction of a Data Center on Parcel F, which was originally intended to serve the K-Mart

headquarters, which was located on the south side of Cunningham Drive, south of Parcels F and G.

Provisions Concerning Parcels F and G

46. In addition to the previously stated provisions regarding the individual and combined parcels, the following provisions apply specifically to Parcels F and G, and to the extent that the parking, density, set backs, tax parcel assignments or tax split laws, rules, and regulations were satisfied prior to the division of the Property into separate Parcels F and G, then the City would not enforce these restrictions against Plaintiff K-Mart or any of its successors and assigns.

47. In addition to the previously stated provisions regarding the individual parcels, Plaintiffs are also required to maintain the landscaped and parking areas of Parcel F and Parcel G at the same level of maintenance as occurs on the Property to the south, which is known as the K-Mart headquarters building, located at 3100 W. Big Beaver Rd., Troy, MI.

Dedications of Right of Way

48. Plaintiff has conveyed to the City of Troy, by virtue of a Quit Claim deed, the following Property:

- a. A strip of land one hundred feet (100) in width generally abutting the so-called Kresge office property and extending from Coolidge Road to Big Beaver Rd. Plaintiff has constructed, at its expense, a loop paved road on such

Property (Cunningham Drive), in accordance with surveys, plans and specifications approved by the City of Troy.

- b. A strip of land one hundred and two (102) feet wide for Big Beaver Road right of way, which is legally described as follows:

A part of the S.E. $\frac{1}{4}$ of Section 19, T2N, R11E, City of Troy, Oakland County, Michigan, being more particularly described as: Commencing at the South quarter corner of Section 19;
Thence N. $89^{\circ} 30' 00''$ E. 1398.63 ft.;
Thence N. $00^{\circ} 01' 30''$ W. 102.00 ft.;
Thence S. $89^{\circ} 30' 00''$ W. 1397.95 ft.;
Thence S. $00^{\circ} 21' 23''$ W. 102.01 ft. to the point of beginning.

(Contains 142,628 square feet or 3.27 acres)
(Depicted on the aerial and diagram, attached as Exhibit A-3)

- c. A strip of land seventeen (17) feet wide along Beach Road, which is legally described as follows:

A part of the S.E. $\frac{1}{4}$ of Section 19, T2N, R11E, City of Troy, Oakland County, Michigan, being more particularly described as: Commencing at a point N. $00^{\circ} 21' 23''$ E. 1282.10 ft. from the South quarter corner of Section 19;
Thence N. $00^{\circ} 21' 23''$ E. 1005.49 ft.;
Thence N. $89^{\circ} 49' 05''$ E. 17.00 ft.;
Thence S. $00^{\circ} 21' 23''$ W. 1005.65 ft.
Thence N. N. $89^{\circ} 38' 37''$ W. 17.00 ft. to the point of beginning.

(Contains 17,094 square feet or 0.39 acres)
(Depicted on the aerial and diagram, attached as Exhibit A-3)

49. Should the legal descriptions, dimensions and/or surveys contained in this

Restated and Amended Judgment and the Exhibits attached hereto

require correction in order to accomplish the purposes of this Restated and Amended Judgment, then this may be accomplished by the mutual agreement of the parties.

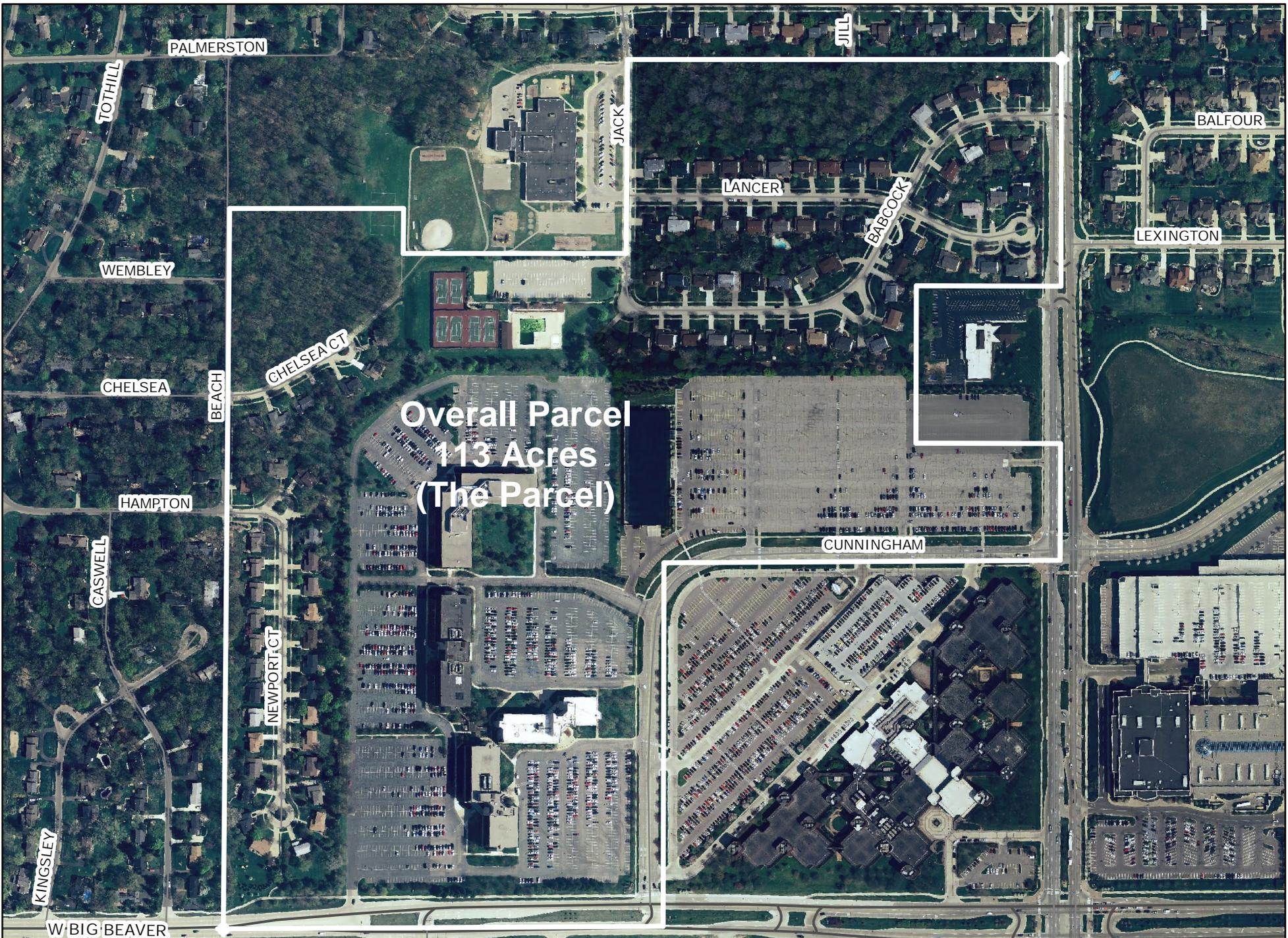
50. In order to effectuate the intent of this Restated and Amended Consent Judgment and to reconcile any differences of the parties that may occur during the performance of this Restated and Amended Consent Judgment, the Court shall retain jurisdiction of this cause.
51. The provisions of this Restated and Amended Consent Judgment shall be covenants running with the land, and shall be binding upon and inure to the benefit of the parties hereto, their officers, partners, employees, representatives, heirs, successors and assigns and all others acting under their direction and control.
52. This Restated and Amended Consent Judgment may be amended from time to time with the written consent of Plaintiff and the City.
53. Except as expressly restated in this Restated and Amended Consent Judgment, the Original Judgment and the subsequent amendments to the Original Judgment shall be of no further force or effect.
54. The rights and obligations of Plaintiff under this Restated and Amended Consent Judgment are assignable by Plaintiff and upon the sale of the Property, or upon the assignment of Plaintiff's rights and obligations under this Amended Consent Judgment and the City's receipt of the assumption of such assignee of the terms hereof, Plaintiff shall be automatically released of any obligations under this Amended Consent Judgment.

55. A certified copy of this Amended Consent Judgment shall be recorded with the Oakland County Register of Deeds, in regard to the Property described herein, and the Register of Deeds is directed to accept the same for recording.

Circuit Court Judge

Approved as to Form:

City of Troy



Overall Parcel
113 Acres
(The Parcel)

1 inch equals 400.0 feet

EXHIBIT A (Overall Parcel)

Date: May 2006

Beach

Coolidge

Overall Parcel
113 Acres
(The Parcel)

Big Beaver



Graphic Scale: 1"=400'

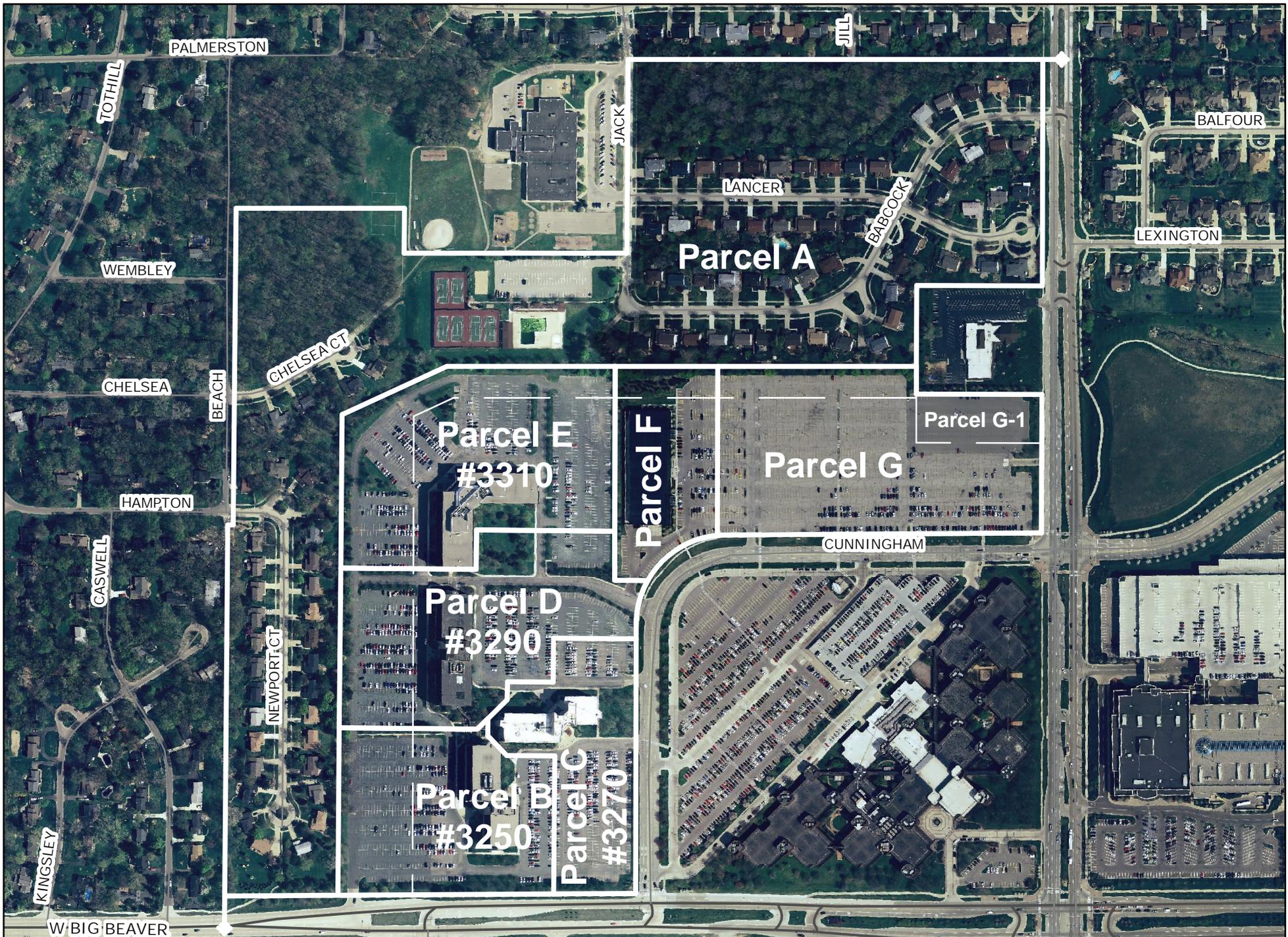


CITY OF TROY
OAKLAND COUNTY, MICHIGAN

EXHIBIT A
Overall Parcel

SCALE	DRAWN BY	CHECKED	FILE
HOR. 1"=400'	NAME GJB III	NAME	See Above
VER.	DATE 5-30-06	DATE	VIEW #1
DOCUMENT PREPARED BY George J. Ballard III LAND SURVEYOR		CONTRACT No.	SHEET No.
		STEVEN J. VANDETTE CITY ENGINEER	JOB No.

DATE	REV.



1 inch equals 400.0 feet

EXHIBIT A-1 (Individual Parcels)

Date: May 2006

Beach

E 1/4 Cor.
Sec. 19

Coolidge

Parcel A

Parcel E
•3310

Parcel F

Parcel G

Parcel G-1

Cunningham

Parcel D
•3290

Parcel C
•3270

Cunningham

Parcel B
•3250

Big Beaver

S 1/4 Cor.
Sec. 19



Graphic Scale: 1"=400'



CITY OF TROY
OAKLAND COUNTY, MICHIGAN

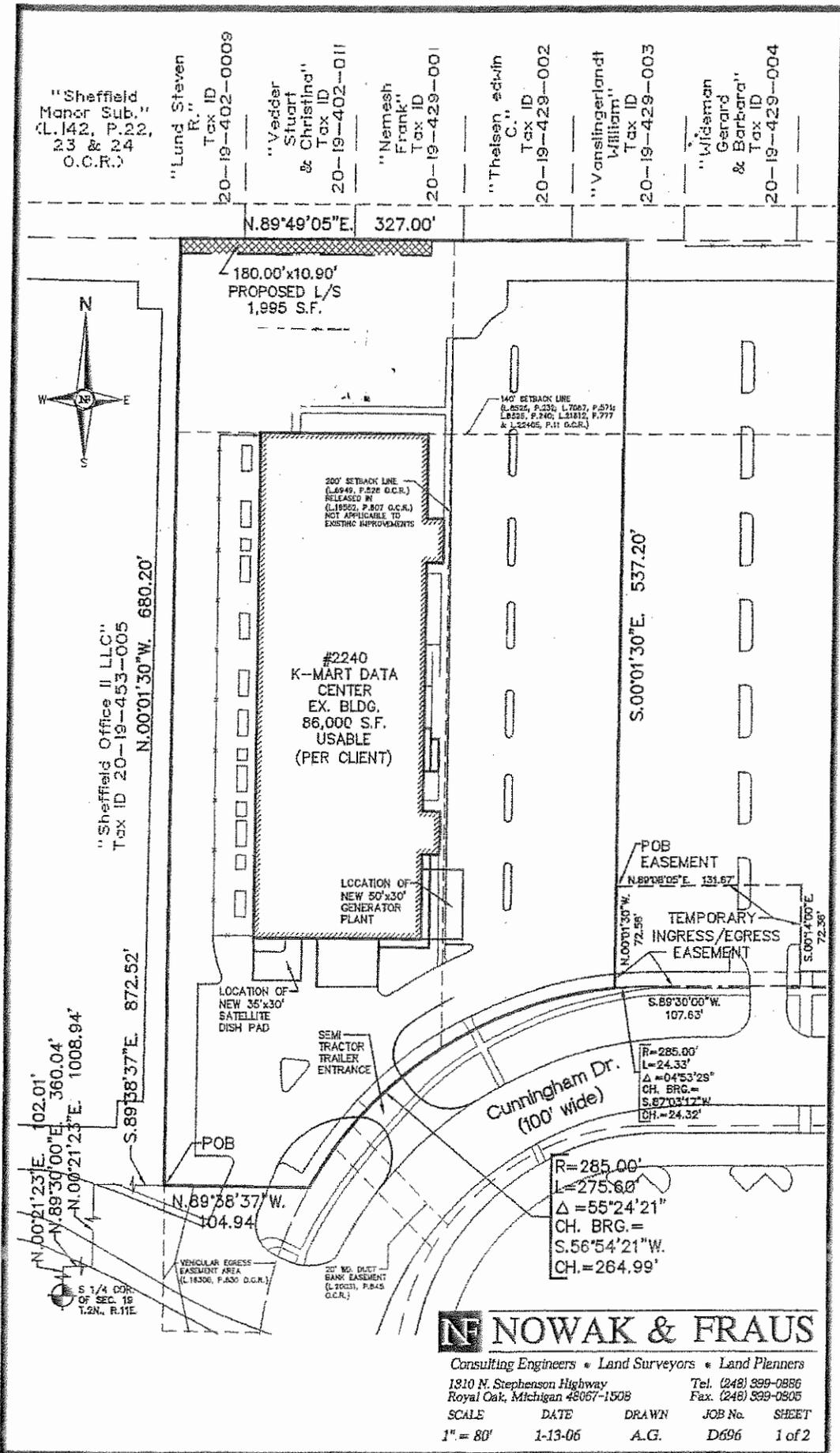
EXHIBIT A-1
Individual Parcels

SCALE	DRAWN BY	CHECKED	FILE
HOR. 1"=400'	NAME GJB III	NAME	See Above
VER.	DATE 5-30-06	DATE	VIEW #1
SHEET No.		JOB No.	
STEVEN J. VANDETTE			
CITY ENGINEER			

DOCUMENT PREPARED BY
George J. Ballard III
LAND SURVEYOR

CONTRACT No.

DATE REV.



NF NOWAK & FRAUS

Consulting Engineers • Land Surveyors • Land Planners
 1810 N. Stephenson Highway Royal Oak, Michigan 48067-1508 Tel. (248) 999-0886 Fax. (248) 999-0805
 SCALE DATE DRAWN JOB No. SHEET
 1" = 80' 1-13-06 A.G. D696 1 of 2

Exhibit D



TO: Mayor and Members of City Council
FROM: Lori Grigg Bluhm, City Attorney
Christopher J. Forsyth, Assistant City Attorney
DATE: June 21, 2006
SUBJECT: Gerback v. City of Troy – Settlement Proposal

Mr. Gerback has filed two zoning challenges against the City of Troy- the proposed Binson's development (Rochester Road, near Marengo) and the 2.74- acre parcel on the west side of Rochester Road, south of Trinway, in the City of Troy (the subject of this settlement proposal).

Gerback filed his lawsuit against the City in November 2004, after being denied his request to rezone the Property from its current classification of R-1 C (single family residential) to R-1T (medium density residential). City Management and the Planning Commission had recommended the rezoning, since the frontage of the Property was designated as R-1 T on the City's Master Land Use Plan (Plan). The City Council denied the requested rezoning on February 21, 2005, based in part on the long depth of the Property that was requested for rezoning, and its impact on the adjacent residential homes.

Plaintiff's lawsuit challenged that the R1-C zoning classification is not reasonable for the property, and therefore argued that the requested rezoning should have been granted. He also challenged the denial of rezoning as an equal protection violation, based on the fact that other properties with similar depths had been rezoned to an R-1T classification.

The parties have conducted discovery and are preparing for trial. However, in the interim, the City has received a settlement proposal from Plaintiff. Upon receipt of this proposal, City Administration requested some modifications to the original proposal, in an effort to reach a settlement that could be recommended to City Council. The Planning Commission reviewed the proposal and the site plan at their June 27, 2007 meeting, and made additional recommendations that have been incorporated into the revised settlement proposal. The Planning Commission modifications include additional landscaping and screening from headlights on cars traversing the new roadway.

According to this settlement proposal, the easternmost $\frac{3}{4}$ of the property would be developed consistent with the R1-T zoning classification. The westernmost $\frac{1}{4}$ of the property would be consistent with the E-P zoning classification, and would contain the required water detention for the site, which would serve as a buffer to the existing residential properties. The plan proposes to retain the existing home on the north side of the property, but the two- car garage will be either relocated or rebuilt (which would likely require a variance of the existing 40 foot set back requirement). The plan exceeds the landscaping that would otherwise be required in an R-1T development. The plan also provides for one unit less than the maximum density allowed in an R-1T development (12 units are proposed, 13 would be allowed under R-1T). The plan calls for only one curb cut on Rochester Road, and provides a more satisfactory placement of the interior road, which was initially proposed to be located at the southernmost end of the Property. The revised plan also requires additional evergreen trees to be planted at the end of the street and at the first curve, as well as the installation of a three-foot high berm along the north side of the street.

We recommend that City Council approve the proposed Consent Judgment and attached plans which will be incorporated by reference, and authorize our office to execute the final document, which shall be attached to the original minutes of City Council.

If you have any questions concerning this proposed consent judgment and plans, please let us know.

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

JAMES L. GERBACK, Successor Trustee
Under the Amended Robert S. Binder Trust
Agreement dated March 1, 2004,

Plaintiff,

Case No. 05-067157-AA

v.

Hon. Deborah G. Tyner

THE CITY OF TROY,

Defendant.

Ernest J. Essad, Jr., (P32572)
David E. Plunkett (P66696)
Attorneys for Plaintiff
Williams, Williams, Rattner & Plunkett, P.C.
380 N. Old Woodward, Suite 300
Birmingham, Michigan 48009
(248) 642-0333

Lori Grigg Bluhm (P46908)
Allan T. Motzny (P37580)
Christopher J. Forsyth (P63025)
City of Troy – City Attorney's Office
Attorneys for Defendant
500 W. Big Beaver Road
Troy, MI 48084
(248) 524-3320

JUDGMENT BY CONSENT

At a session of said Court, held in the City of Pontiac,
County of Oakland, State of Michigan on _____.

PRESENT: Hon. _____
CIRCUIT COURT JUDGE

Plaintiff James L. Gerback is the Successor Trustee under the Amended Robert S. Binder Trust Agreement dated March 1, 2004 (“plaintiff” or the “Trust”). The Trust is the owner of real property located in the City of Troy, Michigan (“Troy”) on the west side of Rochester Road, south of Trinway (the “Property”). The Property is approximately 2.74 acres in size, with a depth of approximately 570 feet. The Property is further described in Exhibit A, which is attached and incorporated into this Judgment. The Property is currently zoned R-1C One Family Residential under Troy’s zoning ordinance set forth in City of Troy Code of Ordinances, Chapter 39 section 10.00.00.

Plaintiff commenced this lawsuit claiming that the current R-1C zoning is unreasonable and unconstitutional, and requesting injunctive relief to prevent Troy from interfering with Plaintiff’s proposed use of the Property. Troy contends that the R-1C zoning of the property is constitutional and reasonable.

After extensive negotiation, the parties have reached a settlement of this lawsuit. The parties agree that a proposed condominium development that is consistent with the provisions of this Consent Judgment, as well as the attached site plan (Exh. B, incorporated by reference) can be allowed on the Property, even though it is inconsistent with the existing zoning. This proposed development is agreeable, in part, since it is limited in both depth and density, as set forth below, and is designed to provide some protection to the adjacent residential properties.

The parties have agreed to entry of this Consent Judgment to reflect their agreed compromise and settlement, as evidenced by the signatures of their respective counsel. The parties agree that this Consent Judgment shall be binding upon the parties, their successors and assigns. The Court also has reviewed the proposed Consent

Judgment, and has verified that it currently possesses jurisdiction over this action, and has approved the form and substance of this Consent Judgment.

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

1. This Consent Judgment shall constitute the final judgment of the Oakland County Circuit Court in this case, and resolves all claims between the parties relating to the Property.

2. After the date of entry of this Consent Judgment, the subject parcel may be developed, used and occupied for the purposes now set forth in City of Troy Code of Ordinances Chapter 39, Section 12.00.00 (R1-T, One-Family Attached Residential District), except as otherwise modified by the terms of this Consent Judgment. All restrictions and requirements as set forth in that zoning district classification on the date of entry of this Consent Judgment shall apply to the subject parcel.

3. The following modifications and additional land use regulations shall apply to the subject property in conjunction with the construction and occupancy of the attached residential development:

- a. The area at the rear (west) of the Property, which is 117.57 feet as shown in attached Exhibit B, shall be governed by the provisions of the Environmental Protection District (EP) as set forth in Chapter 39 section 08.00.00 of the City of Troy Code of Ordinances.
- b. Plaintiff shall maintain this EP classified portion of the Property in an undeveloped state and shall construct a storm water detention area within this portion of the Property, as set forth in attached Exhibit B.

- c. Plaintiff shall install landscaping on the Property in accordance with the attached Exhibit C (Landscaping Plan), which is incorporated by reference. It is acknowledged that the requirements of the Landscaping Plan exceed the requirements of the R1-T zoning classification.
- d. Plaintiff shall receive dimensional variances from the City of Troy to relocate or rebuild the 2 ½ car garage that also currently exists on the Property. These variances shall allow:
 - i. The relocation or rebuilding of the garage to a location within the required site setback from the property line and the new street, as shown on Exhibit B; and
 - ii. The relocation or rebuilding of the garage to a location closer to the existing house than the required setback between buildings, as shown on Exhibit B.
 - iii. If the garage is rebuilt, it shall be rebuilt with the same dimensions as it currently exists on the property.
- e. Plaintiff shall receive a dimensional variance for the setback between the existing house and proposed roadway as shown on Exhibit B.
- f. Other than as set forth above, Plaintiff shall comply with the City's zoning ordinances, building codes, engineering standards, design standards, and all other City ordinances, including but not limited to, setbacks, tree/landscaping, detention basins, ingress and egress, curb cuts, sidewalks, occupancy, rooftop equipment, signs, deceleration

lanes, drainage, grades, dumpsters, lighting, parking, screenwalls, greenbelts or any other ordinance, codes or engineering standards required for site plan approval and/or certificate of occupancy.

g. Plaintiff shall develop no more than 12 attached condominiums on the Property, which shall be consistent with the attached Site Plan, which is incorporated by reference. The existing house will become part of the condominium development.

h. The execution of this Consent Judgment shall also serve as an approval of the attached Site Plan, which is attached as Exhibit B, and is incorporated by reference. Even with the approval of the attached Site Plan (Exhibit B), which sets forth the allowable footprint of the condominium development, before any development can occur, the Plaintiff and/or its successor in interest must comply with the additional site plan approval requirements that are set forth in the City of Troy Code of Ordinances Chapter 39 sections 03.40.03, 03.41.00, and 03.42.00. These requirements include, but are not limited to, the submission and review by the Planning Commission of elevations of the proposed buildings, grading plan, proposed location of garbage receptacles, etc..

4. The parties agree to waive all costs and attorney fees incurred as result of the case.

5. By entry of this Consent Judgment, the parties, their agents, successors, and assigns waive and discharge any and all claims that they may have against the

other party, including its officials and employees, relating the to subject of this lawsuit.

5. A certified copy of this Consent Judgment shall be recorded at the Oakland County Register of Deeds for the subject property as described in Exhibit A, and the Register of Deeds is directed to accept the same for recordation.

6. In order to effectuate the intent of this Consent Judgment and to reconcile any differences of the parties that may arise in connection with the performance of this Consent Judgment, this Court shall retain jurisdiction of this action.

CIRCUIT COURT JUDGE

Ernest J. Essad, Jr. (P32572)
Attorney for Plaintiff

Christopher J. Forsyth (P63025)
Attorney for Defendant

June 30, 2006

TO: John M. Lamerato, Acting City Manager

FROM: Brian P. Murphy, Assistant City Manager/Services
Jeanette Bennett, Purchasing Director
Timothy L. Richnak, Public Works Director

SUBJECT: **AGENDA ITEM** – Amendment #3 Concrete Pavement Repair

RECOMMENDATION

It is recommended that City Council approve Amendment #3 in the amount of \$25,000.00 to the concrete pavement repair contract for local roads with Hard Rock Concrete, Inc.

SUMMARY

On January 24, 2005, the Troy City Council approved a contract for concrete pavement repair to the low bidder Hard Rock Concrete for local roads for funds budgeted in the fiscal year 2004/2005 (Resolution #2005-01-041-E20).

Subsequently, the contract was amended on July 11, 2005 to extend the contract to complete concrete replacement for local roads for work to be completed by June 30, 2006 (Resolution #2005-07-325-E11). Amendment #1 extension provided a contract to expend local road funds for the 2005/2006 fiscal year budget.

On June 5, 2006, City management recommended to amend the contract for an additional \$125,000 to complete local road repairs in Section 11 and Randall Drive (Resolution 2006-06-245). These repairs had been identified by our pavement management system (Hansen). The funds were available in the local road capital budget.

The project was initiated immediately in order to complete the work by June 30, 2006. As the work was in progress, City staff determined that the extent of the pavement deterioration extended beneath and into adjacent pavement. We determined that it was responsive and responsible to repair the extended pavement while the work was underway, and at the 2004/2005 contract costs.

The additional pavement work was over and above the approved contract amount by \$25,000.00. These expended funds do not exceed the 2005/2006 budgeted amounts totaling \$1,000,000.00

June 30, 2006

To: John M. Lamerato, Acting City Manager
Re: Amendment #3 – Concrete Pavement Repair

Hard Rock Concrete, Inc

2006 Contract Amount Amendment #1	\$500,000.00
Additional 25%	\$125,000.00
Amendment # 2	\$125,000.00
Total	\$750,000.00
Proposed Amendment # 3	\$25,000.00
Total	\$775,000.00

BUDGET

Funds are available to complete this project in the 2005/06 Local Road account # 401499.7989.051015 and 401499.7989.500. The budgeted amounts in capital pavement replacement for local roads in these two accounts totals \$1,000,000.00.

Prepared by: Marina Basta Farouk, Project Construction Manager

June 27, 2006

TO: John M. Lamerato, Acting City Manager

FROM: Brian P. Murphy, Asst. City Manager/Services
Steve Vandette, City Engineer 
John K. Abraham, Traffic Engineer 

SUBJECT: Agenda Item -- Traffic Committee Recommendations – June 21, 2006

At the Traffic Committee meeting of June 21, 2006, the following recommendation was made for City Council approval:

1. To recommend that fire lanes be established at 3129-3149 Crooks Road per the Fire Department recommendation.

A regular meeting of the Troy Traffic Committee was held Wednesday, June 21, 2006 in the Lower Level Conference Room at Troy City Hall. Pete Ziegenfelder called the meeting to order at 7:30 p.m.

1. Roll Call

PRESENT: Sara Binkowski
John Diefenbaker
Ted Halsey
Jan Hubbell
Pete Ziegenfelder

ABSENT: Richard Kilmer
Gordon Schepke
Jonathan Shin, Student Rep.
Katherine Tan, Student Rep.

Also present: Sharyn Dennis, 2338 Sweet
Helen Kieba-Tolksdorf, 3838 Livernois
Chris Stout, 3838 Livernois
Dale R. Zygnowicz, 6370 Elmoor

and John Abraham, Traffic Engineer
Lt. Scott McWilliams, Traffic Safety Division, Troy Police Dept.
Lt. Bob Matlick, Fire Department

Resolution to Excuse Absent Members**RESOLUTION #2006-06-50**

Moved by Halsey
Seconded by Hubbell

To excuse Kilmer and Schepke.

YES: All-5
NO: None
ABSENT: 2 (Kilmer, Schepke)

MOTION CARRIED

2. Minutes – May 17, 2006**RESOLUTION #2006-06-51**

Moved by Hubbell
Seconded by Binkowski

To approve the May 17, 2006 minutes as printed.

YES: All-5
NO: None
ABSENT: 2 (Kilmer, Schepke)
MOTION CARRIED

PUBLIC HEARINGS

3. Request for Sidewalk Waiver – 3838 Livernois

Walsh College is requesting a waiver for the sidewalk at 3838 Livernois. The sidewalk ordinance requires that the existing five-foot sidewalk be replaced with an eight-foot sidewalk, in conjunction with a building addition. The Public Works Department recommends denial of this waiver request. Petitioner has signed an “Agreement for Irrevocable Petition for Sidewalks.”

Petitioner states that there are no other sidewalks to the north, and none on the south side that are 8 feet wide. The parcel to the north is designated a historic property, making it unlikely that the sidewalk will be continued northward

Chris Stout, Director/Facilities states that Walsh College will gladly meet the new requirements at any time the sidewalk is continued to the north.

Helen Kieba-Tolksdorf, of Walsh College, addressed the committee and reiterated that there is little likelihood of sidewalk being installed to the north, and there is a five-foot sidewalk to the south. She believes there could be safety issues for pedestrians if Walsh had an eight-foot wide sidewalk that suddenly narrowed down to the current five-foot width at the south property line. She also pointed out that Walsh College is trying to keep their campus “green,” with more vegetation and less pavement. She mentioned that if there is a City project that would install eight-foot sidewalks north and south of Walsh College, they would be willing to participate in it and widen their sidewalk to eight feet.

RESOLUTION #2006-06-52

Moved by Halsey

Seconded by Hubbell

1. WHEREAS, City of Troy Ordinances, Chapter 34, Section 8(D) allows the Traffic Committee to grant temporary waivers of the City of Troy Design Standards for Sidewalks upon a demonstration of necessity; and

WHEREAS, Walsh College has requested a temporary waiver of the requirement to construct an eight foot wide sidewalk on the property because there are no other sidewalks in the area to the north, and no eight-foot wide sidewalks to the south; and

WHEREAS, the Traffic Committee has determined the following:

- a. A variance will not impair the public health, safety or general welfare of the inhabitants of the City and will not unreasonably diminish or impair established property values within the surrounding area, and
- b. A strict application of the requirements to construct a sidewalk would result in practical difficulties to, or undue hardship upon, the owners, and
- c. The construction of a new sidewalk on the property line to the north would lead nowhere and connect to no other walk, and thus will not serve the purpose of a pedestrian travel-way.

NOW THEREFORE, BE IT RESOLVED that the Traffic Committee grants a two-year waiver of the sidewalk requirement for the property at 3838 Livernois, which is owned by Walsh College.

YES: All-5
NO: None
ABSENT: 2 (Kilmer, Schepke)

REGULAR BUSINESS

4. Reconsideration of Request for YIELD or STOP Sign on Ivanhoe at Sweet

This item was addressed at the April 19th meeting, at which time the committee determined that traffic control devices were not required at this location. The petitioner, Sharyn Dennis, 2338 Sweet Drive, reported that she did not receive notice of the meeting and would like an opportunity to address the committee. She was unable to attend the May meeting but requested reconsideration at the June meeting. The Traffic Committee voted to reconsider the issue at the June meeting.

Sharyn Dennis, 2338 Sweet Drive, is requesting traffic control signs in the area of Sweet Drive and Ivanhoe Drive. She believes this is a dangerous intersection, since Ivanhoe connects her neighborhood with an older neighborhood, and allows for through traffic to John R via Ivanhoe and Highbury. She also reports constant high-speed traffic through the neighborhood.

A traffic crash analysis shows that there have been no reported crashes near Sweet and Ivanhoe in the past five years, which indicates that the intersection is relatively safe. Field observations show an evergreen tree in the northeast corner of the intersection. Our Parks & Recreation Department is looking into whether the tree is in the 25-foot clear-zone triangle.

Speed/traffic volume studies were done on April 3rd-5th, and the results indicate around 500 vehicles on Sweet Drive, 700 on Ivanhoe, and around 560 on Cloister per day. Residential area traffic volumes range between 300 and 5000 per day, and the traffic volume in this area is in the lower end of the residential area volumes.

For a STOP sign to be installed, one of the following conditions should be satisfied as per the Michigan Manual of Uniform Traffic Control Devices.

- a. Intersection of a less important road with a main road, where application of a normal right of way rule is disruptive to capacity on the main road.
- b. Street entering a through highway or street.
- c. Unsignalized intersection in a signalized area.
- d. Other intersections with a combination of high speed, restricted view, and serious accident record.

The other end of Ivanhoe that intersects Highbury Drive is controlled by a STOP sign. Highbury carries around 1700 vehicles in a day.

Unwarranted traffic control signs normally result in high violations rates and also promote general loss of credibility of all traffic control signs.

Ms. Dennis reported to the committee that there have been near misses at the intersection, which is right in front of her driveway. There are conflicts when she tries to back out of her driveway. She also pointed out that Highbury runs off John R, and carries a lot of traffic. The Cloister/Saffron intersection has a YIELD sign and she feels a sign on Ivanhoe at Sweet would reduce risk of crashes and assign proper right of way to the motorists using the intersection.

Mr. Halsey checked the area and believes that a tree near the intersection causes a sight obstruction. Dr. Abraham will consult with the Parks Department.

RESOLUTION #2006-06-53

Moved by Hubbell

Seconded by Halsey

To recommend installation of a YIELD sign on Ivanhoe at Sweet.

YES: All-5

NO: None

ABSENT: 2 (Kilmer, Schepke)

5. Visitors' Time

No one else wished to address the committee.

6. Other Business

Lt. Matlick presented a sketch of recommended fire lanes at the new shopping center at 3129-3149 Crooks Road, at Wilshire.

Section 8.28, Chapter 106, Troy City Code, provides for the establishment of fire lanes on private property. The Fire Department recommends that the fire lanes shown on the attached sketch be provided to allow proper deployment of and travel by emergency vehicles (fire, police, medical).

RESOLUTION #2006-06-54

Moved by Hubbell

Seconded by Binkowski

Recommend establishing fire lanes at 3129-3149 Crooks Road per the Fire Department's recommendation.

YES: All-5

NO: None

ABSENT: 2 (Kilmer, Schepke)

Mr. Ziegenfelder brought up the subject of the shopping center at Crooks north of Big Beaver. Dr. Abraham said he consulted the City Development Committee, and they recommended the reducing the width of the south drive from 60 to 30 feet to serve Einstein Bagels and adding a new drive at the north end of Mr. Osborne's property. Buscemi's and the cleaners would be served by the north drive.

Lt. McWilliams said there have been no major accidents at that location since the Shell Station closed, although there are still conflicts with left-turning vehicles, and there are many close calls.

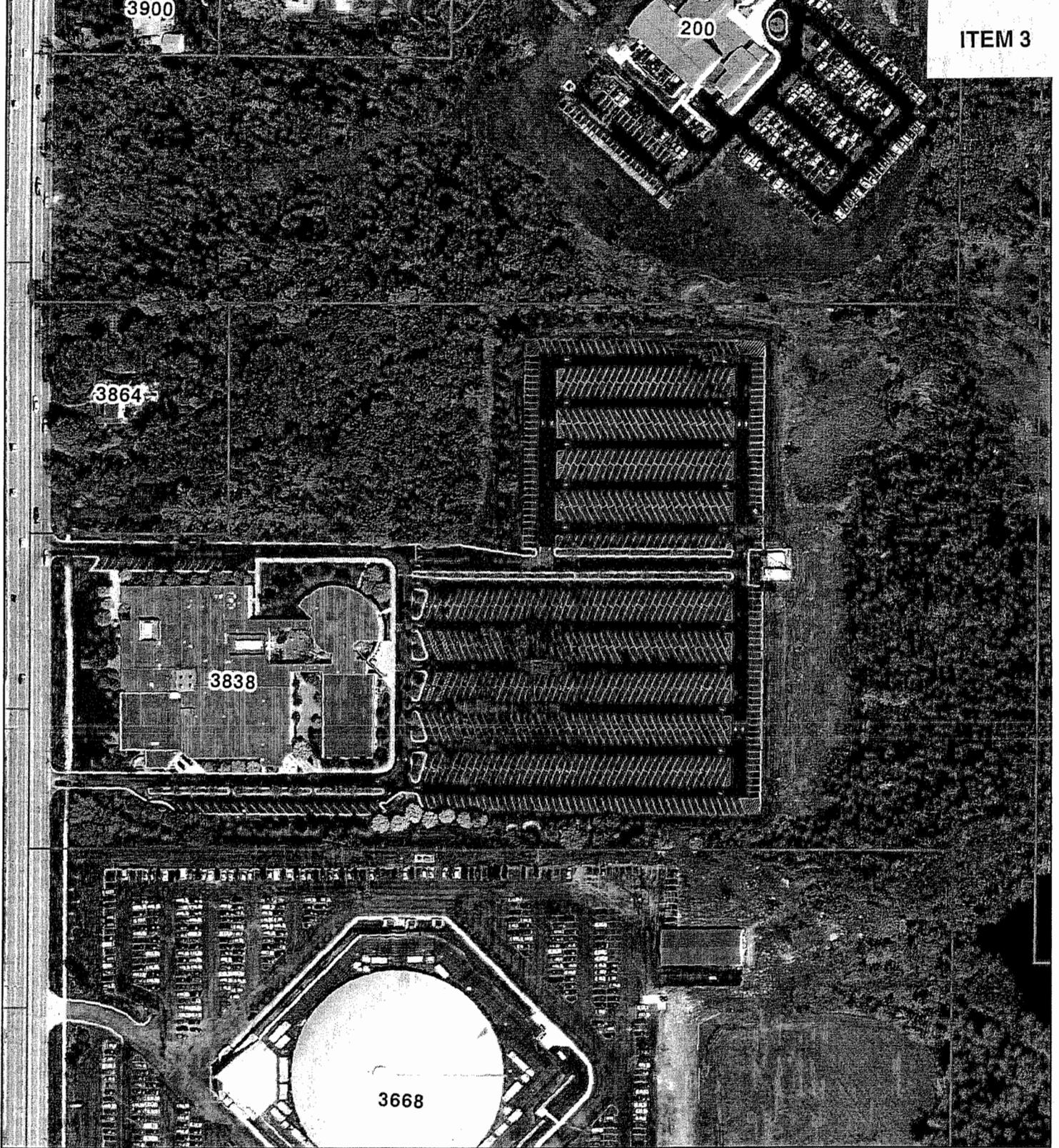
Dr. Abraham will be meeting with Mr. Osborne in the near future.

7. Adjourn

The meeting adjourned at 8:00 p.m. The next meeting is scheduled for July 19, 2006. Mr. Diefenbaker and Mr. Halsey will be unable to attend the July meeting.

Pete Ziegenfelder, Chairperson

Laurel Nottage, Recording Secretary

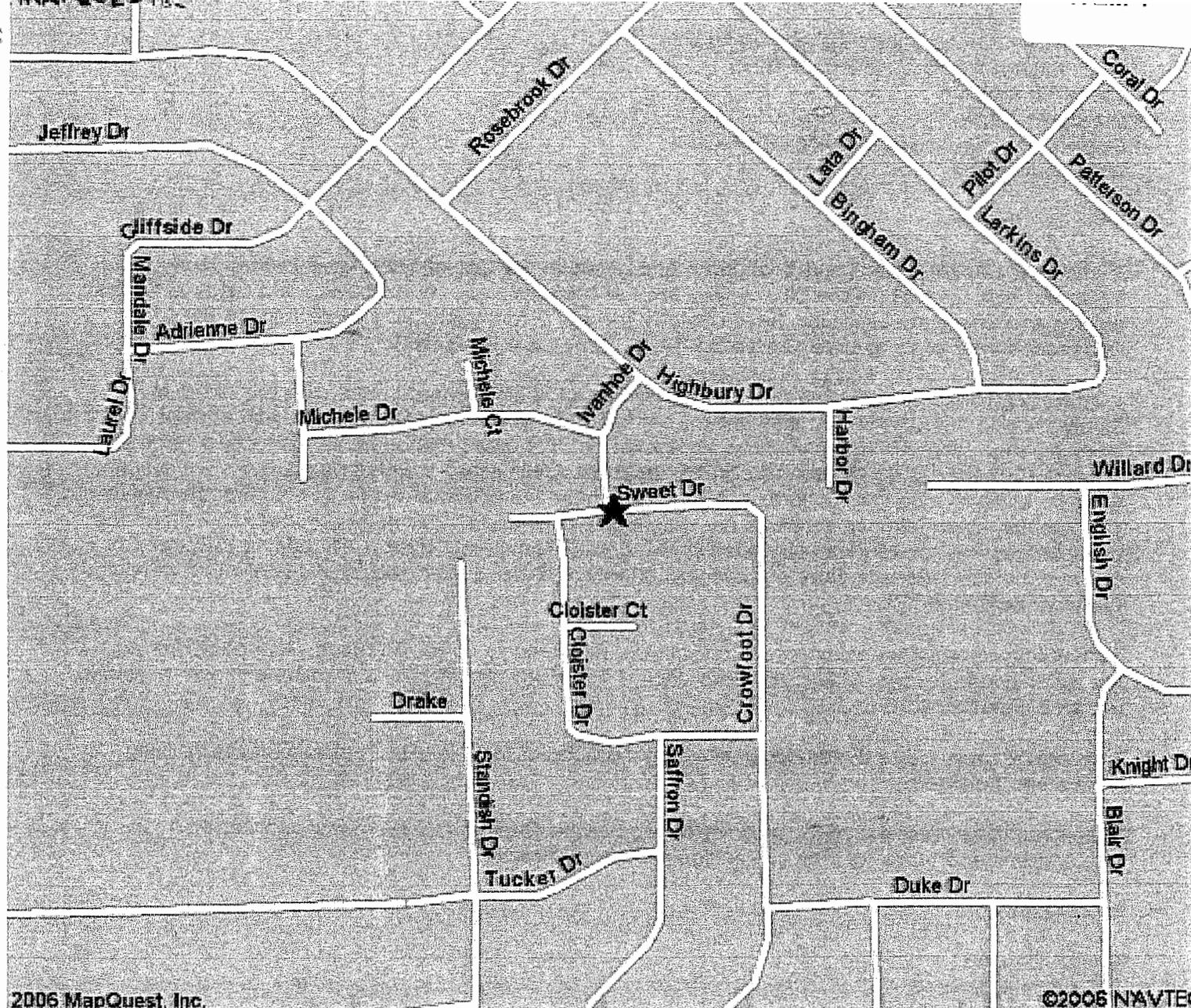


1 inch equals 195.9 feet

City of Troy Oakland County

- Legend**
- Water Main**
 - Distribution Main
 - Transmission Main
 - Standard Hydrant
 - Sewer Gravity Main**
 - Gravity Combined
 - Gravity Sanitary
 - Sewer Manhole
 - Drain Gravity Closed**
 - Culvert
 - Pipe
 - Catch Basin
 - Standard Manhole

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

From: Sharyn Dennis [mailto:sdennis@digitas.com]

Sent: Tuesday, March 21, 2006 1:37 PM

To: John K Abraham

Cc: Sharyn Dennis

Subject: Troy Neighborhood Traffic Sign Request

Importance: High

Hello Dr. Abraham,

My name is Sharyn Dennis and I was born and raised in the City of Troy, have lived here for 28 years and also worked for the City of Troy for 3 of those years. My husband and I, with our 2 year old son and Chocolate Labrador, have recently moved to the northeast side of Troy on the Northeast corner of Long Lake and John R Road (Long Lake Meadows).

I am writing to you about a concern that my family and neighborhood have with the street my family lives on, and the street adjacent to, not having any sort of yield or traffic sign at their intersections. I live off of Sweet Drive right where it "T"s with Ivanhoe Drive. Directly adjacent to Ivanhoe (two houses down from us) is Cloister Drive which also T's with Sweet Drive. We live at, what we believe, a dangerous intersection where there is a constant traffic flow coming through a high speeds, since Ivanhoe connects our neighborhood with an older neighborhood, and allows for traffic through to John R Road (Ivanhoe Drive through Highbury Drive). I am hoping to speak to you and the committee to voice our concern and have either a yield/stop sign installed at, at least, the Ivanhoe/Sweet "T".

I am willing to assist with any research that you may need to do for it (speed monitoring devices, the traffic counters, etc....). For your reference, I have also attached a .pdf document that maps out the area of concern.

I am also a current board member of the neighborhood association, I am able to get something from them if needed.

Thank you in advance for addressing my family and neighborhood's concerns with these intersections and I look forward to speaking with you directly.

Kind regards,

Sharyn Dennis
2338 Sweet Drive
Troy, MI 48085
Home#: 248-879-2680
Cell#: 248-703-6547

4/4/2006

Laurel Nottage

From: Sharyn Dennis [sdennis@digitas.com]
Sent: Wednesday, May 10, 2006 9:03 PM
To: Sharyn Dennis; John K Abraham
Cc: Laurel Nottage
Subject: RE: Troy Neighborhood Traffic Sign Request
Importance: High

Hello Mr. Abraham,

Per our conversation this afternoon, I would like the committee to reconsider this issue of the need for a traffic sign at the corner of Sweet & Ivanhoe in Troy. We feel this is still a great concern. Since no one from this neighborhood (as mentioned, I have confirmed with three immediate neighbors next door had not received a notice/invite) seems to have received the notification/invitation for this past meeting where this issue was addressed and then resolved, we would still like the chance to be represented in front of the committee.

As I had mentioned in our conversation, I have family obligations and will be out of town from Tuesday, May 16th through Tuesday, May 23rd, so unfortunately will not be able to attend the committee meeting scheduled for May 17th. If the committee is looking for the petitioning representation on this coming committee meeting on Wednesday, May 17th, I would like to inquire if a letter/video to the committee would be sufficient. I really am passionate about this issue due to the inherent safety concern not having a traffic sign at this intersection poses.

Please let me know what additionally you would need from me to have this properly addressed in front of the board. Thank you.

Regards,

Sharyn Dennis

Sharyn Dennis
2338 Sweet Drive
Troy, MI 48085
Home#: 248-879-2680
Cell#: 248-703-6547

DATE: July 5, 2006
TO: Honorable Mayor and City Council
FROM: John M. Lamerato, Acting City Manager
RE: Schedule a Special Meeting for the Purpose of a
Big Beaver Corridor Study Presentation

At their June 21, 2006 board meeting the Troy Downtown Development Authority passed two resolutions concerning the Big Beaver Corridor Study. The first resolution endorsed and embraced the key concepts of the study and the second resolution in an attempt to move the study forward asked for presentations to be made to the City Council, Planning Commission, Chamber of Commerce, Road Commission and other stakeholders.

In an attempt to schedule a meeting as soon as possible, I would like to recommend a special meeting with all interested parties including boards and commissions on July 24, 2006, prior to the next City Council meeting at 6:00 PM in the City Council Chambers.

DATE: June 26, 2006

TO: John M. Lamerato, Acting City Manager

FROM: Brian P. Murphy, Assistant City Manager/Services
Mark F. Miller, Planning Director

SUBJECT: Agenda Item – Announcement of Public Hearing (July 24, 2006) – Street Vacation Application (File Number: SV 187) – A section of alley located North of Big Beaver between Frankton and Troy, Section 22

RECOMMENDATION

At the June 13, 2006 Regular meeting, the Planning Commission recommended approval of the proposed street vacation request. City Management concurs with the Planning Commission and recommends approval of the street vacation request.

GENERAL INFORMATION

Name of applicant(s):

Andale Investment Co., Inc.

History of Right of Way:

The subject alley is in the Eysters Beaver Gardens Subdivision, which was platted in 1920. The alley has not been developed.

The applicant owns the two parcels fronting on Troy (88-20-22-357-006 and 88-20-22-357-026) and Frankton (88-20-22-357-012 and 88-20-22-357-011) to the north of the alley. Additionally, the applicant recently purchased from the City parcel 88-20-22-357-031, which abuts the alley to the south. The applicant is requesting to vacate the alley to facilitate consolidation of the parcels and future office development.

Length and width of right of way:

The section of alley proposed to be vacated is approximately 18 feet wide by 244 feet long, between Frankton (platted Ford Avenue) and Troy (platted Jene Avenue), abutting lots 26 through 37 and lots 91 and 92 of Eysters Beaver Gardens Subdivision.

ANALYSIS

Reason for street vacation (as stated on the Street/Alley Vacation Application):

The application states that it is required “to permit office development”.

Impact on access to existing lots or buildings (including emergency service vehicles):

All buildings in the area will continue to have access to abutting streets. Ownership of the vacated alley will revert to the abutting property owners within the subdivision. The applicant will receive the entire 18 feet width of the vacated alley.

Future Land Use Designation:

The area is designated on the Future Land Use Plan as Low Rise Office.

Attachments:

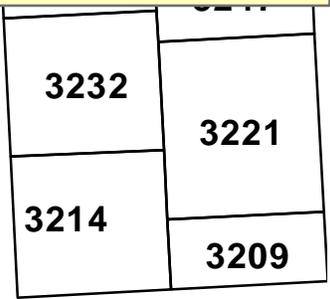
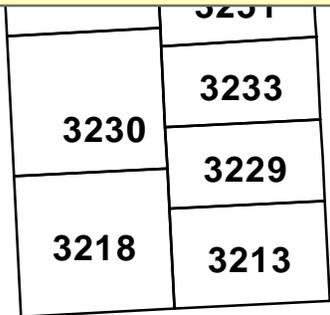
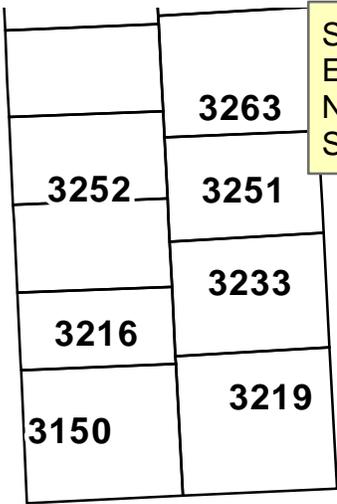
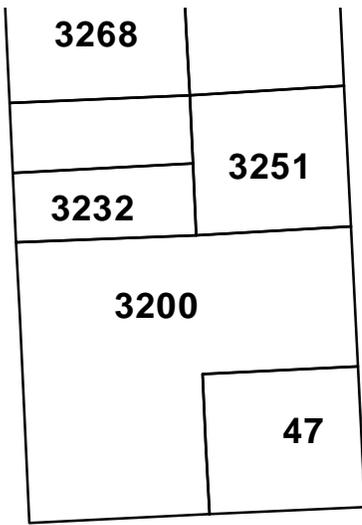
1. Maps.

cc: Applicant
File/ SV 187

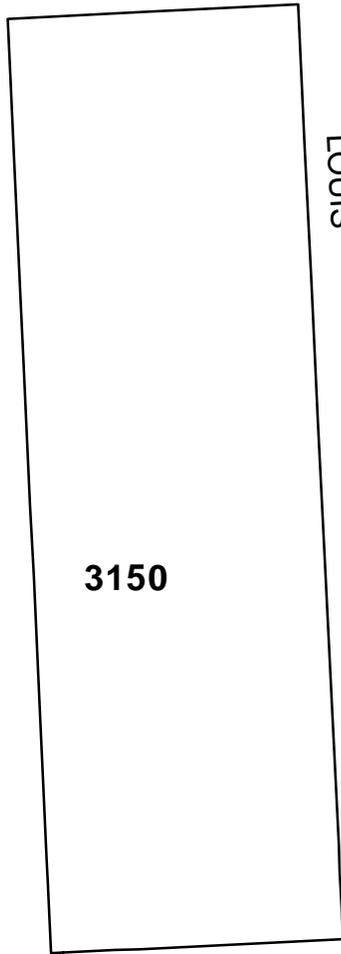
Prepared by RBS/MFM

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STREET VACATION REQUEST
EX. ALLEY, 18 FT. WIDE
N OF BIG BEAVER, BTWN FRANKTON & TROY ST.
SEC. 22 (SV-187)



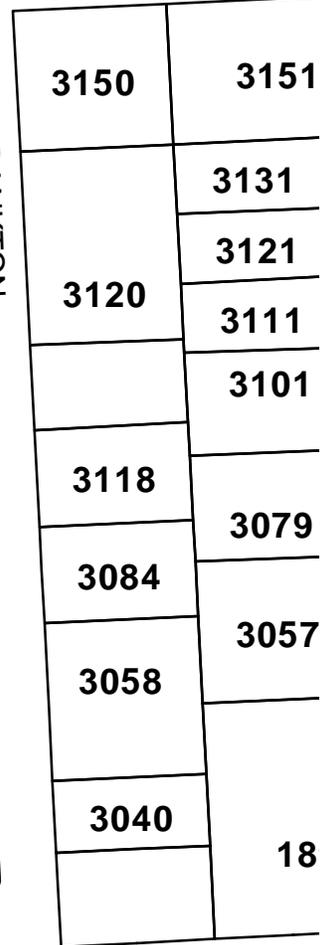
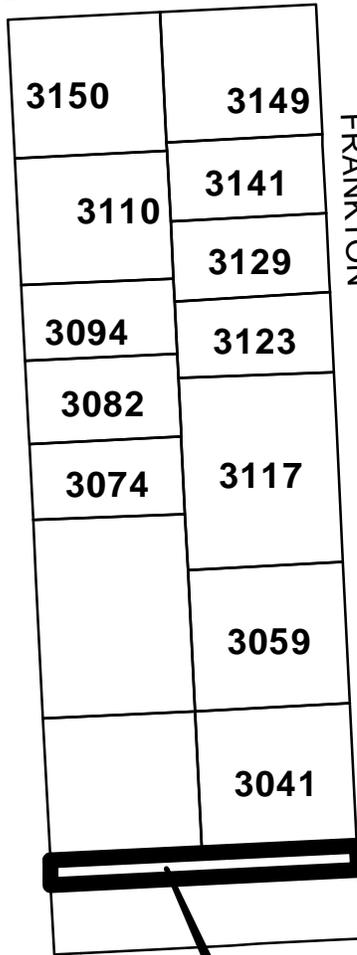
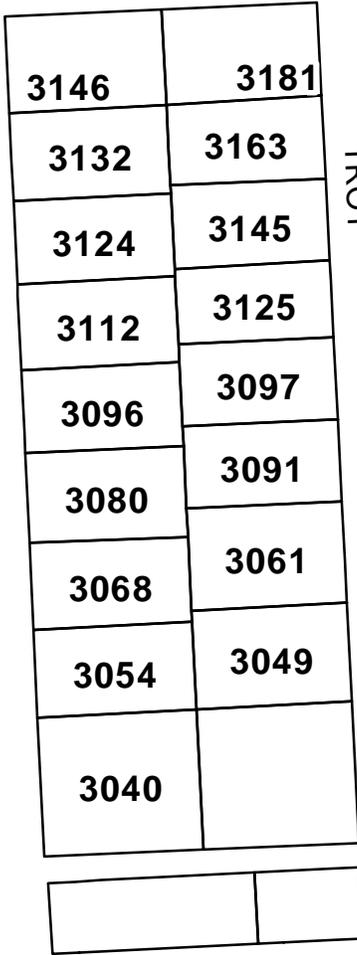
HARTLAND



LOUIS

TROY

FRANKTON



EX. ALLEY TO BE VACATED

LIVERNOIS

W BIG BEAVER

E BIG BEAVER

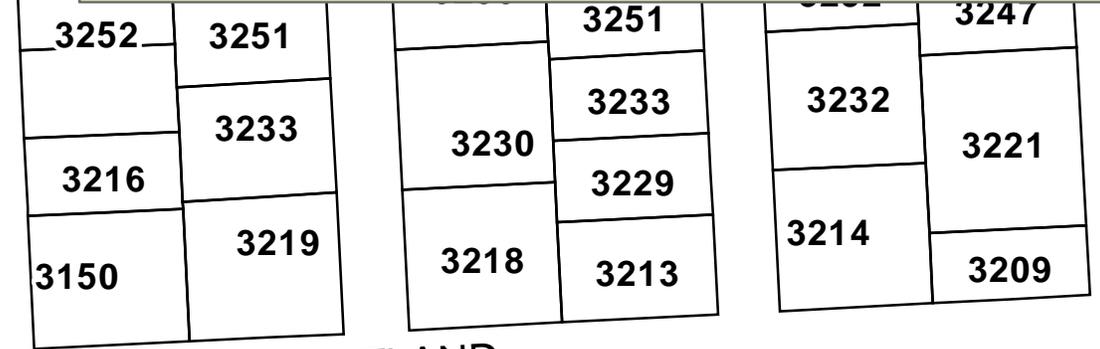
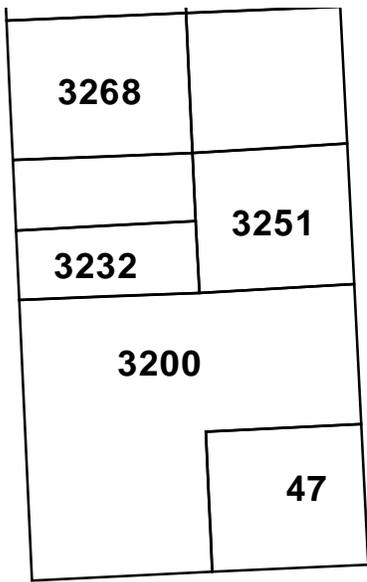
W BIG BEAVER



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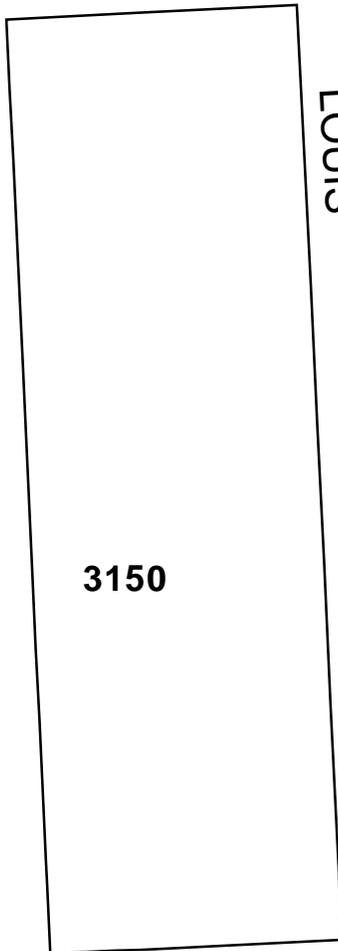


STREET VACATION REQUEST
EX. ALLEY, 18 FT. WIDE
N OF BIG BEAVER, BTWN FRANKTON & TROY ST.
SEC. 22 (SV-187)

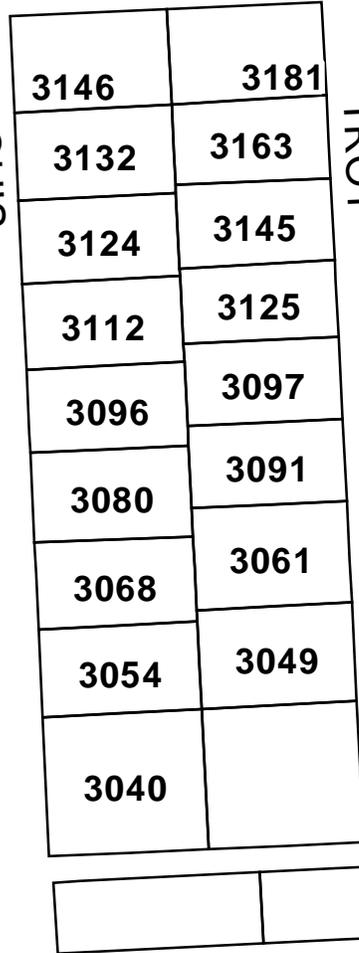


HARTLAND

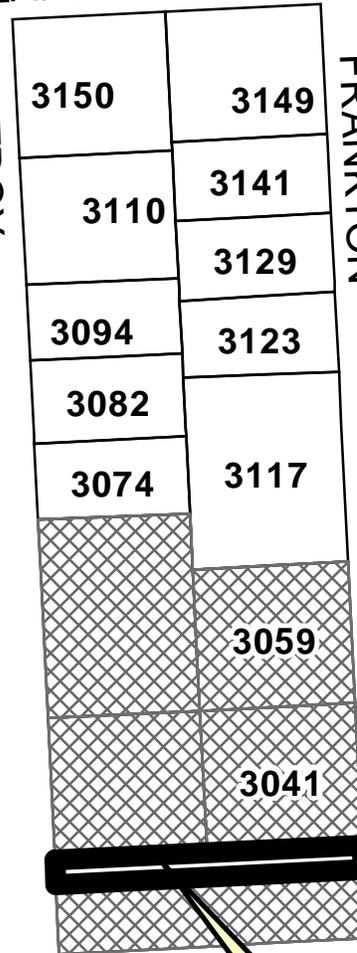
LIVERNOIS



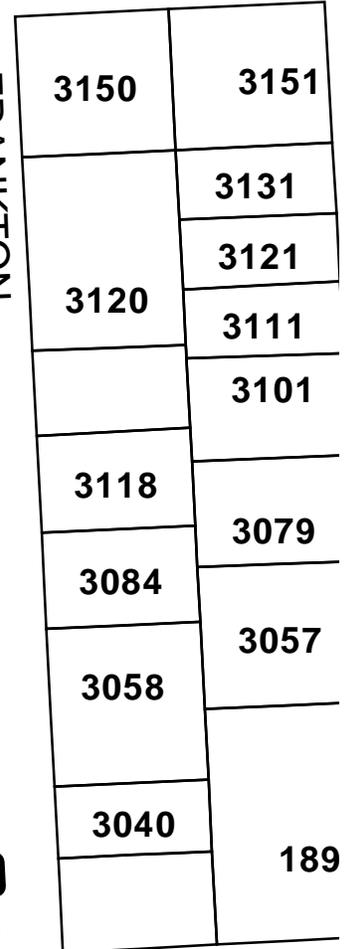
LOUIS



TROY



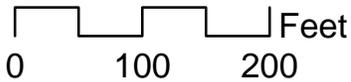
FRANKTON



E BIG BEAVER

EX. ALLEY TO BE VACATED

W BIG BEAVER



Legend

PARCELS OWNED BY APPLICANT

STREET VACATION REQUEST
EX. ALLEY, 18 FT. WIDE
N OF BIG BEAVER, BTWN FRANKTON & TROY ST.
SEC. 22 (SV-187)



EX. ALLEY TO BE VACATED

0 100 200 400 Feet

3

STREET VACATION REQUEST
EX. ALLEY, 18 FT. WIDE
N OF BIG BEAVER, BTWN FRANKTON & TROY ST.
SEC. 22 (SV-187)



DATE: June 26, 2006

TO: John M. Lamerato, Acting City Manager

FROM: Brian P. Murphy, Assistant City Manager/Services
Mark F. Miller, Planning Director

SUBJECT: Agenda Item – Announcement of Public Hearing (July 24, 2006) –Zoning Ordinance Text Amendment (File Number: ZOTA 219) – Articles II and III, Conditional Rezoning

RECOMMENDATION

The Planning Commission recommended approval of the text amendment at the June 13, 2006 Regular meeting. City Management concurs with the Planning Commission and recommends approval of ZOTA 219.

BACKGROUND

Public Act 579 of 2004 (effective January 1, 2005) amended the City and Village Zoning Act, PA 207 of 1921. The amendment had the effect of permitting conditional rezoning in Michigan. The recently adopted HB 4398 Michigan Zoning Enabling Act (effective July 1, 2006) includes the conditional rezoning provisions. The intent of ZOTA 219 is to create a process for consideration and approval of conditional rezoning agreements in the City of Troy.

The process for reviewing and approving a conditional rezoning application is essentially the same as a standard rezoning. That is, the Planning Commission holds a public hearing on the rezoning prior to making a recommendation to City Council, and City Council holds a public hearing prior to making a determination on the rezoning. With a conditional rezoning application, the applicant voluntarily offers conditions to the rezoning in writing during the application process. These conditions are included on a site plan required as part of the conditional rezoning application.

The proposed text amendment describes the procedures for review and approval, including application requirements and standards for approval. Additionally, provisions are included addressing expiration of conditional rezoning applications and violations of the conditional rezoning agreement.

Reviewed as to Form and Legality:

Lori Grigg Bluhm
City Attorney

Date

Attachments:

1. ZOTA 219 City Council Public Hearing Draft, dated June 26, 2006.

Prepared by RBS/MFM

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CITY OF TROY
AN ORDINANCE TO AMEND
CHAPTER 39 OF THE CODE
OF THE CITY OF TROY
CITY COUNCIL PUBLIC HEARING DRAFT

The City of Troy ordains:

Section 1. Short Title

This Ordinance shall be known and may be cited as an amendment to Chapter 39 of the Code of the City of Troy.

Section 2. Amendment to Articles II and III of Chapter 39

Articles II and III of Chapter 39 of the Code of the City of Troy are amended to modify Article 02.10.02 to add recommendations on Conditional Rezoning applications as one of the powers and duties of the Planning Commission; and, to add a new section 03.24.00 establishing the procedure with respect to Conditional Rezoning to read as follows:

02.10.02 POWERS AND DUTIES

The City Planning Commission shall have the powers and duties vested in it by the laws of the State of Michigan and the Ordinance Code of the City of Troy and shall consider and make its recommendations to the City Council on any matters referred to it by the City Council relating to such duties including:

- (1) The making and adopting of a master plan for the physical development of the municipality. Such plan shall show among other things, the Commission's recommendations for the general location, character and extent of streets, boulevards, parkways, playgrounds, parks, location of public buildings, and utilities, and the change of use, extension, removal, relocation, widening, narrowing, vacating or abandoning of any of the foregoing.
- (2) Recommendations related to the adoption of a zoning ordinance plan for the control of the height, area, bulk, location and use of buildings and premises, and all changes and amendments thereto thereof, including conditional rezoning applications as per Article 03.24.00.
- (3) The recommendation of approval to City Council of all preliminary plats subdividing land, site condominium plans,

planned unit developments, some special use approval applications and any amendments or alterations thereof.

- (4) The recommendation to City Council on ordinance text amendments, street and alley vacations or extensions, and historic district designations.
- (5) Acting as the approval authority on site plans and most special use approval applications.

03.24.00 CONDITIONAL REZONING

03.24.01 AUTHORITY. City Council shall have the authority to place conditions (that have been voluntarily offered in writing by the applicant) on a rezoning related to the future use and development of a parcel, as long as the conditions are acceptable to the property owner, applicant, and the City. Prior to taking action on a Conditional Rezoning request, the Planning Commission shall hold a public hearing and make a recommendation pursuant to Public Act 579 of the Public Acts of 2004. Conditional Rezoning shall not authorize uses except as permitted in the new zoning district.

03.24.02 PROCEDURE. The procedure for approval of Conditional Rezoning request shall be the same as provided in Sections 03.21.00 through 03.23.02 for other rezoning requests and the requirements of said Sections shall be applicable to Conditional Rezoning in addition to the following:

A. APPLICATION. A Conditional Rezoning request shall be initiated by the submission of a proposed Conditional Rezoning Agreement. A Conditional Rezoning Agreement shall include the following:

- (1) A written statement prepared by the applicant that confirms the Conditional Rezoning Agreement was proposed by the applicant and entered into voluntarily.
- (2) A written statement prepared by the applicant that confirms that the property shall not be used or developed in a manner that is inconsistent with conditions placed on the rezoning.
- (3) A list of conditions proposed by the applicant.

- (4) A time frame for completing the proposed improvements.
 - (5) A legal description of the land.
 - (6) A complete Preliminary Site Plan application (and Special Use Approval application, if required). All proposed conditions of the rezoning shall be included on the site plan. City Council shall have the authority to grant Preliminary Site Plan Approval and Special Use Approval following a recommendation by the Planning Commission. If a developer presents a revised site plan to City Council, the site plan shall be remanded back to the Planning Commission for a recommendation to City Council.
- B. PUBLIC HEARING. The Notice of Public Hearing on a Conditional Rezoning request shall include a general description of the proposed agreement being considered. A review of the proposed agreement shall be conducted at the public hearing.
- C. STANDARDS FOR APPROVAL. A Conditional Rezoning may only be approved upon a finding and determination that all of the following are satisfied:
- (1) The conditions, proposed development, and/or proposed use of the land are designed or proposed for public health, safety, and welfare purposes.
 - (2) The conditions, proposed development and/or proposed use are not in material conflict with the Future Land Use Plan, or, if there is material conflict with the Future Land Use Plan, such conflict is due to one of the following:
 - (a) A change in City policy since the Future Land Use Plan was adopted;
 - (b) A change in conditions since the Future Land Use Plan was adopted;
 - (c) An error in the Future Land Use Plan.
 - (3) The conditions, proposed development and/or proposed use are in accordance with all terms and provisions of the zoning district to which the land is to

be rezoned, except as otherwise allowed in the Conditional Rezoning Agreement.

- (4) Public services and facilities affected by a proposed development will be capable of accommodating service and facility loads caused by use of the development.
- (5) The conditions, proposed development and/or proposed use shall insure compatibility with adjacent uses of land.

D. AMENDMENT TO ZONING MAP. Upon approval by City Council of a Conditional Rezoning request and a Conditional Rezoning Agreement, as provided by this Section, the Zoning Map shall be amended to reflect a new zoning classification along with a relevant designation that will provide reasonable notice of the Conditional Rezoning Agreement.

03.24.03 EXPIRATION. A Conditional Rezoning Approval shall expire following a period of two (2) years from the effective date of the rezoning unless approved bona fide development of the property in accordance with permits issued by the City, commences within such two (2) year period and proceeds in due course to completion.

A. In the event bona fide development has not commenced within two (2) years from the effective date of the conditional rezoning, the rezoning and the Conditional Rezoning Agreement shall be void and of no effect.

B. If the Conditional Rezoning becomes void, no development shall be undertaken and no permits for development shall be issued until such time as a new zoning district classification of the property has become effective as a result of one or both of the following actions that may be taken:

- (1) The property owner seeks a new rezoning classification for the property, and/or
- (2) The City initiates a new rezoning request for the property to a reasonable district classification, in accordance with the conventional rezoning procedure.

03.24.04 A Conditional Rezoning Approval shall not become effective until the Conditional Rezoning Agreement is recorded with the Oakland

County Register of Deeds and a certified copy of the Agreement is filed with the City Clerk.

03.24.05 If development and/or actions are undertaken on or with respect to the property in violation of the Conditional Rezoning Agreement, such development and/or actions shall constitute a violation of this ordinance and deemed a nuisance per se. In such case, the City may issue a stop work order relative to the property and seek any other lawful remedies. Until curative action is taken to bring the property into compliance with the Conditional Rezoning Agreement, the City may withhold, or, following notice and an opportunity to be heard, revoke permits and certificates, in addition to or in lieu of such other lawful action to achieve compliance.

Section 3. Savings

All proceedings pending, and all rights and liabilities existing, acquired or incurred, at the time this Ordinance takes effect, are hereby saved. Such proceedings may be consummated under and according to the ordinance in force at the time such proceedings were commenced. This ordinance shall not be construed to alter, affect, or abate any pending prosecution, or prevent prosecution hereafter instituted under any ordinance specifically or impliedly repealed or amended by this ordinance adopting this penal regulation, for offenses committed prior to the effective date of this ordinance; and new prosecutions may be instituted and all prosecutions pending at the effective date of this ordinance may be continued, for offenses committed prior to the effective date of this ordinance, under and in accordance with the provisions of any ordinance in force at the time of the commission of such offense.

Section 4. Severability Clause

Should any word, phrase, sentence, paragraph or section of this Ordinance be held invalid or unconstitutional, the remaining provision of this ordinance shall remain in full force and effect.

Section 5. Effective Date

This Ordinance shall become effective ten (10) days from the date hereof or upon publication, whichever shall later occur.

This Ordinance is enacted by the Council of the City of Troy, Oakland County, Michigan, at a regular meeting of the City Council held at City Hall, 500 W. Big Beaver, Troy, MI, on the _____ day of _____, 2006.

Louise Schilling, Mayor

Tonni Bartholomew, City Clerk

G:\ZOTAs\ZOTA 219 Conditional Rezoning\CC Public Hearing Draft 06 26 06.doc

DATE: June 28, 2006

TO: John M. Lamerato, Acting City Manager

FROM: Brian P. Murphy, Assistant City Manager/Services
Mark F. Miller, Planning Director

SUBJECT: Agenda Item – Announcement of Public Hearing (July 24, 2006) – Zoning Ordinance Text Amendment (File Number: ZOTA 215-C) – Articles XLIII and XLIV, pertaining to Commercial Vehicle Parking Appeals

RECOMMENDATION

The Planning Commission recommended approval of ZOTA 215-C at the June 13, 2006 Regular meeting. The text amendment would have the effect of removing the authority for City Council to consider commercial vehicle parking appeals and parking space variances and transfers this authority to the Board of Zoning Appeals. City Management recommends approval of the text amendment.

BACKGROUND

The outdoor parking of commercial vehicles is limited to one commercial vehicle in the R-1 one-family residential zoning districts. To legally park more than one commercial vehicle outdoors or park a commercial vehicle that exceeds the maximum size limitations, a homeowner must be granted an appeal from City Council under the provisions of Article XLIV City Council Appeals.

At the March 28, 2006 Special/Study meeting, the Planning Commission requested that City Management create a draft ZOTA that permits the temporary storage of commercial vehicles with a specified time limit. This ZOTA enables the Board of Zoning Appeals the authority to review and approve applications for Temporary Storage of Commercial Vehicles in one-family residential zoning districts.

The four standards of approval listed in Section 44.02.02 are proposed to be moved to Section 43.74.00. Additionally, instead of an applicant having to meet only one of the four standards, the applicant would be required to meet all four of the standards.

At the May 23, 2006 Special/Study meeting, the Planning Commission eliminated one of the standards from Section 43.74.01, which holds self-employed residents to a higher standard than other residents:

- A. The occurrence of the subject commercial vehicle on the residential site involved is compelled by parties other than the owner or occupant of the subject residential site (e.g., employer).

This change was incorporated into the City Council Public Hearing Draft, which requires applicants to meet all three of the approval standards.

It should be noted that ZOTA 215-C also transfers City Council's authority to review and approve parking space variances to the BZA.

Reviewed as to Form and Legality:

Lori Grigg Bluhm Date
City Attorney

Attachments:

1. ZOTA 215-C draft, dated June 26, 2006

cc: File/ ZOTA 215-C

Prepared by RBS/MFM

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CITY OF TROY
AN ORDINANCE TO AMEND
CHAPTER 39 OF THE CODE
OF THE CITY OF TROY
CITY COUNCIL PUBLIC HEARING DRAFT

The City of Troy ordains:

Section 1. Short Title

This Ordinance shall be known and may be cited as an amendment to Chapter 39 of the Code of the City of Troy.

Section 2 – Amendment to Articles XLIII and XLIV of Chapter 39

Article XLIII BOARD OF ZONING APPEALS of Chapter 39 of the Code of the City of Troy is amended to add a provision that gives the responsibility for reviewing and approving Temporary Parking of Commercial Vehicle in One-Family Residential Districts to the Board of Zoning Appeals. Article XLIV CITY COUNCIL APPEALS is removed in its entirety, to remove the responsibility for reviewing commercial vehicle appeals and off-street parking appeals from City Council.

(Underlining, except for major section titles, denotes changes)

[Add Section 43.74.00 to read as follows]:

43.74.00 TEMPORARY PARKING OF COMMERCIAL VEHICLES IN ONE-FAMILY RESIDENTIAL DISTRICTS

The Board of Zoning Appeals shall have the authority to review and approve applications for the Temporary Parking of Commercial Vehicles in One-Family Residential Districts.

43.74.01 Temporary Parking of Commercial Vehicles in One-Family Residential Districts as set forth in the preceding Section shall be based upon meeting all of the following standards:

A. Efforts by the applicant have determined that there are no reasonable or feasible alternative locations for the parking of the subject commercial vehicle.

B. A garage or accessory building on the subject residential site cannot accommodate, or cannot reasonably be constructed or modified to accommodate, the subject commercial vehicle.

C. The location available on the residential site for the outdoor parking of the subject commercial vehicle is adequate to provide for such parking in a manner which will not negatively impact adjacent residential properties, and will not negatively impact pedestrian and vehicular movement along the frontage street(s).

43.74.02 The Board of Zoning Appeals may grant approval for Temporary Parking for a period not to exceed two (2) years.

43.74.03 Except as otherwise provided in Sections 43.74.00 through 43.74.02, the procedure governing other appeals to the Board of Zoning Appeals shall be applicable to applications for the Temporary Parking of Commercial Vehicles in One-Family Residential Districts.

[Revise (Delete in its' entirety) Article 44 as follows]:

~~44.00.00 ARTICLE XLIV CITY COUNCIL APPEALS~~

~~44.01.00 APPEALS: OFF STREET PARKING~~

~~————— An appeal may be made to the City Council by any person or entity affected by a decision of the Building Inspector regarding off street parking requirements, as set forth in Section 40.21.01 through 40.21.83. The appeal shall be made by filing with the Building Inspector an application for hearing before the City Council specifying the grounds for appeal. The Building Inspector shall transmit to the Council all documents relating to the appeal.~~

~~44.02.00 APPEALS: OUTDOOR PARKING OF COMMERCIAL VEHICLES IN RESIDENTIAL DISTRICTS~~

~~————— An appeal may be made to the City Council by any person or entity affected by a decision of the Director of Building and Zoning in relation to the type or character of vehicle permitted to be parked outdoors in Residential Districts, in accordance with the provisions of Section 40.66.00 of this Chapter. The appeal shall be made by filing with the Building Department an application for hearing before the City Council specifying the grounds for appeal. The Director of~~

~~Building and Zoning shall transmit to the City Council all documents relating to the appeal.~~

~~(Rev. 02-05-01)~~

~~44.02.01 — Upon receipt of the Appeal Application from the Director of Building and Zoning, the City Council shall hold a Public Hearing on the request, the notice of which shall respect the following requirements:~~

- ~~_____ A. — All owners of property within 150 feet of the property proposed to be the site for parking of such vehicle shall be notified by U. S. Mail, and~~
- ~~_____ B. — Said notice shall be postmarked no less than 14 days before the date of the Public Hearing.~~

~~(Rev. 02-05-01)~~

~~44.02.02 — Actions to grant appeals as set forth in the preceding Section shall be based upon at least one of the following findings by the City Council:~~

- ~~_____ A. — The occurrence of the subject commercial vehicle on the residential site involved is compelled by parties other than the owner or occupant of the subject residential site (e.g. employer).~~
- ~~_____ B. — Efforts by the applicant have determined that there are no reasonable or feasible alternative locations for the parking of the subject commercial vehicle.~~
- ~~_____ C. — A garage or accessory building on the subject residential site cannot accommodate, or cannot reasonably be constructed or modified to accommodate, the subject commercial vehicle.~~
- ~~_____ D. — The location available on the residential site for the outdoor parking of the subject commercial vehicle is adequate to provide for such parking in a manner which will not negatively impact adjacent residential properties, and will not negatively impact pedestrian and vehicular movement along the frontage street(s).~~

~~(Rev. 05-09-94)~~

~~44.02.03 The City Council may grant appeals in relation to the type, character, or number of commercial vehicles to be parked outdoors in Residential Districts for an initial period not to exceed two (2) years, and may thereafter extend such actions for a similar period.~~

~~(Rev. 05-09-94)~~

~~44.03.00 All other provisions regarding appeals to the Board of Zoning Appeals in Article XLIII shall be followed by the applicant and the City Council in reviewing appeals under this Article.~~

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A meeting of the Retiree Health Care Benefits Plan & Trust Board of Trustees was held on Wednesday, March 8, 2006, at Troy City Hall, 500 W. Big Beaver Rd., Troy, MI. The meeting was called to order at 1:18 p.m.

TRUSTEES PRESENT: Mark Calice
 Michael Geise
 Thomas Houghton, Chair
 John M. Lamerato
 William R. Need (Ex-Officio)
 Steven A. Pallotta
 Louise E. Schilling
 John Szerlag

MINUTES

Resolution # RH – 2006 – 03 - 001

Moved by Schilling
Seconded by Geise

RESOLVED, That the minutes of the December 14, 2005 meeting be approved.

Yeas: All 7

The next meeting is June 14, 2006 at 1:00 p.m. at City Hall, Conference Room C, 500 W Big Beaver, Troy, MI.

The meeting adjourned at 1:22 p.m.



Thomas Houghton, Chairman


John M. Lamerato, Secretary

**ADVISORY COMMITTEE FOR PERSONS WITH DISABILITIES – DRAFT –
MAY 3, 2006**

A Regular Meeting of the Troy Advisory Committee for Persons with Disabilities was held Wednesday, May 3, 2006, at the lower level conference room at City Hall. Angela Done called the Meeting to order at 7:02 P.M.

Present: C. Buchanan, member S. Burt, member
A. Done, member P. Hammond, member
G. Hyun, student P. Manetta, member
D. Pietron, member J. Stewart, member
C. Weidman, student S. Werpetinski, member

Present: M. Grusnick, staff
K. Jearls, staff

Absent: A. Fuhrman, alternate EA
T. House, member EA
M. Pritzlaff, alternate EA

ITEM B – APPROVAL OF MINUTES OF MEETING OF April 5, 2006

Werpetinski made a motion that the minutes of April 5, 2006 be approved. Supported by Pietron. All voted in favor.

ITEM C – VISITORS, DELEGATIONS AND PUBLIC COMMENTS

Carlene Geier, Troy resident, and Lori Bluhm, City Attorney, attended our meeting as guests.

ITEM D – NEW BUSINESS

Lori Bluhm attended our meeting to verify that we were in compliance with the Open Meetings Act. She stated the meeting date notifications are being properly posted at City Clerks office. She did advise the Committee that the conference room door should remain open unless a sign inviting entry is posted outside.

Per Lori's suggestion, there was discussion on moving the public comments section toward the bottom of the agenda followed by member comments. Members expressed some concerns and wanted to review other boards' agendas. Buchanan moved to table the discussion until the next meeting, Pietron seconded.

Lori informed us that fund raising for our Boundless Playground project must be approved by City Council. A charitable solicitation assistance permit must be used.

Lori also informed us of the 6:30 p.m. reception for the Legal Department's Law Day Celebration on 5/8/06 before the Council meeting. The public is invited to attend.

There will be a Troy Police Citizens Forum with the Police Dept. at the Police Training Center on 5/31/06 from 7 to 9 p.m. All concerns regarding crime, homeowner association issues, etc. can be addressed with the Police Dept..

**ADVISORY COMMITTEE FOR PERSONS WITH DISABILITIES – DRAFT –
MAY 3, 2006**

Werpetinski will bring the DVD, “F.A.T. City Workshop”, to our meeting on June 7 for our viewing. F.A.T. stands for Frustration, Anxiety, Tension. Laura Scaccia, co-founder of “Supporters of Different Learners-Support Group”, will also attend.

ITEM E – REGULAR BUSINESS

Pietron will attend the 5/8 Council Meeting and Werpetinski will attend 5/15. Buchanan will attend the meeting on 6/5.

ITEM F – OLD BUSINESS

Two students from Lawrence Tech University will attend a future meeting to present information on ‘universal design’.

Done will send a thank you to Professor Edward Orlowski, Chairman of the Department of Architecture at Lawrence Tech University, for speaking at our April meeting.

INFORMATIONAL ITEMS

Friday, 5/12/06, the Friendship Club will host Friday Frolic at the Community Center from 7 to 9:30 p.m. On Monday, 5/22/06, the Club will also host a Bingo Night from 7 to 8:30 p.m.

Pietron reported that new portable parking designation signs were placed on the sidewalks at the North entrance to the Community Center. They remind visitors that the section of parking at that entrance is for senior use only from 8 a.m. to 2 p.m.

Werpetinski mentioned that the Medi-Go Plus information in the spring issue of Troy Today still does not mention inclusion of persons with disabilities. This Committee would request that the next Troy Today publication clarify that Medi-Go is available for transporting persons with disabilities as well as seniors for medical trips, to the Community Center, etc.

ITEM H – CITY COUNCIL MEETING

ITEM I – ADJOURN

Pietron made a motion to adjourn at 8:55 which was seconded by Hammond.

Angie Done, Chairperson

Kathy Jearls, Recording Secretary

**ADVISORY COMMITTEE FOR PERSONS WITH DISABILITIES – FINAL –
MAY 3, 2006**

A Regular Meeting of the Troy Advisory Committee for Persons with Disabilities was held Wednesday, May 3, 2006, at the lower level conference room at City Hall. Angela Done called the Meeting to order at 7:02 P.M.

Present: C. Buchanan, member S. Burt, member
A. Done, member P. Hammond, member
G. Hyun, student P. Manetta, member
D. Pietron, member J. Stewart, member
C. Weidman, student S. Werpetinski, member

Present: M. Grusnick, staff
K. Jearls, staff

Absent: A. Fuhrman, alternate EA
T. House, member EA
M. Pritzlaff, alternate EA

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Carlene Geier, Troy resident, and Lori Bluhm, City Attorney, attended our meeting as guests.

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ITEM H – CITY COUNCIL MEETING

ITEM I – ADJOURN

Pietron made a motion to adjourn at 8:55 which was seconded by Hammond.

Angie Done, Chairperson

Kathy Jearls, Recording Secretary

A meeting of the Employees' Retirement System Board of Trustees was held on Wednesday, May 10, 2006, at Troy City Hall, 500 W. Big Beaver Rd., Troy, MI. The meeting was called to order at 12:13 p.m.

TRUSTEES PRESENT: Mark Calice
 Michael Geise
 Thomas Houghton, Chair
 John M. Lamerato
 William R. Need (Ex-Officio)
 Steven A. Pallotta
 Louise Schilling

ALSO PRESENT: Steve Gasper, UBS Financial Services

MINUTES

Resolution # ER – 2006 – 05 - 017

Moved by Pallotta

Seconded by Schilling

RESOLVED, That the minutes of the April 12, 2006 meeting be approved.

Yeas: All 6

OTHER BUSINESS – RETIREMENT REQUESTS

Resolution # ER – 2006 – 05 - 018

Moved by Lamerato

Seconded by Houghton

RESOLVED, That the board approve the following retirement request(s):

John P. Schroeder, DB, 6/3/06, Engineering, 35 years, 3 months

Yeas: All 6

OTHER BUSINESS – DECEMBER 31, 2005 INVESTMENT PERFORMANCE REPORT

Steve Gasper of UBS reviewed the performance results as of December 31, 2005.

INVESTMENTS

Resolution # ER – 2006 – 05 - 019

Moved by Pallotta

Seconded by Geise

RESOLVED, That the Board sell the following securities:

Sell: Independent Bank Corp.; 13,000 shares of DR Horton; MASCO; Maxim Integrated Products and Methode Electronics

Yeas: All 6

OTHER BUSINESS – CANCELLATION OF THE JUNE 14TH MEETING

Resolution # ER – 2006 – 05 - 020

Moved by Lamerato

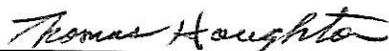
Seconded by Calice

RESOLVED, That the June 14th, 2006 meeting be canceled and rescheduled for June 13th, 2006.

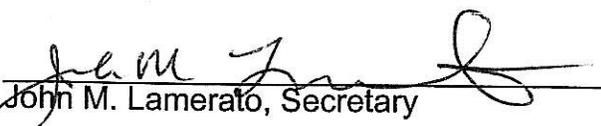
Yeas: All 6

The next meeting is June 13, 2006 at 12:00 p.m. at City Hall, Conference Room C, 500 W Big Beaver, Troy, MI.

The meeting adjourned at 1:15 p.m.



Thomas Houghton, Chairman



John M. Lamerato, Secretary

A. CALL TO ORDER

A regular meeting of the Troy Daze Advisory Committee was held Tuesday, May 23, 2006 at the Troy Community Center. Meeting was called to order at 7:30 pm.

B. ROLL CALL

Cele Dilley
 Cheryl Whitton
 Connie Huang, Student Rep
 Kessie Kaltsounis
 Bob Preston

Jeff Stewart
 Marilyn Musick
 Kasey Wang, Student Rep
 Bill Hall (left 9:10 pm)

City Staff:

Cindy Stewart
 Gerry Scherlinck
 Bob Matlick
 Jeff Biegler

Festival Chairman:

Tom Kaszubski
 Jeff Winarski
 Poncho Massaini
 Danielle Cheli

Others:

Resolution #TD-2006-05-74

Motion to excuse absent members, Mike Gonda and Bob Berk by Cheryl Whitton, seconded by Kessie Kaltsounis.

RESOLVED that Mike Gonda and Bob Berk are excused from the May meeting.

Yeas: All

Nays: None

MOTION CARRIED

C. APPROVAL OF MINUTES

Resolution #TD-2006-05-75

Moved by Bill Hall

Seconded by Bob Preston to approve the April 25, 2006 advisory committee minutes.

RESOLVED that the minutes of the April advisory committee meeting minutes are approved.

Yeas: All

Nays: None
MOTION CARRIED

D. **TREASURER'S REPORT** as of 4/30/06

Revenue \$172,608.76 (no change)

Expenses \$141,827.15

Only charge - operating supplies \$55.76

Resolution #TD-2006-05-76

Moved by Bill Hall

Seconded by Marilyn Musick to accept the Treasurer's Report of April 30, 2006.

RESOLVED that the Treasurer's Report of April 30, 2006 is approved.

Yeas: All

Nays: None

MOTION CARRIED

E. **NEW BUSINESS**

1. City Attorney Procedure Review -
Lori Bluhm is attending all City Board Meetings as a resource for members. She is also here to educate regarding the open meetings act. Provisions/violations of open meeting act.

Troy Daze is an advisory board, a governing body. Doors to meetings must be open. Currently with the door closed Troy Daze Board is in violation of the Open Meetings Act. If need to close due to noise in halls, place sign: "Meeting in Session, Please Enter Quietly".

Make people welcome to meetings, be open and honest, especially since the committee deals with money. People could say you are being influenced so you must always be beyond reproach.

People can come in and view all Troy Daze meetings. Must have public comment section on all agendas. Usually that is the last item on the agenda, but if want to end on a positive note, end with member comment item. Do not have to say anything, but Lori Bluhm encourages this as last item.

People can be critical, but you will have to put up with it. They cannot make negative comments not related to performance of duties for Troy Daze Festival.

There can be a statement in the operating manual regarding no negative attacks at meetings.

Attendance: if people are not out of county do not excuse them. Bluhm said that sickness or death in the family are also excusable reasons for being absent from the meeting. Members missing 5 consecutive meetings can be removed for cause per the City Charter. Your rules can be less than 5 as stated in City Charter.

Oath of office – all Board members need to be sworn in by City Clerk. Some have, some have not. It would be a good idea if you all do that.

Expenditures – members should know how to be reimbursed.

Disclosure statement – good idea to sign this since you do work with contractors & businesses. If one of you work for a contractor or a sponsor you would not want to benefit from that company.

All meetings are open to the public. You cannot prohibit anyone from video taping or audio taping your meetings. You cannot keep people from making public comments if they are not a Troy resident, but you can ask their residency.

Quorum only applies when business is taking place. Does not apply to social settings, but at these functions, you cannot deliberate or make decisions.

Must post all meetings at least 18 hours before a meeting.

Minutes must be available a few days after meeting in draft form provided to Clerk's Office. Must be on the website immediately.

All votes must occur in open session.

Public comment: if you have a meeting and have a large audience, you can limit comments but must do it at the beginning of a meeting. Propose a time limit and have the board vote on this.

Violations of open meeting act - if this occurs you can be sued in civil and criminal court.

Intentionally violating open meetings act – members would have to pay for your own legal representation. If in the line of duty, City would represent you. Violation of open meeting act is misconduct in office.

Once minutes approved – have minutes available 5 days after meeting.

Attorney – Client Privilege – if uncomfortable about something that happens, the City Attorney can issue communication confidentially (attorney – client privilege).

Email & letters are all subject to FOIA. Call attorney, do not email or write letter. No deliberations on any issue can be done via email by board members. These are subject to FOIA.

Avoid any perceived conflicts of interest.

Avoid “ex parte” communication. Everyone should have some chance to receive information. No bias among members.

Questions – If discussion on personnel, can that person request a closed session? Yes, but person must request either a closed session or open session. Need the language to make a motion to go into closed session.

Nine members on board with two student representatives who are ex officio – no vote but participatory.

Lori Bluhm is always available for questions from board members.

2. Appointment of Connie Huang and Kasey Wang to be co-chairs for P.A. Announcements.
Resolution #TD-2006-05-77
Motion by Bill Hall, seconded by Bob Preston.

RESOLVED that Connie Huang and Kasey Wang are appointed as co-chairs for PA announcements is approved.

Yeas: All

Nays: None

MOTION CARRIED

3. Little Miss Troy Pageant Proposal by Danielle Cheli.

Proposal A - for a pageant on Saturday, September 16. There are approximately 30-35 girls in Junior Miss Pageants each year. Due to large number of girls and parents, Danielle is proposing the need for a larger area than tents. Interviews at Community Center 9 -11 a.m., dress rehearsal 12 - 1:30 pm at Boulan Park Middle School and pageant from 2 - 4:30 pm @ Boulan Park Middle School. She would need 5 judges. Two minute Interview schedule would be: 9 - 9:30 am - Little Miss, 9:30 – 10

am - Pre Teen Miss, 10 -10:30 am -Young Miss, 10:30 – 11 am – Teen Miss.

Suggestion to move interviews to a week before the pageant – very long day for young girls 5-7 years old. How to pay for Boulan Park Middle School fees? Entry fee and/or ticket sales.

Projected expenses?

School ~ \$700.00

Last year \$447 – trophies, crowns, sashes

Last year \$201 – program

(decorations, flowers might be donated).

Costs? Lighting and sound will have to be through the schools.

2005 - \$707 gift certificates

\$240 Community Center rental (Saturday)

All new events need to break even.

If this is at Boulan Park Middle School at 2 p.m. on Saturday, will this affect parking at the school? Danielle feels people should have to pay \$7 parking fee and will publicize that sticker is good for the weekend.

Proposal B - Saturday, September 16 in Entertainment tent from 9 - 10:45 a.m. No interviews or interviews one week prior to pageant.

If held at festival in the entertainment tent there would be no room fee or janitor fee. Cost savings for Proposal B.

Proposal A would be much more costly. We do have money in budget for Miss Troy - lighting and sound. And a dressing room tent – 20' x 40'

Resolution #TD-2006-05-78

Moved by Cheryl Whitton

Seconded by Kessie Kaltsounis to accept Proposal B, holding the Junior Miss Troy Pageants on Saturday, September 16 at 9 am in entertainment tent.

RESOLVED that Pageant Proposal B is approved.

Yeas: Jeff Stewart, Cheryl Whitton, Bob Preston, Kessie Kaltsounis, Cele Dilley

Nays: Marilyn Musick, Bill Hall

MOTION CARRIED

4. Event Chairs Needs:

Alison Miller (new car show): needs approval for Extreme Truck Accessories involvement of face painting and balloons. The Company will pay for this in new car show area. Approval for face painting only. Extreme truck Accessories needs to submit list of what they sell for police check.

Miss Troy Pageant: needs co-chair.

Student art: paint flats white; need student art demonstrators.

Student volunteers: Sandy has been making contacts with high schools.

Photography: entry forms on website already. Contacted high school teachers for assistance getting entries from students.

EthniCity all set.

Talent shows – applications will be on line.

Waffle Breakfast – Saturday/Sunday 9 am -1 pm. \$4 and no advance sales.

Senior Sensation – Carla needs to know schedule/time frame by June 10 to get in senior newsletter. Joann Stein will do bingo but they do bingo at the Community center on Fridays.

Entertainment – all spots filled but one time block waiting for Athens Jazz Band.

Outdoor Entertainment – Shirley might not be available if husband gets worse. Jeff is helping her.

Opening Ceremonies – Congressman wants \$18 for flag flown over the capital.

Miss Troy - Idea to move 20' x 40' dressing room tent closer to Entertainment Tent.

5. Plaques for booth participants tabled.

6. City co-chairs discussion - are they getting paid - No. If the Police Chief is there in uniform, he is on official police business and would be paid. When helping with entertainment, he is not paid.

7. New event proposals/bid procedure discussion

What are the City Bid procedures – develop specifications if under \$10,000 – solicit bids back from companies. Approved by Purchasing and City Manager. If over \$10,000 formal bid approved by Council. If all insurance requirements approved by Risk Management the purchase order can be submitted to Purchasing.

Stage & lighting separate if needed. Jeff Winarski donated & installed lights in the past. Has sound and electrical been bid in the past? Response: always less than what we have been able to get from other companies. But electrical has not been bid out for many years.

High quality entertainment requires higher quality sound system and that is why a bid for sound was sent out. Bob Broquet said he could not handle what the bands needed, so the entertainment chair sought other proposals.

All entertainment will bring in revenue to the Festival and will be family friendly.

Saturday: Teen band (recommended by Police Officer Nickie Kaptur), Pointe Dance Academy, Talent Shows, Forbes Brothers.

Sunday: Ventriloquist Amazing Clark, Athens Jazz Band, Blues Band and the Sun Messengers.

Cheryl Whitton: should Board approve specs before going out?

Jeff Biegler has altered specs and sent out without board approval.

Kessie Kaltsounis: board should be told when proposals are going out.

Jeff Stewart: after Bob Broquet said he could not help him he knew he had to get other prices. Didn't know Jeff W. did lighting.

Cele Dilley: If a company comes in at a lower price and Troy Daze accepts this, what do we do about the other things Bob Broquet did?

Will board approve the bid? Yes. But ultimately it is approved by the Purchasing Director and the City Manager.

If bids go out that are changed drastically the Board need to see those prices. If there are only slight modifications that is OK.

Do we have to have a separate bid for electric, lighting, sound for rest of the Park.

Bids such as Electrical for \$8000 and Sound for \$4000 should be bid out.

Tom Kaszubski: I am not willing to lose key people and friends who have been part of Troy Daze for many years like Bob Broquet and Jeff Winarski.

Jeff Stewart apologizes for working so hard on entertainment.

Cele Dilley said when it is a drastic change she wishes he would tell them. She is not sure there should be so many bands.

Cheryl Whitton: at conventions, they usually see groups and know the style.

What usually fills the tent is dance groups. Larger acts – empty tent.

Jeff Stewart: if these acts don't work, we can go back to old ways.

Kessie Kaltsounis: who will check if we have sound for entire park? What about P.A. systems and entire park for sound?

8. Hours/Parking/Advanced Tickets -

Cheryl Whitton talked to Wayne and Terry regarding Police Explorers, they wanted no drop off on Crooks Road.

Lt. Gerry Scherlinck heard the board say they want Police to enforce no drop off on Crooks and everyone pays. Wayne and Terry work for Lt. Scherlinck and the Police will handle the situation. He said there is no way to force people to pay \$7 if they are confused or didn't know the new procedure. Police will accommodate them since it will take time to educate and train people regarding drop off on Northfield Parkway.

From a PR standpoint – cannot force anyone to pay if mistake being there. It will take time to train people. Lt. Scherlinck will give direction to Wayne and Terry that every car entering Crooks will pay the \$7. He will communicate with all staff the new procedure.

Advanced tickets for parking and amusement rides will be sold at the Community Center.

9. Revised Committee Manual Review – Tabled to June meeting.

10. Demographics – not done since 2004. Needs to be done by adult volunteers. Need list of questions. Discuss at the June meeting.

Old Business

Update on Contracts:

Larger contracts such as tents need to get to Purchasing. Want large tent set up on the Friday before the Festival and the rest of the tents set up on Monday.

Need contract for electric message boards for Crooks Road. Kessie has contact.

There is an issue with the east tennis courts this year (location for classic cars). They are being redone and there can be no cars parked on the east courts this year. This is also the last year for parking new cars on the west tennis court. Board will have to look at the layout and revise car shows.

Pistons Hoop Trailer would like to return but with a better site - more visible.

Portable lights – 7 last year need 7 more this year for a total of 14.

MOTION TO ADJOURN

Resolution #TD-2006-05-79

Moved by Kessie Kaltsounis

Seconded by Marilyn Musick

RESOLVED that the Troy Daze Advisory Committee Meeting be adjourned at 9:53 pm.

Yeas: All

Nays: None

MOTION CARRIED

Cele Dilley, Chairperson

Cindy Stewart, Recording Secretary

DOWNTOWN DEVELOPMENT AUTHORITY MINUTES FINAL JUNE 1, 2006

A meeting of the Downtown Development Authority was held on Thursday, June 1, 2006 in the Council Chambers of Troy City Hall, 500 W. Big Beaver Troy, Michigan. Alan Kiriluk called the meeting to order at 7:30 a.m.

PRESENT: Michael Culpepper
Stuart Frankel
David Hay
Michele Hodges
Alan Kiriluk
Daniel MacLeish (arrived 7:35 a.m.)
Carol Price
Louise Schilling
Douglas Schroeder (departed 8:35 a.m.)
Harvey Weiss (arrived 7:32 a.m.)
G. Thomas York

ABSENT: William Kennis
Ernest Reschke

ALSO PRESENT: John M. Lamerato
Brian Murphy
Lori Bluhm
Doug Smith
Mark Miller

APPROVAL OF MINUTES

Resolution: DD-06-20
Moved by: Price
Seconded by: Hodges

RESOLVED, That the minutes of the April 19, 2006 regular meeting be approved.

Yeas: All (9)
Absent: Kennis, MacLeish, Reschke, Weiss

OLD BUSINESS

A. 2006-07 Budget

Resolution: DD-06-21
Moved by: Schilling
Seconded by: York

RESOLVED, That the proposed 2006-07 Budget be adopted.

Yeas: All (10)
Absent: Kennis, MacLeish, Reschke

B. Amendment to DDA Bylaws

Resolution: DD-06-22
Moved by: Price
Seconded by: York

RESOLVED, That the Board remove the Rules of Procedure from By-laws and change Section 2 terms from January to October.

Yeas: All (10)
Absent: Kennis, MacLeish, Reschke

C. New Rules of Procedure

Resolution: DD-06-23
Moved by: Culpepper
Seconded by: York

RESOLVED, That the Board adopt Rules of Procedure as a separate document with a copy of said Rules attached to the original minutes.

Yeas: All 10
Absent: Kennis, MacLeish, Reschke

NEW BUSINESS

A. Acting Executive Director Appointment

Resolution: DD-06-24
Moved by: Hay
Seconded by: York

RESOLVED, That the Board appoint John M. Lamerato as Acting Executive Director.

Yeas: All (10)
Absent: Kennis, MacLeish, Reschke

B. Big Beaver Corridor Study

Rodney L. Arroyo of Birchler Arroyo Associates, Inc. presented the final draft of the Big Beaver Corridor Study.

EXCUSE ABSENT MEMBERS

Resolution: DD-06-25
Moved by: Schilling
Seconded by: Hodges

RESOLVED, That Kennis and Reschke be excused.

Yeas: All (10)
Absent: Kennis, Reschke, Schroeder

PUBLIC COMMENT

Two visitors in attendance addressed the Board.

MEMBER COMMENT

One member addressed the Board.

The meeting was adjourned at 8:42 a.m.

Next Meeting: June 21, 2006 @ 7:30 a.m. @ Lower Level Conference Room, City Hall.

Alan Kiriluk, Chair

John M. Lamerato, Secretary/Treasurer

The Special/Study Meeting of the Troy City Planning Commission was called to order by Chair Strat at 7:30 p.m. on June 6, 2006 in the Council Board Room of the Troy City Hall.

1. ROLL CALL

Present:

Mary Kerwin
 Lawrence Littman
 Robert Schultz
 Thomas Strat
 Mark J. Vleck
 David T. Waller

Absent:

Lynn Drake-Batts
 Fazal Khan
 Wayne Wright

Also Present:

Brent Savidant, Principal Planner
 Allan Motzny, Assistant City Attorney

Resolution # PC-2006-06-093

Moved by: Littman
 Seconded by: Vleck

RESOLVED, That Members Drake-Batts, Khan and Wright are excused from attendance at this meeting for personal reasons.

Yes: All present (6)
 No: None
 Absent: Drake-Batts, Khan, Wright

MOTION CARRIED

2. APPROVAL OF AGENDA

Resolution # PC-2006-06-094

Moved by: Schultz
 Seconded by: Kerwin

RESOLVED, To approve the Agenda as presented.

Yes: All present (6)
 No: None
 Absent: Drake-Batts, Khan, Wright

MOTION CARRIED

3. MINUTES

Resolution # PC-2006-06-095

Moved by: Schultz
Seconded by: Vleck

RESOLVED, To approve the May 23, 2006 Special/Study Meeting minutes as published.

Yes: All present (6)
No: None
Absent: Drake-Batts, Khan, Wright

MOTION CARRIED

4. PUBLIC COMMENT (Items Not on the Agenda)

Richard Hughes, 1321 Roger Court, Troy, commented on planned unit developments and density.

Richard J. Lisowski, 5760 Houghton, Troy, had questions about the proposed rezoning from R-1B One Family Residential to R-EC Residential Elder Care District, located north of Long Lake, east side of I-75, in section 9.

5. FORM BASED CODES – Presentation by Jeff Purdy, AICP, LSL Planning, Inc.

Jeff Purdy of LSL Planning, Inc. made a presentation on form based codes.

General discussion followed.

6. SUB-COMMITTEE PROGRESS REPORTS AND DISCUSSION

A. Tracking of Planning and Zoning Projects – Schultz

Mr. Savidant explained that projects would be tracked using the form created by the sub-committee. After 4 months, the form will be presented to the Planning Commission.

B. By-Laws - Kerwin / Waller

Ms. Kerwin explained that a draft of the By-Laws would be ready for review in July.

C. Complete Update of Ordinance - Time Line and Milestones - Mark Miller

Mr. Savidant offered that a Time Line would be prepared for a future meeting, possibly in July.

- D. Sustainable Development Standards - Khan / Waller
Mr. Waller related this item and item E. to a recent initiative by City Management to educate residents and developers.
- E. Design Standards and Examples - Khan / Waller
- F. Promotion of Ingenuity - Mark Miller
Mr. Savidant stated that the Planning Department, in coordination with the Engineering Department, would begin preparing brochures for sustainable development techniques such as green roofs, rain gardens and bioswales.
- G. Educational - Speakers and Presentations to Planning Commission – Strat
The Planning Commission prioritized three future presentations: (1) Presentation of the Big Beaver Corridor Study by the DDA Chairman and the project team; (2) Presentation of future Troy Transit Center by the Assistant City Manager/Services; (3) Presentation of Parliamentary Procedure by City Clerk.

7. PUBLIC COMMENTS – Items on Current Agenda

Richard Hughes, 1321 Roger Court, Troy, commented on form based codes.

ADJOURN

The Special/Study Meeting of the Planning Commission adjourned at 9:45 p.m.

Respectfully submitted,

Thomas Strat, Chair

Brent Savidant, Principal Planner

The Special/Study Meeting of the Troy City Planning Commission was called to order by Chair Strat at 7:30 p.m. on June 6, 2006 in the Council Board Room of the Troy City Hall.

1. ROLL CALL

Present:

Mary Kerwin
 Lawrence Littman
 Robert Schultz
 Thomas Strat
 Mark J. Vleck
 David T. Waller

Absent:

Lynn Drake-Batts
 Fazal Khan
 Wayne Wright

Also Present:

Brent Savidant, Principal Planner
 Allan Motzny, Assistant City Attorney

Resolution # PC-2006-06-093

Moved by: Littman
 Seconded by: Vleck

RESOLVED, That Members Drake-Batts, Khan and Wright are excused from attendance at this meeting for personal reasons.

Yes: All present (6)
 No: None
 Absent: Drake-Batts, Khan, Wright

MOTION CARRIED

2. APPROVAL OF AGENDA

Resolution # PC-2006-06-094

Moved by: Schultz
 Seconded by: Kerwin

RESOLVED, To approve the Agenda as presented.

Yes: All present (6)
 No: None
 Absent: Drake-Batts, Khan, Wright

MOTION CARRIED

3. MINUTES

Resolution # PC-2006-06-095

Moved by: Schultz
Seconded by: Vleck

RESOLVED, To approve the May 23, 2006 Special/Study Meeting minutes as published.

Yes: All present (6)
No: None
Absent: Drake-Batts, Khan, Wright

MOTION CARRIED

4. PUBLIC COMMENT (Items Not on the Agenda)

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7. PUBLIC COMMENTS – Items on Current Agenda

Richard Hughes, 1321 Roger Court, Troy, commented on form based codes.

ADJOURN

The Special/Study Meeting of the Planning Commission adjourned at 9:45 p.m.

Respectfully submitted,

Thomas Strat, Chair

Brent Savidant, Principal Planner

The Chairman, Ted Dziurman, called the meeting of the Building Code Board of Appeals to order at 8:30 A.M., on Wednesday, June 7, 2006 in the Lower Level Conference Room of the Troy City Hall.

PRESENT: Ted Dziurman
Rick Kessler
Rick Sinclair (arrived 8:33 A.M.)
Tom Rosewarne
Frank Zuazo

ALSO PRESENT: Mark Stimac, Director of Building & Zoning
Marlene Struckman, Housing & Zoning Inspector Supervisor
Pamela Pasternak, Recording Secretary

ITEM #1 – APPROVAL OF MINUTES – MEETING OF MAY 3, 2006

Motion by Kessler
Supported by Zuazo

MOVED, to approve the minutes of the meeting of May 3, 2006 as written.

Yeas: 4 – Dziurman, Kessler, Rosewarne, Zuazo

MOTION TO APPROVE MINUTES CARRIED

ITEM #2 – VARIANCE REQUEST. AVER SIGN CO., 1735 E. BIG BEAVER, for relief of Chapter 85 to install a second wall sign.

Mr. Stimac explained that the petitioner is requesting relief of Chapter 85 to install a second wall sign. A permit was issued for a 28 square foot wall sign with the stipulation that all other wall signs were to be removed. After installing this sign, the owner decided that the existing 72.4 square foot wall sign was to remain on the building. Chapter 85, Section 85.02.05 (3a) allows for one wall sign, not to exceed 10% of the front of the structure to a maximum size of 200 square feet.

This item last appeared before this Board at the meeting of May 3, 2006 and was postponed to this meeting to allow the petitioner to submit more detailed drawings to the Board; and also to allow the petitioner the opportunity to review the plans and determine whether they are to include the brim as part of the signage.

Mr. Ken Enghauser of Chase Bank was present. Mr. Enghauser stated that they have revised their plans for this sign and have removed the brim. They also plan to remove the vinyl lettering that is located on the windows. The square footage of the monument sign in front is 25 square feet and the proposed wall sign is 28 square feet, which will

ITEM #2 – con't.

bring the total signage to 53 square feet. Mr. Enghauser said that it is his understanding that they are allowed 56 square feet of signage in total.

Mr. Stimac explained that they are permitted to have a 36 square foot secondary ground sign and a 20 square foot tenant identification wall sign, which would bring the total to 56 square feet. Because the vinyl lettering is inside the glass it is not covered under the Sign Ordinance.

Mr. Enghauser stated that if this variance is granted they will not come back to the Board to request any other variance to increase the signage on this building.

Mr. Dziurman asked if Chase dictated the size of this sign. Mr. Enghauser stated that the size of the sign is determined by where it is placed on a building and the size of the building. Mr. Dziurman asked if they could comply with the Ordinance and Mr. Enghauser said that they could, but they would have to have another sign fabricated. Mr. Dziurman stated that if they put up a 20 square foot wall sign they would not require a variance.

A discussion ensued regarding the fact that there is another tenant in the building and it was determined that no other tenants could lease space in this building so the signs that are on the location would be the only signs allowed.

Mr. Zuazo pointed out that it was possible for the petitioner to comply with the Ordinance. Mr. Enghauser stated that when they received the permit for the sign they thought that they were in compliance. Mr. Zuazo asked why the Building Department had issued the original permit.

Mr. Stimac explained that when the Sign Permit was originally issued the Sign Contractor had indicated that the other wall sign was to be taken down. The owners changed their mind and decided to keep the original sign and therefore this sign cannot be considered the primary sign.

Motion by Kessler
Supported by Zuazo

MOVED, to grant Aver Sign Co., 1735 E. Big Beaver relief of Chapter 85 to install a second wall sign that is 28 square feet where 20 square feet is allowed.

- Square footage of the ground sign for this tenant cannot be increased from the current 25 square feet.
- Vinyl lettering on the window is to be removed.
- Variance is not contrary to public interest.

Yeas: All – 5

ITEM #2 – con't.

MOTION TO GRANT VARIANCE CARRIED

The Building Code Board of Appeals meeting adjourned at 8:45 A.M.

Ted Dziurman, Chairman

Pamela Pasternak, Recording Secretary

A regular meeting of the Liquor Advisory Committee was held on Monday, June 12, 2006 in Conference Room C of Troy City Hall, 500 West Big Beaver Road. Committee member Henry W. Allemon called the meeting to order at 7:08 p.m.

ROLL CALL:

PRESENT: Henry W. Allemon
W. Stan Godlewski
Patrick C. Hall
David S. Ogg
Timothy P. Payne
Bohdan L. Ukrainec
Kelsey Brunette. Student Representative
Christopher Forsyth, Assistant City Attorney
Captain Gary Mayer
Pat Gladysz

ABSENT: Max K. Ehlert, Chairman

Resolution to Excuse Committee Member Ehlert

Resolution #LC2006-07-007
Moved by Ukrainec
Seconded by Payne

RESOLVED, that the absence of Committee member Ehlert at the Liquor Advisory Committee meeting of June 12, 2006 BE EXCUSED.

Yes: 6
No: 0
Absent: Ehlert

Resolution to Approve Minutes of Meeting

Resolution #LC2006-07-008
Moved by Ogg
Seconded by Hall

RESOLVED, that the Minutes of the May 8, 2006 meeting of the Liquor Advisory Committee be approved.

Yes: 6
No: 0
Absent: Ehlert

Agenda Items

1. **TROY, INC.** requests to transfer ownership of 2005 Class C Licensed Business located at 1129 E. Long Lake, Troy, MI, 48085, Oakland County, from Ichibang Corporation, Inc.; and add new dance-entertainment permit. [MLCC REQ# 355382]

Present to answer questions from the Committee were Rachel Savaya, Saadi Manjo, and John Kallabat.

Captain Mayer stated that at this time the Police Department lacked sufficient information in order to give the Committee a recommendation to approve this request. The applicant has been very cooperative and has been informed of the current status. Also, in order for a dance-entertainment permit to be approved, the applicant must secure the approval of 51% of the business and residential neighbors within 500' of her business.

The Committee asked a few general questions about the new restaurant. They also asked for clarification of the 500' rule.

Assistant City Attorney Chris Forsyth read Chapter 67, section 7.149 of the Troy City Code that pertains to this issue.

Ms. Savaya briefly explained that she plans for a family restaurant serving American and middle eastern cuisine, with middle eastern music and dancing available on the weekends.

Resolution #LC2006-07-009
Moved by Hall
Seconded by Ogg

RESOLVED, that Item No. 1 on this agenda be tabled until the July 10, 2006 meeting of the Liquor Advisory Committee.

Yes: 6
No: 0
Absent: Ehlert

The meeting adjourned at 7:29 p.m.

Henry W. Allemon, Committee Member

Patricia A. Gladysz, Secretary II

A meeting of the Employees' Retirement System Board of Trustees was held on Wednesday, June 13, 2006, at Troy City Hall, 500 W. Big Beaver Rd., Troy, MI. The meeting was called to order at 12:18 p.m.

TRUSTEES PRESENT: Mark Calice
 Thomas Houghton, Chair
 Martin F. Howrylak
 John M. Lamerato
 William R. Need (Ex-Officio)
 Steven A. Pallotta

ABSENT: Michael Geise

MINUTES

Resolution # ER – 2006 – 06 - 021

Moved by Calice
Seconded by Pallotta

RESOLVED, That the minutes of the May 10, 2006 meeting be approved.

Yeas: All 5
Absent: Geise

OTHER BUSINESS – RETIREMENT REQUESTS

Resolution # ER – 2006 – 06 - 022

Moved by Houghton
Seconded by Lamerato

RESOLVED, That the board approve the following retirement request(s):

Michael A. Crocker, DB, 7/1/06, Police, 25 years, 9 months

Yeas: All 5
Absent: Geise

OTHER BUSINESS – ROBERT W. STIBBS, OLD MISSION INVESTMENT CO.

Resolution # ER – 2006 – 06 - 023

Moved by Pallotta
Seconded by Calice

RESOLVED, That the Board transfer its account from Wachovia to Old Mission Investment Co. and retain Robert W. Stibbs as our investment advisor at a rate of \$24,000 per year, for a one year period.

Yeas: All 5
Absent: Geise

INVESTMENTS

Resolution # ER – 2006 – 06 - 024

Moved by Lamerato
Seconded by Calice

RESOLVED, That the Board buy and sell the following securities:

Buy: 3,6 and 9 month US Tbills

Sell: Ameriprise; Biosite; Century Tel Enterprises; Del Monte Foods; Hibbett Sporting Goods; Investors Financial Services; Logitech; Medicis Pharmaceutical; Merge Technologies; Pacific Sunwear; 30,000 Pfizer; PF Changs; 10,000 Scansource; Reuters Group and Weight Watchers

Yeas: All 5
Absent: Geise

OTHER BUSINESS – EXCUSE ABSENT MEMBERS

Resolution # ER – 2006 – 06 - 025

Moved by Houghton
Seconded by Howrylak

RESOLVED, That Michael Geise be excused.

Yeas: All 5
Absent: Geise

The next meeting is July 12, 2006 at 12:00 p.m. at City Hall, Conference Room C, 500 W Big Beaver, Troy, MI.

The meeting adjourned at 1:39 p.m.

JML/bt\Retirement Board\2006\6-13-06 Minutes_Draft.doc

The Regular Meeting of the Troy City Planning Commission was called to order by Vice Chair Schultz at 7:30 p.m. on June 13, 2006, in the Council Chambers of the Troy City Hall.

1. ROLL CALL

Present:

Lynn Drake-Batts
Mary Kerwin
Fazal Khan
Lawrence Littman (arrived 7:43 p.m.)
Robert Schultz
Thomas Strat (arrived 8:55 p.m.)
Mark J. Vleck
David T. Waller

Absent:

Wayne Wright

Also Present:

Brent Savidant, Principal Planner
Allan Motzny, Assistant City Attorney
Kathy Czarnecki, Recording Secretary

Resolution # PC-2006-06-096

Moved by: Khan
Seconded by: Vleck

RESOLVED, That Members Littman, Strat and Wright are excused from attendance at this meeting for personal reasons.

Yes: All present (6)
No: None
Absent: Littman (arrived 7:43 p.m.), Strat (arrived 8:55 p.m.), Wright

MOTION CARRIED

2. APPROVAL OF AGENDA

Due to audience participation, it was suggested to move Agenda items #5 and #8 for consideration prior to Agenda item #4.

Resolution # PC-2006-06-097

Moved by: Kerwin
Seconded by: Waller

RESOLVED, To approve the Agenda as revised.

Yes: Drake-Batts, Kerwin, Khan, Schultz, Waller
 No: Vleck
 Absent: Littman (arrived 7:43 p.m.), Strat (arrived 8:55 p.m.), Wright

MOTION CARRIED

Mr. Vleck is of the opinion that the Agenda should be followed as printed because arrival times of interested parties are most likely based on the placement of agenda items.

3. PUBLIC COMMENTS – Items not on the Agenda

There was no one present who wished to speak.

POSTPONED ITEM

5. PUBLIC HEARING – PROPOSED REZONING (Z 714) – Proposed Senior Housing Development, North of Long Lake, East side of I-75, Section 9 – From R-1B (One Family Residential) to R-EC (Residential Elder Care) District

Mr. Savidant announced the Planning Department received a written request from the petitioner to postpone the item for 90 days. Mr. Savidant read the petitioner's request.

Resolution # PC-2006-06-098

Moved by: Kerwin
 Seconded by: Khan

RESOLVED, That the Planning Commission hereby postpones this item to the September Regular meeting.

Discussion.

Mr. Vleck said he would vote in favor of the postponement one more time only. He said the requested postponement date should be sufficient time for the petitioner to complete the required information.

Vote on the motion on the floor.

Yes: All present (6)
 No: None
 Absent: Littman (arrived 7:43 p.m.), Strat (arrived 8:55 p.m.), Wright

MOTION CARRIED

REZONING REQUEST

8. PUBLIC HEARING – PROPOSED REZONING (Z 716) – City Initiated Rezoning of the non-conforming parcels in the area of Troyton Manor, Adrienne Manor, and the southern portion of John F. Englehardt Subdivisions, Section 30, From R-1C (One Family Residential) to R-1E (One Family Residential) District

Mr. Savidant provided a comprehensive explanation on the City-initiated rezoning request. He reported it is the recommendation of City Management to approve the rezoning request.

[Mr. Littman arrived at 7:43 p.m.]

Mr. Savidant noted the Planning Department received an enormous amount of phone calls on the proposed rezoning. A major concern expressed by the residents was if the proposed rezoning would allow monster homes. Mr. Savidant assured the residents that the proposed rezoning would not allow monster homes.

PUBLIC HEARING OPENED

Ron Ezell of 1081 Norwich, Troy, was present. Mr. Ezell asked if homes would be limited to one story.

Vice Chair Schultz stated there would be no increase or decrease in height limits. Mr. Savidant confirmed this.

PUBLIC HEARING CLOSED

Resolution # PC-2006-06-099

Moved by: Kerwin

Seconded by: Khan

RESOLVED, That the Planning Commission hereby recommends to the City Council that the R-1C to R-1E rezoning request, located south of Big Beaver, west of Coolidge, within Troyton Manor, Adrienne Manor, and the southern portion of John F. Englehardt Subdivisions, within Section 30, being approximately 49.69 acres in size, be granted.

Yes: All present (7)

No: None

Absent: Strat (arrived 8:55 p.m.), Wright

MOTION CARRIED

POSTPONED ITEMS

4. **PUBLIC HEARING – PROPOSED REZONING (revised request) Z 632-B** – Proposed Condominium Development, West side of Rochester Road, North of Wattles, Section 15 – From CR-1 (One Family Residential Cluster) to R-1T (One Family Attached Residential) District

Mr. Savidant presented a summary of the Planning Department report on the proposed rezoning request, and reported it is the recommendation of City Management to approve the rezoning application.

PUBLIC HEARING OPENED

Paul Woleben of 880 Barclay Court, Troy, was present. Mr. Woleben, initiator of the protest petition, voiced opposition to the proposed rezoning. He addressed density, building height, property values and environmental surroundings. Mr. Woleben said the proposed rezoning would allow 14 to 16 units to be built on the site.

Dawn Aronoff of 864 Barclay Court, Troy, was present. Ms. Aronoff voiced opposition to the proposed rezoning and indicated she signed the protest petition. She said her concerns are similar to those expressed by Mr. Woleben, and it would be more reasonable to put in single family homes.

Gary Jacobs of 872 Barclay Court, Troy, was present. Mr. Jacobs expressed opposition to the proposed rezoning, noting his concerns are similar to those already expressed. Mr. Jacobs also addressed the private street that would abut his property line.

Edvin Hoti of 964 Barclay Drive, Troy, was present. Mr. Hoti expressed opposition to the proposed rezoning. He said the \$3,000 fence he put up would have to be removed. Mr. Hoti addressed the impact on property values, and said it would be more logical to put in single family homes.

Yudong Zhou of 856 Barclay Court, Troy, was present. Mr. Zhou voiced opposition to the proposed rezoning. He addressed property values and the potential negative affect on the neighborhood.

PUBLIC HEARING CLOSED

Vice Chair Schultz referenced the resident who expressed concern about his fence. He asked if there would be any reason the fence would have to be removed with the onset of development, if the fence is in fact on the resident's property.

Mr. Motzny said he knew of no reason why the resident would have to remove his fence.

Mr. Vleck said he would be more in favor of considering the rezoning request as a conditional rezoning.

Mr. Khan said the rezoning request is consistent with the Master Land Use Plan, but he thinks a better site plan could be designed. Mr. Khan asked if 16 units could be placed on the site.

Mr. Savidant said the developer could come back with a site plan that shows more units than shown on the site plan submitted with the rezoning application.

Eric Salswedel of SDA Architects, 42490 Garfield, Clinton Township, was present to represent the owners. Mr. Salswedel said realistic calculations would produce approximately 8 units on the site. He said a higher density would not be realistic due to the size and shape of the parcel. Mr. Salswedel said the co-owners would like to construct town homes in the range of 2,000-2,400 square feet in which they can move into themselves. He addressed the preservation of trees and the cul de sac that is required by the Fire Department.

Bala Murthy of 1741 Greenwich, Troy, was present. Mr. Murthy is a co-owner of the subject parcel and has been a resident of Troy since 1990. He said letters were sent to neighbors to assure them the proposed development would not spoil the beauty of the neighborhood. Mr. Murthy said they intend to construct nice homes that are true to the spirit of Troy and preserve as many trees as possible.

Mr. Littman said the members do not doubt the honesty and intent of the owners. He explained that should the property get rezoned, there is no guarantee the site plan submitted with the rezoning request would be the same site plan submitted for site plan approval, or the property could be sold and developed in a different manner. Mr. Littman thanked the owners for purchasing the additional lots. He asked if the survey showed any encroachments, such as the aforementioned fence. He encouraged the owners to give the neighbors the courtesy of reviewing the site plan prior to submittal.

Mr. Salswedel said the certified survey required for the rezoning request establishes boundary only and it is not known at this time if there are any encroachments on either side of the property line.

Mr. Khan commented that moving the cul de sac closer to the homes, and not all the way back to the property line, might be more satisfactory to the neighbors.

Vice Chair Schultz reminded members that tonight's meeting is for consideration of the rezoning request only.

Resolution # PC-2006-06-100

Moved by: Khan
 Seconded by: Littman

RESOLVED, That the Planning Commission hereby recommends to the City Council that the CR-1 to R-1T rezoning request, located on the west side of Rochester Road, north of Wattles, within Section 15, being approximately 2.27 acres in size, be granted, for the following reasons:

1. That the application is consistent with the intent of the Master Land Use Plan and therefore involves areas indicated as medium density or high density residential.
2. The R-1T is consistent with the intent of the Master Land Use Plan

Discussion on the motion.

Mr. Vleck said the request is consistent with the Master Land Use Plan, but it would be preferable to consider the request as a conditional rezoning. Mr. Vleck said he would not support the site plan should it come before the Planning Commission showing the cul de sac back to the property line. He would support the conceptual plan, as submitted with the rezoning request, with a buffer zone provided for the neighbors.

Yes: All present (7)
 No: None
 Absent: Strat (arrived 8:55 p.m.), Wright

MOTION CARRIED

6. **SITE PLAN REVIEW** – Proposed Village of Tuscany Site Condominium, 9 units/lots proposed, South side of Long Lake, West of John R, Section 14, Zoned CR-1 (One Family Residential Cluster)

Mr. Savidant presented a summary of the Planning Department report on the proposed Village of Tuscany Site Condominium, and reported it is the recommendation of City Management to approve the application as submitted subject to approval of the landscape plan prior to final site plan approval. Mr. Savidant noted that the Planning Department received two letters from neighbors abutting the subject property to the south that were distributed to members prior to tonight's meeting.

Joseph Vaglica of Gateway Engineers, 8155 Annsbury, Shelby Township, was present to represent the petitioner. He addressed the landscape plan with respect to the comments of the City's Landscape Analyst.

Vice Chair Schultz asked the petitioner to address the neighbors' requests to provide an evergreen buffer to shield headlights.

Mr. Vaglica indicated there would be no problem providing evergreens along the cul de sac on the south side of the property.

Mr. Motzny confirmed that the Planning Commission, under Section 11.50.04 of the Zoning Ordinance, has the discretion to condition approval on the provision of a landscaped berm or equivalent obscuring device, as well as specifications on type, quantity and height of such provision.

Antonio Vettraino 6924 Montclair, Troy, co-owner of the subject property, was present. Mr. Vettraino confirmed there would be no problem providing a buffer of evergreen trees along the southerly line.

Brief comments were made on providing a fence as a buffer.

Vice Chair Schultz opened the floor for public comment.

John Makris of 4919 Calvert Drive, Troy, was present. Mr. Makris addressed the natural, environmental setting of the neighborhood. He asked why the City has marked some trees for removal. Mr. Makris asked for reassurance that the designated landscaped areas would be part of the dedicated parcel, and maintained and dedicated as open space within the development in the future.

Vice Chair Schultz provided a brief explanation on City policy to remove noxious trees prior to the onset of new development.

Mr. Makris said a 50-foot high cottonwood is the most prominent tree existing on the site, and asked if the City would make an exception to its removal.

Vice Chair Schultz said that request would have to be pursued through the Planning Department during regular business hours.

It was brought to the attention of Mr. Makris that some of the landscaping and trees to which he is referring is located on the proposed development's property, and it would be at the discretion of the property owner/s to keep or remove the landscaping.

The floor was closed.

Resolution # PC-2006-06-101

Moved by: Khan
Seconded by: Littman

RESOLVED, That Preliminary Site Plan Approval, as requested for Village of Tuscany One-Family Residential-Cluster Site Condominium, including 9 units, located on the south side of Long Lake and west of John R, Section 14, within the CR-1 zoning district be granted, subject to the following conditions:

1. Landscape Plan approval required prior to Final Site Plan Approval.
2. Provide a buffer of evergreen trees along the south property line, 15 foot on center, staggered, and 8 foot high.

Yes: All present (7)
 No: None
 Absent: Strat (arrived 8:55 p.m.), Wright

MOTION CARRIED

Vice Chair Schultz requested a recess at 8:40 p.m.

The meeting reconvened at 8:50 p.m.

7. SITE PLAN REVIEW – Proposed Tuscany Estates Site Condominium, 11 units/lots proposed, West side of Dequindre, North of Big Beaver Road, Section 24 – R-1C (One Family Residential) District

Mr. Savidant presented a summary of the Planning Department report on the proposed Tuscany Estates Site Condominium, and reported it is the recommendation of City Management to approve the site condominium application as submitted. He noted the City of Troy requires ownership of all ponds used for either detention or retention of storm water within single family developments.

The petitioner, Anthony Fanelli of 50466 Heatherwood, Shelby Township, was present. Mr. Fanelli confirmed that he maintains a good working relationship with the property owner to the north who is requesting screening from the development.

Vice Chair Schultz asked if the Resolution should include stipulation for an access to the detention basin on behalf of the City.

Mr. Savidant replied in the affirmative.

[Mr. Strat arrived 8:55 p.m.]

Resolution # PC-2006-06-102

Moved by: Littman
 Seconded by: Vleck

RESOLVED, That the Planning Commission recommends to City Council, that the Preliminary Site Plan (Section 34.30.00 Unplatted One-Family Residential Development), as requested for Tuscany Estates Site Condominium, including 11

units, located on the west side of Dequindre and north of Big Beaver Road, Section 24, within the R-1C zoning district be granted, subject to the following condition:

1. Inclusion of an access to the easement for the City to maintain the water detention.

Yes: All present (8)
 No: None
 Absent: Wright

MOTION CARRIED

[Vice Chair Schultz continued to chair the meeting at the request of Chair Strat.]

STREET VACATION

9. PUBLIC HEARING – STREET VACATION REQUEST (SV 187) – Alley, north of Big Beaver between Frankton and Troy Street, approximately 244 feet abutting Lots 26 through 37 and 91 and 92 of Eyster's Beaver Gardens Subdivision, Section 22 – Zoned O-1 (Low Rise Office) and R-1E (One Family Residential) Districts (the abutting parcels)

Mr. Savidant presented a summary of the Planning Department report on the proposed street vacation request, and reported it is the recommendation of City Management to approve the request as submitted. Mr. Savidant said the parcel to the south would get 9 feet and two parcels abutting to the north would each get 9 feet.

The petitioner, Dale Garrett of Andale Investment Company, 5877 Livernois, Troy, was present.

PUBLIC HEARING OPENED

Richard Hughes of 1321 Roger Court, Troy, was present. Mr. Hughes said the street vacation has to happen.

PUBLIC HEARING CLOSED

Resolution # PC-2006-06-103

Moved by: Waller
 Seconded by: Kerwin

RESOLVED, That the Planning Commission hereby recommends to the City Council that the street vacation request, as submitted for the alley, located north of Big Beaver between Frankton and Troy Street, approximately 244 feet abutting Lots

26 through 37 and 91 and 92 of Eyster's Beaver Gardens Subdivision, in Section 22, be approved.

Yes: All present (8)
No: None
Absent: Wright

MOTION CARRIED

ZONING ORDINANCE TEXT AMENDMENTS

10. **PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT REQUEST (ZOTA 219) – Articles II and III, Conditional Rezoning**

Mr. Savidant reviewed the recent changes to the proposed ordinance text amendment relating to conditional rezoning. He reported it is the recommendation of City Management to approve the zoning ordinance text amendment as proposed.

Proposed language in Section 03.24.02 (6) was discussed briefly.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Ms. Kerwin said she was looking forward to the tool of conditional rezoning. She expressed appreciation for the work and deliberation undertaken in study sessions.

Resolution # PC-2006-06-104

Moved by: Kerwin
Seconded by: Khan

RESOLVED, That the Planning Commission hereby recommends to the City Council that Articles II and III, pertaining to Conditional Rezoning, be amended as printed on the proposed Zoning Ordinance Text Amendment, Planning Commission Public Hearing Draft, dated May 24, 2006.

Yes: All present (8)
No: None
Absent: Wright

MOTION CARRIED

11. PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (ZOTA 215-C) – Article 43.74.00, Article 40.65.02 and Article 44.00.00, pertaining to Commercial Vehicle Parking Appeals

Mr. Savidant reviewed the recent changes to the proposed ordinance text amendment relating to commercial vehicle parking appeals. Mr. Savidant indicated the Planning Department report inadvertently did not specify a recommendation from City Management. He reported, to the best of his knowledge, that City Management recommends approval of the zoning ordinance text amendment as proposed.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Resolution # PC-2006-06-105

Moved by: Kerwin

Seconded by: Khan

RESOLVED, That the Planning Commission hereby recommends to the City Council that Articles XLIII and XLIV, pertaining to changing the responsibility for reviewing and approving Temporary Parking of Commercial Vehicle in One-Family Residential Districts to the Board of Zoning Appeals from City Council, be amended as printed on the proposed Zoning Ordinance Text Amendment, Planning Commission Public Hearing Draft, dated May 24, 2006.

Yes: Drake-Batts, Kerwin, Khan, Littman, Schultz, Strat, Waller

No: Vleck

Absent: Wright

MOTION CARRIED

Mr. Vleck said he does not agree with two standards (A and B) required for approval under Section 43.74.01. In his opinion, Section 43.74.01 C, relating to the location available on the residential site to park a commercial vehicle, is the only standard that should be required for approval.

SITE PLAN REVIEWS

12. SITE PLAN REVIEW (SP 930) – Proposed Industrial Building, West side of Chicago, South of Maple Road (1099 Chicago), Section 35, M-1 (Light Industrial) District

Mr. Savidant presented a summary of the Planning Department report on the proposed industrial building, and reported it is the recommendation of City Management to approve the site plan as submitted.

The petitioner, Niraj Sarda of First Industrial Development Services, 2000 Town Center, Southfield, was present. Mr. Sarda said several parties are in negotiation to build a 50,000 square foot building on Parcel 2, of which it is planned to split from the parent parcel.

Vice Chair Schultz opened the floor for public comment.

There was no one present who wished to speak.

The floor was closed.

Resolution # PC-2006-06-106

Moved by: Waller

Seconded by: Drake-Batts

RESOLVED, That Preliminary Site Plan Approval, as requested for the proposed Industrial Building, located on the west side of Chicago, south of Maple Road, located in Section 35, on approximately 7.597 acres, within the M-1 zoning district, is hereby granted.

Yes: All present (8)

No: None

Absent: Wright

MOTION CARRIED

13. SITE PLAN REVIEW (SP 305-D) – Proposed South Parking Lot and North Drive Beaumont Hospital, South of South Blvd., West side of Dequindre Road, Section 1, C-F (Community Facility) and E-P (Environmental Protection) Districts

Mr. Savidant presented a summary of the Planning Department report on the proposed south parking lot and north drive for Beaumont Hospital. He noted that the petitioner did not include copies of the elevations or floor plans for the temporary loading dock and trailer for inclusion in the Planning Commission packet. Mr. Savidant reported it is the recommendation of City Management to approve the site

plan as submitted with the condition that an 8-foot wide sidewalk is provided along Dequindre Road.

There was discussion relating to easements to the property owned by the City of Detroit Water Department and the City of Troy's Flynn Park.

Craig McEwen, architect, and Mark Hieber, landscape architect, were present to represent Harley Ellis Devereaux. John Krolicki was present to represent Beaumont Hospital Troy.

Mr. Krolicki said a letter of intent signed by the Detroit Water and Sewage Department to execute the easement has been received. He indicated the easement for Flynn Park is being negotiated with the City's Parks and Recreation Director. Mr. Krolicki addressed the employee entrance off of South Boulevard with respect to a secured entrance.

Mr. Hieber addressed in detail the environmental aspect of the development.

Internal departmental review comments were addressed one-by-one with the petitioners.

Vice Chair Schultz addressed the size of the parking lot and the amount of asphalt. He said a reduction in the width of the parking space from the required 9.5 feet to 9.0 feet would lessen the expanse of asphalt and impervious surface and create more green space. Vice Chair Schultz asked if the petitioner would consider going before the Board of Zoning Appeals (BZA) to request a variance on the width of the parking spaces.

Mr. McEwen agreed to entertain the option for a BZA variance, but addressed the timeframe involved in the BZA approval process as relates to ongoing construction plans. He asked the members' consideration in granting site plan approval subject to their submission for a variance request.

It was understood that should a variance be granted by the BZA, the petitioners would be required to submit a revised site plan for review and approval by the Planning Commission. The petitioners were advised to work with the Building Department on various development aspects while seeking a BZA variance.

There was a brief discussion regarding the temporary status of the trailer and loading dock.

Vice Chair Schultz opened the floor for public comment.

Richard Hughes of 1321 Roger Court, Troy, was present. Mr. Hughes addressed the walking distance from the hospital's parking lot to various hospital departments and sustainable green design.

Paul Fleck of 2805 Ranieri Drive, Troy, was present. Mr. Fleck's home abuts the hospital property to the south. He indicated there have been numerous meetings between the hospital representatives and neighbors to the south. Mr. Fleck asked if an additional separation between the south side of the property line and the edge of the pavement could be provided, should the hospital be granted a variance.

Gerald Guirey of 2777 Ranieri Drive, Troy, was present. Mr. Guirey, vice president of the Ranieri Homeowners Association, was involved in reaching the agreement with Beaumont Hospital approximately five years ago. He indicated there are some modifications to the letter of agreement, but the spirit of the agreement has been maintained. Mr. Guirey said Beaumont has been very open and communicative.

Mr. Littman suggested that a copy of the executed letter of agreement between the neighbors and Beaumont be provided to the City.

The floor was closed.

Resolution # PC-2006-06-107

Moved by: Khan

Seconded by: Strat

RESOLVED, That Preliminary Site Plan Approval, as requested for the proposed South Parking Lot and North Drive Beaumont Hospital, located south of South Boulevard, on the west side of Dequindre, located in Section 1, on approximately 65.9 acres, within the C-F and E-P zoning districts, is hereby granted, subject to the following conditions:

1. Provide an 8-foot wide sidewalk along Dequindre Road, as per Section 39.70.03.
2. That the applicant will explore getting a variance on the width of the parking spaces from the Board of Zoning Appeals, and if it is approved they will bring in a new site plan for the parking lot back to this body for an amendment.

Yes: All present (8)

No: None

Absent: Wright

MOTION CARRIED

14. SITE PLAN REVIEW (SP 388-C) – TGI Friday’s Restaurant, Southeast Corner of Big Beaver and I-75 (585 W. Big Beaver), Section 28, Zoned O-S-C (Office Service Commercial) District

Mr. Savidant presented a summary of the Planning Department report on the proposed revised site plan for TGI Friday’s Restaurant, and reported it is the recommendation of City Management to approve the revised site plan as submitted.

Tim Germain, project engineer, Nowak & Fraus, 1310 N. Stephenson Hwy, Royal Oak, was present.

Resolution # PC-2006-06-108

Moved by: Waller
Seconded by: Kerwin

RESOLVED, That the Planning Commission hereby approves a reduction in the total number of required parking spaces to three hundred eighty three (383) when a total of four-hundred one (401) spaces are required on the site based on the off-street parking space requirements for restaurants and office uses, as per Article XL. This reduction meets the standards of Article 40.20.12 and will assist the Drury Inn and TGI Friday’s Restaurant in minimizing the amount of storm water runoff on the site.

BE IT FURTHER RESOLVED, That Preliminary Site Plan Approval, as requested for the Revised Site Plan for TGI Friday’s Restaurant Re-Build, located on the southeast corner of Big Beaver and I-75, located in Section 28, within the O-S-C zoning district, is hereby granted.

Yes: All present (8)
No: None
Absent: Wright

MOTION CARRIED

OTHER ITEMS

15. PUBLIC COMMENTS – Items on Current Agenda

There was no one present who wished to speak.

GOOD OF THE ORDER

Chair Strat announced a review of the June 1, 2006 Big Beaver Corridor presentation is on the June 21, 2006 Downtown Development Authority (DDA) agenda.

The Regular Meeting of the Planning Commission was adjourned at 10:18 p.m.

Respectfully submitted,

Robert Schultz, Vice Chair

Kathy L. Czarnecki, Recording Secretary

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The Regular Meeting of the Troy City Planning Commission was called to order by Vice Chair Schultz at 7:30 p.m. on June 13, 2006, in the Council Chambers of the Troy City Hall.

1. ROLL CALL

Present:

Lynn Drake-Batts
Mary Kerwin
Fazal Khan
Lawrence Littman (arrived 7:43 p.m.)
Robert Schultz
Thomas Strat (arrived 8:55 p.m.)
Mark J. Vleck
David T. Waller

Absent:

Wayne Wright

Also Present:

Brent Savidant, Principal Planner
Allan Motzny, Assistant City Attorney
Kathy Czarnecki, Recording Secretary

Resolution # PC-2006-06-096

Moved by: Khan
Seconded by: Vleck

RESOLVED, That Members Littman, Strat and Wright are excused from attendance at this meeting for personal reasons.

Yes: All present (6)
No: None
Absent: Littman (arrived 7:43 p.m.), Strat (arrived 8:55 p.m.), Wright

MOTION CARRIED

2. APPROVAL OF AGENDA

Due to audience participation, it was suggested to move Agenda items #5 and #8 for consideration prior to Agenda item #4.

Resolution # PC-2006-06-097

Moved by: Kerwin
Seconded by: Waller

RESOLVED, To approve the Agenda as revised.

Yes: Drake-Batts, Kerwin, Khan, Schultz, Waller
No: Vleck
Absent: Littman (arrived 7:43 p.m.), Strat (arrived 8:55 p.m.), Wright

MOTION CARRIED

Mr. Vleck is of the opinion that the Agenda should be followed as printed because arrival times of interested parties are most likely based on the placement of agenda items.

3. PUBLIC COMMENTS – Items not on the Agenda

There was no one present who wished to speak.

POSTPONED ITEM

5. PUBLIC HEARING – PROPOSED REZONING (Z 714) – Proposed Senior Housing Development, North of Long Lake, East side of I-75, Section 9 – From R-1B (One Family Residential) to R-EC (Residential Elder Care) District

Mr. Savidant announced the Planning Department received a written request from the petitioner to postpone the item for 90 days. Mr. Savidant read the petitioner's request.

Resolution # PC-2006-06-098

Moved by: Kerwin
Seconded by: Khan

RESOLVED, That the Planning Commission hereby postpones this item to the September Regular meeting.

Discussion.

Mr. Vleck said he would vote in favor of the postponement one more time only. He said the requested postponement date should be sufficient time for the petitioner to complete the required information.

Vote on the motion on the floor.

Yes: All present (6)
No: None
Absent: Littman (arrived 7:43 p.m.), Strat (arrived 8:55 p.m.), Wright

MOTION CARRIED

REZONING REQUEST

8. **PUBLIC HEARING – PROPOSED REZONING (Z 716)** – City Initiated Rezoning of the non-conforming parcels in the area of Troyton Manor, Adrienne Manor, and the southern portion of John F. Englehardt Subdivisions, Section 30, From R-1C (One Family Residential) to R-1E (One Family Residential) District

Mr. Savidant provided a comprehensive explanation on the City-initiated rezoning request. He reported it is the recommendation of City Management to approve the rezoning request.

[Mr. Littman arrived at 7:43 p.m.]

Mr. Savidant noted the Planning Department received an enormous amount of phone calls on the proposed rezoning. A major concern expressed by the residents was if the proposed rezoning would allow monster homes. Mr. Savidant assured the residents that the proposed rezoning would not allow monster homes.

PUBLIC HEARING OPENED

Ron Ezell of 1081 Norwich, Troy, was present. Mr. Ezell asked if homes would be limited to one story.

Vice Chair Schultz stated there would be no increase or decrease in height limits. Mr. Savidant confirmed this.

PUBLIC HEARING CLOSED

Resolution # PC-2006-06-099

Moved by: Kerwin

Seconded by: Khan

RESOLVED, That the Planning Commission hereby recommends to the City Council that the R-1C to R-1E rezoning request, located south of Big Beaver, west of Coolidge, within Troyton Manor, Adrienne Manor, and the southern portion of John F. Englehardt Subdivisions, within Section 30, being approximately 49.69 acres in size, be granted.

Yes: All present (7)

No: None

Absent: Strat (arrived 8:55 p.m.), Wright

MOTION CARRIED

POSTPONED ITEMS

4. **PUBLIC HEARING – PROPOSED REZONING (revised request) Z 632-B** – Proposed Condominium Development, West side of Rochester Road, North of Wattles, Section 15 – From CR-1 (One Family Residential Cluster) to R-1T (One Family Attached Residential) District

Mr. Savidant presented a summary of the Planning Department report on the proposed rezoning request, and reported it is the recommendation of City Management to approve the rezoning application.

PUBLIC HEARING OPENED

Paul Woleben of 880 Barclay Court, Troy, was present. Mr. Woleben, initiator of the protest petition, voiced opposition to the proposed rezoning. He addressed density, building height, property values and environmental surroundings. Mr. Woleben said the proposed rezoning would allow 14 to 16 units to be built on the site.

Dawn Aronoff of 864 Barclay Court, Troy, was present. Ms. Aronoff voiced opposition to the proposed rezoning and indicated she signed the protest petition. She said her concerns are similar to those expressed by Mr. Woleben, and it would be more reasonable to put in single family homes.

Gary Jacobs of 872 Barclay Court, Troy, was present. Mr. Jacobs expressed opposition to the proposed rezoning, noting his concerns are similar to those already expressed. Mr. Jacobs also addressed the private street that would abut his property line.

Edvin Hoti of 964 Barclay Drive, Troy, was present. Mr. Hoti expressed opposition to the proposed rezoning. He said the \$3,000 fence he put up would have to be removed. Mr. Hoti addressed the impact on property values, and said it would be more logical to put in single family homes.

Yudong Zhou of 856 Barclay Court, Troy, was present. Mr. Zhou voiced opposition to the proposed rezoning. He addressed property values and the potential negative affect on the neighborhood.

PUBLIC HEARING CLOSED

Vice Chair Schultz referenced the resident who expressed concern about his fence. He asked if there would be any reason the fence would have to be removed with the onset of development, if the fence is in fact on the resident's property.

Mr. Motzny said he knew of no reason why the resident would have to remove his fence.

Mr. Vleck said he would be more in favor of considering the rezoning request as a conditional rezoning.

Mr. Khan said the rezoning request is consistent with the Master Land Use Plan, but he thinks a better site plan could be designed. Mr. Khan asked if 16 units could be placed on the site.

Mr. Savidant said the developer could come back with a site plan that shows more units than shown on the site plan submitted with the rezoning application.

Eric Salswedel of SDA Architects, 42490 Garfield, Clinton Township, was present to represent the owners. Mr. Salswedel said realistic calculations would produce approximately 8 units on the site. He said a higher density would not be realistic due to the size and shape of the parcel. Mr. Salswedel said the co-owners would like to construct town homes in the range of 2,000-2,400 square feet in which they can move into themselves. He addressed the preservation of trees and the cul de sac that is required by the Fire Department.

Bala Murthy of 1741 Greenwich, Troy, was present. Mr. Murthy is a co-owner of the subject parcel and has been a resident of Troy since 1990. He said letters were sent to neighbors to assure them the proposed development would not spoil the beauty of the neighborhood. Mr. Murthy said they intend to construct nice homes that are true to the spirit of Troy and preserve as many trees as possible.

Mr. Littman said the members do not doubt the honesty and intent of the owners. He explained that should the property get rezoned, there is no guarantee the site plan submitted with the rezoning request would be the same site plan submitted for site plan approval, or the property could be sold and developed in a different manner. Mr. Littman thanked the owners for purchasing the additional lots. He asked if the survey showed any encroachments, such as the aforementioned fence. He encouraged the owners to give the neighbors the courtesy of reviewing the site plan prior to submittal.

Mr. Salswedel said the certified survey required for the rezoning request establishes boundary only and it is not known at this time if there are any encroachments on either side of the property line.

Mr. Khan commented that moving the cul de sac closer to the homes, and not all the way back to the property line, might be more satisfactory to the neighbors.

Vice Chair Schultz reminded members that tonight's meeting is for consideration of the rezoning request only.

Resolution # PC-2006-06-100

Moved by: Khan
 Seconded by: Littman

RESOLVED, That the Planning Commission hereby recommends to the City Council that the CR-1 to R-1T rezoning request, located on the west side of Rochester Road, north of Wattles, within Section 15, being approximately 2.27 acres in size, be granted, for the following reasons:

1. That the application is consistent with the intent of the Master Land Use Plan and therefore involves areas indicated as medium density or high density residential.
2. The R-1T is consistent with the intent of the Master Land Use Plan

Discussion on the motion.

Mr. Vleck said the request is consistent with the Master Land Use Plan, but it would be preferable to consider the request as a conditional rezoning. Mr. Vleck said he would not support the site plan should it come before the Planning Commission showing the cul de sac back to the property line. He would support the conceptual plan, as submitted with the rezoning request, with a buffer zone provided for the neighbors.

Yes: All present (7)
 No: None
 Absent: Strat (arrived 8:55 p.m.), Wright

MOTION CARRIED

6. **SITE PLAN REVIEW** – Proposed Village of Tuscany Site Condominium, 9 units/lots proposed, South side of Long Lake, West of John R, Section 14, Zoned CR-1 (One Family Residential Cluster)

Mr. Savidant presented a summary of the Planning Department report on the proposed Village of Tuscany Site Condominium, and reported it is the recommendation of City Management to approve the application as submitted subject to approval of the landscape plan prior to final site plan approval. Mr. Savidant noted that the Planning Department received two letters from neighbors abutting the subject property to the south that were distributed to members prior to tonight's meeting.

Joseph Vaglica of Gateway Engineers, 8155 Annsbury, Shelby Township, was present to represent the petitioner. He addressed the landscape plan with respect to the comments of the City's Landscape Analyst.

Vice Chair Schultz asked the petitioner to address the neighbors' requests to provide an evergreen buffer to shield headlights.

Mr. Vaglica indicated there would be no problem providing evergreens along the cul de sac on the south side of the property.

Mr. Motzny confirmed that the Planning Commission, under Section 11.50.04 of the Zoning Ordinance, has the discretion to condition approval on the provision of a landscaped berm or equivalent obscuring device, as well as specifications on type, quantity and height of such provision.

Antonio Vettraino 6924 Montclair, Troy, co-owner of the subject property, was present. Mr. Vettraino confirmed there would be no problem providing a buffer of evergreen trees along the southerly line.

Brief comments were made on providing a fence as a buffer.

Vice Chair Schultz opened the floor for public comment.

John Makris of 4919 Calvert Drive, Troy, was present. Mr. Makris addressed the natural, environmental setting of the neighborhood. He asked why the City has marked some trees for removal. Mr. Makris asked for reassurance that the designated landscaped areas would be part of the dedicated parcel, and maintained and dedicated as open space within the development in the future.

Vice Chair Schultz provided a brief explanation on City policy to remove noxious trees prior to the onset of new development.

Mr. Makris said a 50-foot high cottonwood is the most prominent tree existing on the site, and asked if the City would make an exception to its removal.

Vice Chair Schultz said that request would have to be pursued through the Planning Department during regular business hours.

It was brought to the attention of Mr. Makris that some of the landscaping and trees to which he is referring is located on the proposed development's property, and it would be at the discretion of the property owner/s to keep or remove the landscaping.

The floor was closed.

Resolution # PC-2006-06-101

Moved by: Khan

Seconded by: Littman

RESOLVED, That Preliminary Site Plan Approval, as requested for Village of Tuscany One-Family Residential-Cluster Site Condominium, including 9 units, located on the south side of Long Lake and west of John R, Section 14, within the CR-1 zoning district be granted, subject to the following conditions:

1. Landscape Plan approval required prior to Final Site Plan Approval.
2. Provide a buffer of evergreen trees along the south property line, 15 foot on center, staggered, and 8 foot high.

Yes: All present (7)
No: None
Absent: Strat (arrived 8:55 p.m.), Wright

MOTION CARRIED

Vice Chair Schultz requested a recess at 8:40 p.m.

The meeting reconvened at 8:50 p.m.

7. SITE PLAN REVIEW – Proposed Tuscany Estates Site Condominium, 11 units/lots proposed, West side of Dequindre, North of Big Beaver Road, Section 24 – R-1C (One Family Residential) District

Mr. Savidant presented a summary of the Planning Department report on the proposed Tuscany Estates Site Condominium, and reported it is the recommendation of City Management to approve the site condominium application as submitted. He noted the City of Troy requires ownership of all ponds used for either detention or retention of storm water within single family developments.

The petitioner, Anthony Fanelli of 50466 Heatherwood, Shelby Township, was present. Mr. Fanelli confirmed that he maintains a good working relationship with the property owner to the north who is requesting screening from the development.

Vice Chair Schultz asked if the Resolution should include stipulation for an access to the detention basin on behalf of the City.

Mr. Savidant replied in the affirmative.

[Mr. Strat arrived 8:55 p.m.]

Resolution # PC-2006-06-102

Moved by: Littman
Seconded by: Vleck

RESOLVED, That the Planning Commission recommends to City Council, that the Preliminary Site Plan (Section 34.30.00 Unplatted One-Family Residential Development), as requested for Tuscany Estates Site Condominium, including 11

units, located on the west side of Dequindre and north of Big Beaver Road, Section 24, within the R-1C zoning district be granted, subject to the following condition:

1. Inclusion of an access drive for the City to maintain the storm water detention pond.

Yes: All present (8)
 No: None
 Absent: Wright

MOTION CARRIED

[Vice Chair Schultz continued to chair the meeting at the request of Chair Strat.]

STREET VACATION

9. PUBLIC HEARING – STREET VACATION REQUEST (SV 187) – Alley, north of Big Beaver between Frankton and Troy Street, approximately 244 feet abutting Lots 26 through 37 and 91 and 92 of Eyster’s Beaver Gardens Subdivision, Section 22 – Zoned O-1 (Low Rise Office) and R-1E (One Family Residential) Districts (the abutting parcels)

Mr. Savidant presented a summary of the Planning Department report on the proposed street vacation request, and reported it is the recommendation of City Management to approve the request as submitted. Mr. Savidant said the parcel to the south would get 9 feet and two parcels abutting to the north would each get 9 feet.

The petitioner, Dale Garrett of Andale Investment Company, 5877 Livernois, Troy, was present.

PUBLIC HEARING OPENED

Richard Hughes of 1321 Roger Court, Troy, was present. Mr. Hughes said the street vacation has to happen.

PUBLIC HEARING CLOSED

Resolution # PC-2006-06-103

Moved by: Waller
 Seconded by: Kerwin

RESOLVED, That the Planning Commission hereby recommends to the City Council that the street vacation request, as submitted for the alley, located north of Big Beaver between Frankton and Troy Street, approximately 244 feet abutting Lots

26 through 37 and 91 and 92 of Eyster's Beaver Gardens Subdivision, in Section 22, be approved.

Yes: All present (8)
No: None
Absent: Wright

MOTION CARRIED

ZONING ORDINANCE TEXT AMENDMENTS

10. **PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT REQUEST (ZOTA 219) – Articles II and III, Conditional Rezoning**

Mr. Savidant reviewed the recent changes to the proposed ordinance text amendment relating to conditional rezoning. He reported it is the recommendation of City Management to approve the zoning ordinance text amendment as proposed.

Proposed language in Section 03.24.02 (6) was discussed briefly.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Ms. Kerwin said she was looking forward to the tool of conditional rezoning. She expressed appreciation for the work and deliberation undertaken in study sessions.

Resolution # PC-2006-06-104

Moved by: Kerwin
Seconded by: Khan

RESOLVED, That the Planning Commission hereby recommends to the City Council that Articles II and III, pertaining to Conditional Rezoning, be amended as printed on the proposed Zoning Ordinance Text Amendment, Planning Commission Public Hearing Draft, dated May 24, 2006.

Yes: All present (8)
No: None
Absent: Wright

MOTION CARRIED

11. PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (ZOTA 215-C) – Article 43.74.00, Article 40.65.02 and Article 44.00.00, pertaining to Commercial Vehicle Parking Appeals

Mr. Savidant reviewed the recent changes to the proposed ordinance text amendment relating to commercial vehicle parking appeals. Mr. Savidant indicated the Planning Department report inadvertently did not specify a recommendation from City Management. He reported, to the best of his knowledge, that City Management recommends approval of the zoning ordinance text amendment as proposed.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Resolution # PC-2006-06-105

Moved by: Kerwin

Seconded by: Khan

RESOLVED, That the Planning Commission hereby recommends to the City Council that Articles XLIII and XLIV, pertaining to changing the responsibility for reviewing and approving Temporary Parking of Commercial Vehicle in One-Family Residential Districts to the Board of Zoning Appeals from City Council, be amended as printed on the proposed Zoning Ordinance Text Amendment, Planning Commission Public Hearing Draft, dated May 24, 2006.

Yes: Drake-Batts, Kerwin, Khan, Littman, Schultz, Strat, Waller

No: Vleck

Absent: Wright

MOTION CARRIED

Mr. Vleck stated that requiring all three criteria in Section 43.74.01 is too restrictive, and he does not agree that standard A and B should be required at all. In his opinion, Section 43.74.01 C, relating to the location and screening available on the residential site to park a commercial vehicle, is the only standard that should be required for approval.

SITE PLAN REVIEWS

12. SITE PLAN REVIEW (SP 930) – Proposed Industrial Building, West side of Chicago, South of Maple Road (1099 Chicago), Section 35, M-1 (Light Industrial) District

Mr. Savidant presented a summary of the Planning Department report on the proposed industrial building, and reported it is the recommendation of City Management to approve the site plan as submitted.

The petitioner, Niraj Sarda of First Industrial Development Services, 2000 Town Center, Southfield, was present. Mr. Sarda said several parties are in negotiation to build a 50,000 square foot building on Parcel 2, of which it is planned to split from the parent parcel.

Vice Chair Schultz opened the floor for public comment.

There was no one present who wished to speak.

The floor was closed.

Resolution # PC-2006-06-106

Moved by: Waller

Seconded by: Drake-Batts

RESOLVED, That Preliminary Site Plan Approval, as requested for the proposed Industrial Building, located on the west side of Chicago, south of Maple Road, located in Section 35, on approximately 7.597 acres, within the M-1 zoning district, is hereby granted.

Yes: All present (8)

No: None

Absent: Wright

MOTION CARRIED

13. SITE PLAN REVIEW (SP 305-D) – Proposed South Parking Lot and North Drive Beaumont Hospital, South of South Blvd., West side of Dequindre Road, Section 1, C-F (Community Facility) and E-P (Environmental Protection) Districts

Mr. Savidant presented a summary of the Planning Department report on the proposed south parking lot and north drive for Beaumont Hospital. He noted that the petitioner did not include copies of the elevations or floor plans for the temporary loading dock and trailer for inclusion in the Planning Commission packet. Mr. Savidant reported it is the recommendation of City Management to approve the site

plan as submitted with the condition that an 8-foot wide sidewalk is provided along Dequindre Road.

There was discussion relating to easements to the property owned by the City of Detroit Water Department and the City of Troy's Flynn Park.

Craig McEwen, architect, and Mark Hieber, landscape architect, were present to represent Harley Ellis Devereaux. John Krolicki was present to represent Beaumont Hospital Troy.

Mr. Krolicki said a letter of intent signed by the Detroit Water and Sewage Department to execute the easement has been received. He indicated the easement for Flynn Park is being negotiated with the City's Parks and Recreation Director. Mr. Krolicki addressed the employee entrance off of South Boulevard with respect to a secured entrance.

Mr. Hieber addressed in detail the environmental aspect of the development.

Internal departmental review comments were addressed one-by-one with the petitioners.

Vice Chair Schultz addressed the size of the parking lot and the amount of asphalt. He said a reduction in the width of the parking space from the required 9.5 feet to 9.0 feet would lessen the expanse of asphalt and impervious surface and create more green space. Vice Chair Schultz asked if the petitioner would consider going before the Board of Zoning Appeals (BZA) to request a variance on the width of the parking spaces.

Mr. McEwen agreed to entertain the option for a BZA variance, but addressed the timeframe involved in the BZA approval process as relates to ongoing construction plans. He asked the members' consideration in granting site plan approval subject to their submission for a variance request.

It was understood that should a variance be granted by the BZA, the petitioners would be required to submit a revised site plan for review and approval by the Planning Commission. The petitioners were advised to work with the Building Department on various development aspects while seeking a BZA variance.

There was a brief discussion regarding the temporary status of the trailer and loading dock.

Vice Chair Schultz opened the floor for public comment.

Richard Hughes of 1321 Roger Court, Troy, was present. Mr. Hughes addressed the walking distance from the hospital's parking lot to various hospital departments and sustainable green design.

Paul Fleck of 2805 Ranieri Drive, Troy, was present. Mr. Fleck's home abuts the hospital property to the south. He indicated there have been numerous meetings between the hospital representatives and neighbors to the south. Mr. Fleck asked if an additional separation between the south side of the property line and the edge of the pavement could be provided, should the hospital be granted a variance.

Gerald Guirey of 2777 Ranieri Drive, Troy, was present. Mr. Guirey, vice president of the Ranieri Homeowners Association, was involved in reaching the agreement with Beaumont Hospital approximately five years ago. He indicated there are some modifications to the letter of agreement, but the spirit of the agreement has been maintained. Mr. Guirey said Beaumont has been very open and communicative.

Mr. Littman suggested that a copy of the executed letter of agreement between the neighbors and Beaumont be provided to the City.

The floor was closed.

Resolution # PC-2006-06-107

Moved by: Khan

Seconded by: Strat

RESOLVED, That Preliminary Site Plan Approval, as requested for the proposed South Parking Lot and North Drive Beaumont Hospital, located south of South Boulevard, on the west side of Dequindre, located in Section 1, on approximately 65.9 acres, within the C-F and E-P zoning districts, is hereby granted, subject to the following conditions:

1. Provide an 8-foot wide sidewalk along Dequindre Road, as per Section 39.70.03.
2. That the applicant will explore getting a variance on the width of the parking spaces from the Board of Zoning Appeals, and if it is approved they will bring in a new site plan for the parking lot back to this body for an amendment.

Yes: All present (8)

No: None

Absent: Wright

MOTION CARRIED

14. SITE PLAN REVIEW (SP 388-C) – TGI Friday’s Restaurant, Southeast Corner of Big Beaver and I-75 (585 W. Big Beaver), Section 28, Zoned O-S-C (Office Service Commercial) District

Mr. Savidant presented a summary of the Planning Department report on the proposed revised site plan for TGI Friday’s Restaurant, and reported it is the recommendation of City Management to approve the revised site plan as submitted.

Tim Germain, project engineer, Nowak & Fraus, 1310 N. Stephenson Hwy, Royal Oak, was present.

Resolution # PC-2006-06-108

Moved by: Waller
Seconded by: Kerwin

RESOLVED, That the Planning Commission hereby approves a reduction in the total number of required parking spaces to three hundred eighty three (383) when a total of four-hundred one (401) spaces are required on the site based on the off-street parking space requirements for restaurants and office uses, as per Article XL. This reduction meets the standards of Article 40.20.12 and will assist the Drury Inn and TGI Friday’s Restaurant in minimizing the amount of storm water runoff on the site.

BE IT FURTHER RESOLVED, That Preliminary Site Plan Approval, as requested for the Revised Site Plan for TGI Friday’s Restaurant Re-Build, located on the southeast corner of Big Beaver and I-75, located in Section 28, within the O-S-C zoning district, is hereby granted.

Yes: All present (8)
No: None
Absent: Wright

MOTION CARRIED

OTHER ITEMS

15. PUBLIC COMMENTS – Items on Current Agenda

There was no one present who wished to speak.

GOOD OF THE ORDER

Chair Strat announced a review of the June 1, 2006 Big Beaver Corridor presentation is on the June 21, 2006 Downtown Development Authority (DDA) agenda.

The Regular Meeting of the Planning Commission was adjourned at 10:18 p.m.

Respectfully submitted,

Robert Schultz, Vice Chair

Kathy L. Czarnecki, Recording Secretary

G:\Planning Commission Minutes\2006 PC Minutes\Draft\06-13-06 Regular Meeting_Draft.doc

A meeting of the Retiree Health Care Benefits Plan & Trust Board of Trustees was held on Wednesday, June 13, 2006, at Troy City Hall, 500 W. Big Beaver Rd., Troy, MI. The meeting was called to order at 1:41 p.m.

TRUSTEES PRESENT: Mark Calice
Thomas Houghton, Chair
Martin F. Howrylak
John M. Lamerato
William R. Need (Ex-Officio)
Steven A. Pallotta

ABSENT: Michael Geise

MINUTES

Resolution # RH – 2006 – 06 - 002

Moved by Lamerato
Seconded by Calice

RESOLVED, That the minutes of the March 8, 2006 meeting be approved.

Yeas: All 5
Absent: Geise

EXCUSE ABSENT MEMBER

Resolution # RH – 2006 – 06 - 003

Moved by Houghton
Seconded by Lamerato

RESOLVED, That Michael Geise be excused.

Yeas: All 5
Absent: Geise

The next meeting is September 13, 2006 at 1:00 p.m. at City Hall, Conference Room C, 500 W Big Beaver, Troy, MI.

The meeting adjourned at 1:48 p.m.

A. CALL TO ORDER

A regular meeting of the Troy Daze Advisory Committee was held Tuesday, June 27, 2006 at the Troy Community Center. Meeting was called to order at 7:30 pm.

B. ROLL CALL

Bob Berk	Kessie Kaltsounis
Cele Dilley	Connie Huang, Student Rep
Bill Hall	Kasey Wang, Student Rep
Jeff Stewart	Cheryl Whitton
City Staff:	Cindy Stewart
	Gerry Scherlinck
	Bob Matlick
	Jeff Biegler
Festival Chairman:	Tom Kaszubski
Others:	Jeff Winarski
	Bob Broquet
Absent:	Bob Preston, Marilyn Musick,
	Mike Gonda

Resolution #TD-2006-06-80
Motion to excuse absent members: Mike Gonda, Bob Preston, and Marilyn Musick by Kessie Kaltsounis, seconded by Bob Berk.

RESOLVED that Mike Gonda, Bob Preston and Marilyn Musick are excused from the June meeting.

Yeas: All
Nays: None
MOTION CARRIED

C. ADDITION/DELETIONS TO AGENDA

None

D. APPROVAL OF MINUTES

Resolution #TD-2006-06-81
Moved by Bill Hall

Seconded by Kessie Kaltsounis to approve the May 23, 2006 minutes with corrections.

- Page 1 – should be April advisory committee meeting minutes
- Page 3 - Attendance – per Lori Bluhm – sickness or a death in one’s family are also reasons to be excused from meetings.
- Page 5 – remove to name Musick after Kaltsounis under resolution #TD-2006-05-78
- Page 6 – at bottom of page – Jeff Winiarski donated & installed lights in the past.
- Page 8 - #9 – delete cash handling procedures.
- Page 8 - Cheryl Whitton did not say what usually fills the tent is dance groups. Larger acts empty the tent. (not sure who said it).
- Page 8 – Update on contracts – want large tent set up on the Friday before the festival and the rest of the tents set up on Monday.
- Page 9 – Portable lights – 7 last year – need 7 more for a total of 14.

RESOLVED that the minutes of the May 23, 2006 advisory committee meeting minutes are approved with corrections.

Yeas: All
Nays: None
MOTION CARRIED

E. TREASURER’S REPORT

Revenue \$182,608.76 (change transfer of \$10,000 from general fund)
Expenses \$142,142.11
May: \$200.00 Sick Pay
 \$114.96 Operating Supplies

Resolution #TD-2006-06-82
Moved by Bill Hall
Seconded by Bob Berk to accept the Treasurer’s Report of May 31, 2006.

RESOLVED that the Treasurer’s Report of May 31, 2006 is approved.
Yeas: All
Nays: None
MOTION CARRIED

F. NEW BUSINESS

1. Appointment of Troy Daze Festival Activity Chairpersons – Tom Kaszubski stated that the committee has been lax in appointing all chairpersons.

Resolution #TD-2006-06-82 – to approve the appointment of the following Festival Activity Chairpersons:

Bob Berk	Chair – Contracted Services
Bob Preston	Chair – Event Coordinator
Doris Schuchter	Co-Chair – Event Coordinator
Doris Schuchter	Co-Chair – Demographics
Mike Gonda	Chief of Operations
Bob Bishop	Co-Chair
Danielle Cheli	Chair – Little Miss Troy
Charles Craft	Co-Chair – Entertainment (Main Stage)
Scott Dilley	Co-Chair – Booths
Reuben Ellis	Co-Chair – Entertainment (Outdoor Stage)
Cheryl Gonda	Co-Chair – Information Booth
Dan O'Brien	Co-Chair – Opening Ceremonies Co-Chair – Naturalization Ceremonies
Jamie Jantz	Co-Chair – Talent Shows
Allison Miller	Chair – Outdoor Decorations
Karen Hattan	Co-Chair – Outdoor Decorations

Resolution Moved by Kessie Kaltsounis
Seconded by Cheryl Whitton to approve the appointment of Festival Activity Chairpersons.

RESOLVED that the Festival Activity Chairpersons are appointed.

Yeas: All

Nays: None

MOTION CARRIED

2. Event/Activity Chairpersons Update

Classic Car Show – Scott Wharff resigned due to losing tennis courts (per Parks & Rec because courts are being resurfaced). Scott cannot see putting the show anywhere that is not contained.

Mr. Troy – Nothing to report.

Shuttles – Nothing to report.

Sponsorships – The following sponsors are back: HFH, Beaumont, Tringali, WOW, MSG Credit Union, National City Bank, International Transmission, President Tuxedo, Comcast. Checks received for the majority with a few outstanding.

Naturalization Ceremony – Judges are lined up.

Miss Troy – Need Contestants.

Outdoor Stage – Shirley is booking entertainment. There are 22 acts to date. The newest group she would like approval for is the national award-winning Shimmy Shakers, a Middle Eastern dance group to perform on Saturday afternoon.

Resolution: TD–2006–06–84

Resolution moved by Bill Hall; seconded by Kessie Kaltsounis.
to approve to approve the Shimmy Shakers as entertainment for the outdoor stage.

RESOLVED that the Shimmy Shakers are approved as entertainment for the Outdoor Stage.

Yeas: All

Nays: None

MOTION CARRIED

Entertainment – Almost all booked. There is one opening Sunday morning. Dance group will probably be booked in that time slot.

Special Needs Kids – Thursday morning (Friday is the raindate). Buscemi's will do food (Bill Hall to get chips on Wednesday). Roscoe the Clown is booked 10 am – 1 pm. Other entertainment (band) needs to be booked.

Special Needs Adults – Thursday evening Buscemi's will donate the pizza. Donation received: \$200 from Garry Carley. A portion (\$175) from check request for the Amazing Clark should be charged to special needs adults.

P.A. Announcements – Tom Kaszubski will give the Student Reps a schedule so they will know how many student volunteers they need. Block out time when there will be no announcements like during the Opening Ceremony and Naturalization Ceremony.

Talent Shows – No one signed up yet.

Youth/Parent Games – all set

EthniCity – China and Philippines are in. Poster Contest all set.

Volunteers – Sandy is meeting with student groups.

Opening Ceremonies – Dan O'Brien might be the emcee.

Booths – Currently - 31 under tent, 3 outside and 10 food booths.

Several food vendors are not coming back – room for new ones.

Senior Sensation – Cele Dilley is chairing; she needs a co-chair. Beaumont is sponsoring at the \$1500 level to cover breakfast to be catered by Faulkner

Catering out of Port Huron.

Schedule for the event:

9 – 10 am

Pancake Breakfast

10 – 11:30 am

Bingo

9 am–12:30 pm

Health Fair

Resolution #TD-2006-06-85

Moved by Bill Hall

Seconded by Kessie Kaltsounis to approve Senior Sensation schedule.

RESOLVED that the Senior Sensation schedule with breakfast sponsored by Beaumont Hospital is approved.

Yeas: All

Nays: None

MOTION CARRIED

Cele Dilley wanted to know if lottery tickets could be prizes for Senior Sensation bingo. Gerry Scherlinck will check with Lori Bluhm on the matter.

G. OLD BUSINESS

1. Festival Manual

- a. New Event Proposal Procedure – The following is proposed for the Operations Manual

Any new event that is proposed shall be presented to the Troy Daze Advisory Committee in writing. These proposals need to include all pertinent information and costs associated with the event. The Advisory Committee will then vote whether to include the event in the Troy Daze Festival.

b. Bid Procedures – The following is proposed for the Operations Manual

Request for Proposals (RFP's) will be required for any change in vendors or any proposed new events or items.

Before RFP's are solicited, they must be presented to the Board for determination to proceed. The proposal shall include the following:

- *Request for Proposal must be developed*
- *All specifications*
- *List of vendors that will be contracted*

Reasons for voiding existing or multi-year purchase orders must be Submitted to the Board in writing.

- *Reasons for voiding purchase orders include but are not limited to no-show, non-performance, not meeting specified contract, negligence, gross misconduct, etc.*

The Board, through its chairperson, is the only authority authorized to submit an RFP to the City of Troy for processing.

c. Add Cash Handling Procedures to the Operations Manual

CASH HANDLING PROCEDURES FOR TROY DAZE

OPENING ACTIVITY

- *Verify the dollar amount of beginning cash by counting the cash*
- *Arrange coin and currency in a consistent manner*

RECEIVING CITY FUNDS

- *All checks for city-related activities, goods and services are to be made payable to the City of Troy. The Community Foundation of Troy can still accept funds for Troy Daze and issue a check made payable to the City of Troy.*
- *Checks are to be processed as they are received. Post-dated and second party checks are not accepted.*
- *A separate account will be established by the City of Troy to deposit checks for the next fiscal year. Checks and monies are to be turned into the Treasurers office or through direct bank deposits the weekend of the festival.*
- *Funds shall be kept in a secure or safe location.*

CLOSING ACTIVITY

- *At the end of each day, all city money received shall be counted and balanced and verified by a second (non-related) person.*

- *Prepare the daily deposit*
- *Include a copy of the Troy Daze Deposit sheet or adding machine tape*
- *Keep a copy of the deposit slip with backup material*

NIGHT DEPOSIT TO BANK

- *Checks, currency, and coin should be accompanied with an adding machine tape separately identifying each. Make sure the order of the checks on the tape and the order of the checks are the same.*
- *The deposit should contain the deposit slip identifying Troy Daze and the form, which identifies the Committee members who are making the deposit.*
- *Checks, currency, coin and deposit slip should be placed in the bank deposit bag and locked.*
- *Make a copy of the deposit slip and submit to Treasurer's Office next business day.*
- *Police escort shall be provided to the City's designated banking facility night depository.*
- *City funds are not to be taken off-site other than to transport to the bank or City of Troy's Treasurer's Office, except for the following:*
 - Start up cash for the following morning*
 - Trips to bank during the day for additional change*

SECURING THE CASH HANDLING AREA

- *The cash handling area should be adequately lit and free of clutter*
- *Balancing procedures should be performed away from public view*
- *Doors to the cash handling area shall be marked restricted access and if possible, locked.*
- *Cash shall never be left unattended or if you must leave area, lock all currency and coin in a safe or designated secure location.*

d. Operations Manual - Changes

Page 3 - Duties of Ex Officio Committee Members

3rd bullet – *In the event of a tie in voting of the Advisory Committee, the Festival Chairperson shall have the authority to break the tie.*

Lori Bluhm reported that this cannot be included in the Operations Manual. Ex Officio member cannot have this authority.

Page 3 - Administrative Procedures – change to Budget shall be developed prior to and submitted during the regular November meeting and voted on in December.

Page 8 - Payment for Goods & Services – Change Committee Chairperson to Treasurer in two places.

Page 8 – Petty Cash: Limit \$10? Jeff Biegler will check on this.

Page 8 – Funds Generated by Festival – change Money generated prior to the actual Festival will be turned in to the Parks & Rec Department on a weekly basis to:

Money generated prior to the actual Festival will be turned in to the Treasurer's Dept. as received.

Lori Bluhm will get other changes to Marilyn Musick. Item tabled to July.

2. Demographics –

Resolution #TD 2006-06-86

Moved by Cheryl Whitton

Seconded by Jeff Stewart that a demographics survey will be done.

RESOLVED that a demographics survey will be done at the 2006 Troy Daze festival.

Yeas: All

Nays: None

MOTION CARRIED

3. Update on Contracts

Pony Rides – contacted by an alternate vendor. Bob asked them for a proposal. Nothing received as of yet. Wilson will be used.

Fireworks – Mad Bomber is the vendor. Letter to Council for the July 10, 2006 meeting.

Shirt Order – Jade is the color for golf shirts and kiwi green is the t-shirt color for volunteers.

Electrical - Jeff Winiarski gave out a list of all his equipment.

Jeff Biegler reported that an added expense will be a truck to pull the Festival trailer. DPW cannot do this anymore.

Stage & Sound Contracts –

Stage – same size as 2005.

Get a price for handicapped access.

Add 8' x 8' x 12" platform for Ethnicity Tent

Lighting for Stage – Be sure there are no lights included with stage quote. Jeff Winiarski provides these.

Sound –

Advanced Lighting & Sound - \$3,100 with lights and \$2,800 without lights
City Animation – \$14,897 with lights and \$9,104 without lights.
Both include labor for the festival.

Outdoor Stage: \$750 (equipment & labor for weekend)

Question about the park system (P.A. System) & Fireworks – 4 speakers with generators needed for announcements on Sunday evening.

Advanced Lighting & Sound can provide all of that for an additional \$1,000.

There is also a concern from the City that insurance be provided. In the JDE system for the City's accounting it states that Bob Broquet does not need insurance. He drops the equipment off and does not provide labor, At the May Troy Daze meeting he stated that he is one site at the festival from Monday through Sunday. Risk Manager Steve Cooperrider said Bob Broquet must provide insurance – including general liability, auto liability, and workers comp.

Bill Hall: Do the bands have prices using their own sound equipment or ours?

Jeff Stewart: They gave me prices using a higher quality sound system that we would provide. If they have to bring their own it will be higher. I can find out if it is considerably higher. Set-up will take longer if they have to set their up.

Bob Broquet: How many bands need this better sound system?

Jeff Stewart: Our quality of entertainment went up this year. Before I booked the bands, I specified what was needed when we spoke. You told me that you cannot offer what they need.

Cele Dilley: We cannot go over \$4,000. My main concern is the budget. A reduction in hours will lower our revenue. \$4,000 was the cost of sound.

Tom Kaszubski: Why hasn't the Board received the quotes before now?

Jeff Biegler: We just got the two this week.

Tom Kaszubski: I only have a sound equipment list from Bob Broquet. I am not sure after 38 years, that Bob Broquet needs insurance. This whole festival is becoming a pain.

Cele: Need written quote from the other companies on everything Bob Broquet provides.

Cheryl Whitton: What about Thursday (Special Needs events) and Friday (Seniors)? Will the other companies provide for them?

Bob Broquet: I am here everyday Monday through Sunday.

Kessie Kaltsounis: I am not comfortable getting a new person with all the changes that have occurred with the Festival. They won't know what's going on. I am very comfortable staying status quo with the same people.

Cheryl Whitton, Cele Dilley and Bill Hall all agree with Kessie Kaltsounis.

It was decided to investigate how much more money it will cost to have all bands bring in their own sound equipment.

Bob Broquet: As long as he volunteers his time, he was assured that he does not need insurance. He does not run the Outdoor Stage or the P.A. announcements.

Tents – A formal bid needs to get out as soon as possible. New this year was the flooring for the Little Miss Troy Pageant dressing room. Jeff Biegler said we might have to get this from another vendor.

Add another tent for the Waffle Breakfast.

Golf Carts – Same

Port-a-Johns – Same

Headquarters – configured differently.

Portable Lights/Generators – Same

Electronic Message Boards – Require electricity so would need a small generator or electrical outlet. There are no outlets on Crooks Road. Lights are not allowed to flash. Must be constantly on.

Cost is \$125 for 7 days per light board
4' x 8' – 4 lines with 17 letters per line

Tables/Chairs – Same.

Lawn Signs – Double quantity.

Fireworks – Goes before Council on 7/10/06.

Helium – Order 6 tanks.

Dust at entrance to Boulan Park. Any way to keep this to a minimum?

Light Towers – Increased from 7 to 14. Will double the price.
Fuel costs will also double. Cost comes out of “Contracted Services.”

Electrical – Jeff Winiarski has not billed for Miss Troy, Waffle Breakfast, and Magic Cauldron. Jeff Biegler will work with Jeff Winiarski regarding his electrical quote.

Sound – Bob Broquet will call the City’s Risk Manager and check on insurance. Jeff Stewart will check on entertainers and their sound needs.

The City would like to see Bob Broquet’s list for sound equipment that he has provided in the past. Troy Daze Advisory Committee wants lighting and sound quoted separately. All three companies will quote on both.

I. PUBLIC COMMENT
None

J. MEMBER COMMENT
None

MOTION TO ADJOURN

Resolution #TD-2006-06-87

Moved by Cheryl Whitton

Seconded by Kessie Kaltsounis

RESOLVED that the Troy Daze Advisory Committee Meeting be adjourned at 9:08 pm.

Yeas: All

Nays: None

MOTION CARRIED

Cele Dilley, Chairperson

Cindy Stewart, Recording Secretary

CITY OF TROY
MONTHLY FINANCIAL REPORT
31-May-06

CITY OF TROY
 Monthly Financial Report
 General Fund
 For the Period Ending May 31, 2006

CITY OF TROY GENERAL FUND

Description	Last Year Actual	2005-06 Budget	Current Month	Year To Date	%
GENERAL FUND REVENUES					
TAXES	32,300,413	34,351,690	575,398-	34,340,177	99.97
BUSINESS LICENSES & PERMITS	40,294	38,000	2,331	40,310	106.08
NON-BUS. LICENSES & PERMITS	1,567,149	1,974,500	149,542	1,434,202	72.64
FEDERAL GRANTS	126,091	32,320	769	13,525	41.85
STATE AGENCIES	7,072,396	6,658,000	1,023,684	4,726,937	71.00
CONTRIBUTIONS-LOCAL	165,154	135,000	769-	60,996	45.18
CHARGES FOR SERVICES - FEES	1,338,922	1,203,000	116,448	931,011	77.39
CHARGES FOR SERVICES - REND.	1,549,128	1,616,000	64,891	1,097,653	67.92
CHARGES FOR SERVICES - SALES	137,888	140,000	13,366	133,629	95.45
CHARGES FOR SERVICES - REC	3,377,440	3,010,200	315,838	3,255,629	108.15
FINES & FORFEITS	973,526	995,000	79,121	893,062	89.75
INTEREST AND RENTS	1,350,075	1,110,300	322,922	1,392,798	125.44
OTHER REVENUE	1,755,220	479,780	120,702	490,699	102.28
OTHER FINANCING SOURCES	7,508,876	8,333,200	1,758,160	7,005,420	84.07
TOTAL GENERAL FUND REVENUE	59,262,572	60,076,990	3,391,607	55,816,048	92.91
EXPENDITURES					
LEGISLATIVE	1,980,389	2,077,060	151,470	1,571,450	75.66
FINANCE	4,419,523	4,706,650	363,619	3,977,923	84.52
OTHER GEN GOVERNMENT	2,578,758	2,638,720	184,559	2,198,316	83.31
POLICE	21,192,309	22,618,610	1,711,555	19,266,340	85.18
FIRE	4,071,775	4,092,750	370,031	3,609,816	88.20
BUILDING INSPECTION	1,938,958	2,105,420	164,432	1,749,500	83.10
STREETS	5,074,869	5,303,780	404,655	4,096,690	77.24
ENGINEERING	2,780,647	2,996,560	226,321	2,404,679	80.25
RECREATION	8,331,857	8,454,160	701,727	7,221,498	85.42
LIBRARY	4,758,581	4,973,280	369,616	4,044,616	81.33
TRANSFERS OUT	10,000	110,000	110,000	110,000	100.00
TOTAL GEN FUND EXPENDITURES	57,137,666	60,076,990	4,757,985	50,250,828	83.64

CITY OF TROY
 Monthly Financial Report
 Refuse Fund
 For the Period Ending May 31, 2006

REFUSE FUND

Description	Last Year Actual	2005-06 Budget	Current Month	Year To Date	%
REVENUES					
TAXES	4,010,718	4,108,500	73,246-	4,120,154	100.28
CHARGES FOR SERVICES - REND.	0	0	0	43,378	.00
CHARGES FOR SERVICES - SALES	1,410	1,500	144	1,267	84.47
INTEREST AND RENTS	74,280	70,000	10,367	120,681	172.40
OTHER FINANCING SOURCES	0	345,650	0	0	.00
TOTAL REVENUE	4,086,408	4,525,650	62,735-	4,285,480	94.69
EXPENDITURES					
CONTRACTORS SERVICE	4,268,532	4,355,000	344,891	3,478,343	79.87
OTHER REFUSE EXPENSE	36,672	52,180	9,189	45,262	86.74
RECYCLING	127,637	118,470	7,990	89,043	75.16
TOTAL EXPENDITURES	4,432,841	4,525,650	362,070	3,612,648	79.83

CITY OF TROY
 Monthly Financial Report
 Capital Fund
 For the Period Ending May 31, 2006

CAPITAL FUND

Description	Last Year Actual	2005-06 Budget	Current Month	Year To Date	%
REVENUES					
TAXES	9,036,196	8,019,000	142,963-	8,041,747	100.28
FEDERAL GRANTS	20,550	305,000	500	420,994	138.03
STATE AGENCIES	3,498,065	1,621,000	0	330,260	20.37
CHARGES FOR SERVICES - REND.	178,301	167,000	8	238,006	142.52
INTEREST AND RENTS	700,855	400,000	96,435	922,824	230.71
OTHER REVENUE	88,073	800,000	22,655	906,698	113.34
OTHER FINANCING SOURCES	2,150,000	21,274,320	1,479,333	2,917,330	13.71
TOTAL REVENUE	15,672,040	32,586,320	1,455,968	13,777,859	42.28
EXPENDITURES					
FINANCE	32,516	144,340	0	62,688	43.43
OTHER GEN GOVERNMENT	3,524,419	5,230,810	841,789	4,550,808	87.00
POLICE	318,080	586,680	0	105,271	17.94
FIRE	86,267	839,230	3,513	860,465	102.53
BUILDING INSPECTION	2,088	20,000	0	1,891	9.46
STREETS	9,539,256	16,436,740	1,522,563	7,139,427	43.44
ENGINEERING	8,331	0	0	0	.00
RECREATION	2,630,558	4,990,940	307,311	4,434,743	88.86
LIBRARY	232,529	47,620	0	128,715	270.30
MUSEUM	246,984	624,370	6,609	247,967	39.71
STORM DRAINS & RET PONDS	1,086,501	2,797,750	266,500	1,209,120	43.22
INFORMATION TECHNOLOGY	75,763	867,840	0	0	.00
TOTAL EXPENDITURES	17,783,292	32,586,320	2,948,285	18,741,095	57.51

CITY OF TROY
 Monthly Financial Report
 Sanctuary Lake Golf Course
 For the Period Ending May 31, 2006

SANCTUARY LK GOLF COURSE FUND

Description	Last Year Actual	2005-06 Budget	Current Month	Year To Date	%
REVENUES					
CHARGES FOR SERVICES - SALES	30,674	42,000	4,836	24,813	59.08
CHARGES FOR SERVICES - REC	931,301	1,901,380	146,489	934,427	49.14
INTEREST AND RENTS	457	22,000	8,246	9,350	42.50
OTHER REVENUE	31-	0	64-	832	.00
OTHER FINANCING SOURCES	0	0	0	0	.00
TOTAL REVENUE	962,401	1,965,380	159,507	969,422	49.32
EXPENDITURES					
SANCTUARY LAKE GREENS	974,918	832,730	99,862	683,990	82.14
SANCTUARY LAKE PRO SHOP	773,060	1,104,210	61,810	539,539	48.86
SANCTUARY LAKE CAPITAL	2,420	0	0	4,606	.00
TOTAL EXPENDITURES	1,750,398	1,936,940	161,672	1,228,135	63.41

CITY OF TROY
 Monthly Financial Report
 Golf Course
 For the Period Ending May 31, 2006

SYLVAN GLEN GOLF COURSE FUND

Description	Last Year Actual	2005-06 Budget	Current Month	Year To Date	%
REVENUES					
CHARGES FOR SERVICES - SALES	36,425	41,000	2,370	22,323	54.45
CHARGES FOR SERVICES - REC	1,067,896	1,133,370	87,782	744,744	65.71
INTEREST AND RENTS	145,742	173,000	15,230	212,608	122.89
OTHER REVENUE	377-	0	256-	323-	.00
OTHER FINANCING SOURCES	0	206,770	0	0	.00
TOTAL REVENUE	1,249,686	1,554,140	105,126	979,352	63.02
EXPENDITURES					
SYLVAN GLEN GREENS	747,474	822,320	69,422	655,408	79.70
SYLVAN GLEN PRO SHOP	317,853	326,050	41,389	300,080	92.03
SYLVAN GLEN CAPITAL	43,238	405,770	85,572	346,918	85.50
TOTAL EXPENDITURES	1,108,565	1,554,140	196,383	1,302,406	83.80

CITY OF TROY
 Monthly Financial Report
 Aquatic Center
 For the Period Ending May 31, 2006

AQUATIC CENTER FUND

Description	Last Year Actual	2005-06 Budget	Current Month	Year To Date	%
REVENUES					
CHARGES FOR SERVICES - REC	415,224	428,000	116,041	307,932	71.95
INTEREST AND RENTS	22,793	27,300	6	20,852	76.38
OTHER REVENUE	36-	0	1	2	.00
TOTAL REVENUE	437,981	455,300	116,048	328,786	72.21
EXPENDITURES					
AQUATIC CENTER	560,211	596,100	45,584	472,482	79.26
CAPITAL	0	15,000	0	9,845	65.63
TOTAL EXPENDITURES	560,211	611,100	45,584	482,327	78.93

CITY OF TROY
 Monthly Financial Report
 Sewer Fund
 For the Period Ending May 31, 2006

SEWER FUND

Description	Last Year Actual	2005-06 Budget	Current Month	Year To Date	%
REVENUES					
CHARGES FOR SERVICES - FEES	202,747	200,000	21,637	145,422	72.71
CHARGES FOR SERVICES - REND	9,420,758	9,695,000	569,164	7,020,690	72.42
INTEREST AND RENTS	481,995	310,000	108,038	756,645	244.08
OTHER REVENUE	359,038	0	0	0	.00
TOTAL REVENUE	10,464,538	10,205,000	698,839	7,922,757	77.64
EXPENDITURES					
ADMINISTRATION	8,378,129	8,108,990	501,697	7,654,269	94.39
MAINTENANCE	1,433,241	1,445,700	263,830	1,285,513	88.92
CAPITAL	0	4,835,000	3,295-	41,510	.86
TOTAL EXPENDITURES	9,811,370	14,389,690	762,232	8,981,292	62.41

CITY OF TROY
 Monthly Financial Report
 Water Fund
 For the Period Ending May 31, 2006

WATER FUND

Description	Last Year Actual	2005-06 Budget	Current Month	Year To Date	%
REVENUES					
CHARGES FOR SERVICES - FEES	1,086,665	995,000	108,266	838,439	84.27
CHARGES FOR SERVICES - SALES	12,337,081	14,171,000	820,183	10,471,723	73.90
INTEREST AND RENTS	508,320	350,000	51,571	610,345	174.38
OTHER REVENUE	266,765	0	0	14,226	.00
TOTAL REVENUE	14,198,831	15,516,000	980,020	11,934,733	76.92
EXPENDITURES					
ADMINISTRATION	11,420,270	11,233,860	718,382	9,270,316	82.52
TRANS AND DISTRIBUTION	158,767	200,090	41,133	250,978	125.43
CUSTOMER INSTALLATION	66,356	114,830	4,181	62,703	54.61
CONTRACTORS SERVICE	166,181	228,240	18,955	140,150	61.40
MAIN TESTING	44,667	195,040	10,474	40,552	20.79
MAINTENANCE OF MAINS	293,214	353,770	24,810	253,710	71.72
MAINTENANCE OF SERVICES	188,039	210,060	34,126	176,125	83.85
MAINTENANCE OF METERS	285,835	233,650	21,785	308,502	132.04
MAINTENANCE OF HYDRANTS	228,767	336,580	19,048	192,667	57.24
METERS AND TAP-INS	245,045	347,270	30,048	246,209	70.90
WATER METER READING	105,362	93,000	13,933	100,765	108.35
ACCOUNTING AND COLLECTING	74,125	77,900	9,241	54,247	69.64
CAPITAL	28,835	4,090,000	97,918	2,127,066	52.01
TOTAL EXPENDITURES	13,305,463	17,714,290	1,044,034	13,223,990	74.65

CITY OF TROY
 Monthly Financial Report
 Motor Pool
 For the Period Ending May 31, 2006

MOTOR POOL FUND

Description	Last Year Actual	2005-06 Budget	Current Month	Year To Date	%
REVENUES					
CHARGES FOR SERVICES - REND	0	5,000	0	941	18.82
INTEREST AND RENTS	3,693,243	3,669,300	317,358	3,379,691	92.11
OTHER REVENUE	302,329	394,000	35,346	460,665	116.92
OTHER FINANCING SOURCES	0	2,110,570	0	0	.00
TOTAL REVENUE	3,995,572	6,178,870	352,704	3,841,297	62.17
EXPENDITURES					
ADMINISTRATION	495,493	536,530	50,440	468,568	87.33
OPERATION AND MAINTENANCE	2,912,203	3,133,410	292,649	2,789,066	89.01
DPW FACILITY MAINTENANCE	327,461	389,640	14,171	280,706	72.04
CAPITAL	28,965	2,119,290	57,224	77,392	3.65
TOTAL EXPENDITURES	3,764,122	6,178,870	414,484	3,615,732	58.52

Fund	Mat Yr.	Mat Mo.	Mat Day	Type	Loc	Pur Yr.	Pur Mo.	Pur Day	Rate	Name	Face	Accrue 6/30	Book
112	2006	6	1	7	FITB	2006	2	10	4.650	CD	2,030,983		2,030,983.33
	2006	6	1	7	HUNT BANK	2006	2	23	4.790	CD	2,042,513		2,042,513.01
	2006	6	1	9	ML	2006	3	9	4.350	TBILL	2,293,000		2,269,351.53
	2006	6	5	7	PRIV BANK	2006	5	5	4.950	CD	500,000		500,000.00
	2006	6	8	7	CITIZENS	2006	2	10	4.750	CD	2,030,983		2,030,983.33
	2006	6	8	7	FITB	2006	3	16	4.730	CD	1,035,906		1,035,906.16
	2006	6	8	9	ML	2006	3	16	4.570	TBILL	2,656,000		2,628,347.51
	2006	6	8	7	FITB	2006	3	30	4.820	CD	1,143,129		1,143,128.89
	2006	6	15	7	FITB	2006	3	16	4.820	CD	2,041,688		2,041,687.51
	2006	6	15	7	REPUBLIC	2006	3	23	4.600	CD	2,122,687		2,122,686.45
	2006	6	15	7	FLAGSTAR	2006	3	23	4.960	CD	1,045,958		1,045,958.26
	2006	6	15	9	ML	2006	3	23	4.660	TBILL	3,890,000		3,848,655.80
	2006	6	22	7	FLAGSTAR	2006	3	16	5.020	CD	2,056,057		2,056,056.66
	2006	6	29	7	FLAGSTAR	2006	3	16	5.020	CD	2,100,184		2,100,183.55
	2006	6	29	9	ML	2006	4	6	4.650	TBILL	3,140,000		3,106,736.94
	2006	6	29	7	HUNT BANK	2006	4	13	5.040	CD	1,027,940		1,027,939.53
	2006	6	30	8	FITB	2003	2	27	4.500	MAX SAVER	6,772,328		6,772,327.96
	2006	6	30	8	FITB	2003	5	19	5.000	FHLMC95237	1,000,000		577,335.11
	2006	6	30	8	FITB	2003	7	30	3.600	FHR03 2640	900,000		465,336.06
	2006	6	30	8	FITB	2004	1	1	4.000	MM	581,164		581,164.26
	2006	6	30	8	FITB	2004	1	30	4.250	FHR 2537LA	2,000,000		176,152.25
	2006	6	30	8	FITB	2004	1	30	4.000	FHR 2535LK	3,500,000		1,548,824.40
	2006	6	30	8	FITB	2004	7	26	1.200	FNR03 24GA	550,000		111,826.31
	2006	6	30	8	HUNT BANK	2004	8	27	4.500	MM	546,549		546,548.51
	2006	6	30	8	FITB	2004	10	7	2.250	FHR 2625QX	800,125		447,050.26
	2006	6	30	8	FITB	2004	10	8	3.000	FHR 2564CN	1,841,000		1,377,406.79
	2006	6	30	8	FITB	2004	10	12	4.000	FHR 2617BG	3,730,000		2,723,170.26
	2006	6	30	8	FITB	2004	11	16	3.500	FHLM 2586	500,000		230,631.71
	2006	6	30	8	FITB	2005	1	11	4.000	FNMA 42	1,700,000		1,498,908.91
	2006	6	30	8	FITB	2005	8	26	2.500	31	1,500,000		1,393,964.20
	2006	6	30	8	FITB	2005	8	30	4.000	2545	615,000		437,061.45
	2006	6	30	8	MBIA	2005	11	18	4.600	MBIA	1,014,844		1,014,843.57
	2006	6	30	7	REPUBLIC	2006	4	27	4.850	CD	2,053,174		2,053,173.99
	2006	6	30	7	CITIZENS	2006	5	4	4.690	MMIA	1,048,068		1,048,068.47
	2006	7	6	7	CITIZENS	2006	4	6	4.950	CD	2,047,304	24,209.00	2,047,303.95
	2006	7	6	7	FLAGSTAR	2006	4	13	5.080	CD	2,139,361	23,547.42	2,139,360.60
	2006	7	6	7	TCF BANK	2006	4	20	5.050	CD	2,062,919	20,545.98	2,062,918.99
	2006	7	13	7	TCF BANK	2006	4	13	5.050	CD	2,051,523	22,446.84	2,051,522.96
	2006	7	13	7	LA SALLE	2006	4	20	4.780	CD	2,905,515	27,362.00	2,905,515.41
	2006	7	14	7	FLAGSTAR	2006	5	15	5.220	CD	2,375,271	15,842.86	2,375,271.48
	2006	7	20	7	TCF BANK	2006	5	4	5.150	CD	2,055,359	16,759.71	2,055,358.54
	2006	7	20	9	ML	2006	5	4	4.730	TBILL	2,651,000	19,413.05	2,624,775.35
	2006	7	20	7	HUNT BANK	2006	5	11	5.140	CD	2,059,500	14,702.50	2,059,500.49
	2006	7	25	8	NATL CITY	2006	3	29	4.000	FHLM	1,063,000		1,046,972.32
	2006	7	27	7	FLAGSTAR	2006	5	4	5.190	CD	1,049,626	8,625.24	1,049,626.30
	2006	7	27	9	ML	2006	5	11	4.770	TBILL	2,376,000	15,384.00	2,352,307.72
	2006	7	27	7	HUNT BANK	2006	5	18	5.140	CD	1,093,215	6,711.00	1,093,214.54

7 = 'CD 8 = Paper 9 = T-Bills

Fund	Mat Yr.	Mat Mo.	Mat Day	Type	Loc	Pur Yr.	Pur Mo.	Pur Day	Rate	Name	Face	Accrue 6/30	Book
112	2006	8	1	8	NAT CITY	2006	3	31	4.750	FHLM	1,016,000	11,942.23	999,858.30
	2006	8	3	7	CITIZENS	2006	5	4	5.050	CD	2,067,557	16,821.74	2,067,556.50
	2006	8	3	9	ML	2006	5	11	4.790	TBILL	2,129,000	13,823.00	2,105,776.17
	2006	8	10	7	PRIVATE	2006	5	12	5.050	CD	502,042	3,451.00	502,041.67
	2006	8	10	9	ML	2006	5	12	4.770	TBILL	2,230,000	14,129.21	2,204,048.38
	2006	8	10	7	FITB	2006	5	18	5.030	CD	2,072,649	12,452.00	2,072,648.57
	2006	8	10	7	CITIZENS	2006	5	25	5.100	CD	1,032,241	5,264.00	1,032,241.22
	2006	8	10	7	PRIV BANK	2006	5	25	5.050	CD	510,668	2,579.00	510,667.84
	2006	8	17	7	HUNT BANK	2006	5	18	5.190	CD	2,158,440	13,380.00	2,158,440.37
	2006	8	17	7	FLAGSTAR	2006	5	25	5.250	CD	2,059,828	10,814.00	2,059,827.50
	2006	8	17	9	ML	2006	5	25	4.770	TBILL	2,272,000	10,576.16	2,247,322.29
	2006	8	24	7	FLAGSTAR	2006	5	25	5.310	CD	2,123,821	11,277.00	2,123,820.55
	2006	8	31	7	HUNT BANK	2006	5	25	5.220	CD	2,060,061	10,754.00	2,060,061.28
	2006	11	15	8	FITB	2005	7	27	4.500	FHLM 2687	2,350,000		2,346,000.00
	2006	11	15	8	FITB	2005	11	30	5.000	2802	2,250,000		911,190.93
	2006	12	15	8	FITB	2005	5	25	5.000	FHLM 2808	1,200,000		317,682.35
	2006	12	30	8	FITB	2004	3	25	4.500	FHR 2669DT	700,000		641,694.10
	2007	3	16	8	FITB	2005	2	9	3.550	FHLB 3133	1,000,000		975,250.00
	2007	6	30	8	FITB	2005	9	29	4.500	FHLM 2618	775,000		775,000.00
	2007	6	30	8	FITB	2006	1	30	4.500	FHLM 2557	1,000,000		997,031.25
	2007	6	30	8	FITB	2006	3	13	5.500	FNMA 71	223,000		191,794.62
	2007	6	30	8	FITB	2006	4	17	4.500	2003-10	622,000		592,145.79
										TOTAL		352,812.94	109,790,661.26
591	2006	6	2	7	REPUBLIC	2006	4	3	4.650	CD	145,644		145,643.82
	2006	6	2	7	HUNT BANK	2006	4	3	4.920	CD	159,060		159,060.13
	2006	6	30	7	COMERICA	1997	7	1	4.620	GOV'T POOL	1,938,603		1,938,603.88
	2006	6	30	8	FITB	2004	2	2	3.750	FNRO3 24MN	1,015,000		369,634.81
	2006	6	30	8	FITB	2005	8	31	1.000	MM	167,235		167,235.48
	2006	6	30	8	FITB	2005	9	29	4.500	FHLM 2618	325,000		325,000.00
	2006	7	11	8	NATL CITY	2006	3	7	4.719	FHLM	1,500,000		1,476,007.50
	2006	7	20	7	LA SALLE	2006	4	20	4.850	CD	2,827,352	27,044.61	2,827,352.30
	2006	7	31	8	FITB	2006	2	25	3.500	FHLM 2786	165,000		138,377.23
	2006	11	15	8	FITB	2005	8	26	4.500	FHLM 2687	1,000,000		995,000.00
	2007	6	30	8	FITB	2006	3	3	5.000	FHLM 2561	125,000		115,508.62
	2007	6	30	8	FITB	2006	4	11	3.950	FNMA 3135	1,000,000		980,833.33
	2007	6	30	8	FITB	2006	5	25	4.000	GNMA 20	170,000		168,610.30
										TOTAL		27,044.61	9,806,867.40
688	2006	6	30	7	BANK ONE	1997	7	1	4.540	GOV'T POOL	1,370,558		1,370,558.13
										TOTAL			1,370,558.13
										TOTAL	379,857.55		120,968,086.79

7 = CD 8 = Paper 9 = T-Bills

CITY COUNCIL EXPENSE REPORT
Month of June, 2006

<u>Council Person</u>	<u>Expense Date</u>	<u>Purpose</u>	<u>Amount</u>	<u>Totals</u>
Beltramini, Robin	6/14/2006	Quarterly Fax & DSL Line July - Sept 2006	\$ 123.72	
				\$ 123.72
Broomfield, Cristina	6/14/2006	Quarterly Fax & DSL Line July - Sept 2006	\$ 194.85	
				\$ 194.85
Wade Fleming	6/14/2006	Quarterly Fax & DSL Line July - Sept 2006	\$ 215.70	
				\$ 215.70
Howrylak, Martin F.			\$ -	
				\$ 215.70
Lambert, David	6/14/2006	Quarterly Fax & DSL Line July - Sept 2006	\$ 182.92	
				\$ 182.92
Schilling, Louise E.	6/14/2006	Quarterly DSL Line July - Sept 2006	\$ 117.90	
				\$ 117.90
Stine, Jeanne M.	6/14/2006	Quarterly Fax & DSL Line July - Sept 2006	\$ 119.85	
				\$ 119.85
Total for Month				\$ 954.94

NOTE: This report is presented in compliance with Rules of Procedure for the City Council,
Item 18. Miscellaneous Expenses

Date Prepared: 6/14/2006
Final Preparation By: J. Nash

CITY OF TROY
TRAVEL EXPENSE REPORT

Name: Robin Beltramini Position: Council member

Other Employees Included in Request: _____

Trip Destination: Cambridge MA Date From: June 15, 2006 To: June 17, 2006

Purpose of Trip: NLC FAIR + Public Finance Panel - Joint meeting

Items	Dates:	Sun	Mon	Tues	Wed	Thurs 6/15	Fri 6/16	Sat 6/17	TOTAL
Miles (Personal Car)						43		43	86
Enter Current Mileage Rate: \$ 0.44/mile						18.92		18.92	37.84
City Car Expense (Details on Bottom)									
<u>Air/Bus/Train</u>						330.21			330.21
Registration									
Room (Attach all Receipts)								357.58	357.58
Meals (Include tips and taxes. Note meals included with registration)									
Breakfast:									
Lunch:									
Dinner:									
Other Taxi Detail, Explain Below						14		14	28.00
Additional Other Detail, Explain Below									
TOTAL EXPENSE						363.13		390.50	753.63

Details of City Car Expense

Total Mileage	
Gasoline/Oil Purchased (Attach Receipts)	
Maintenance Work (Attach Receipts)	
Parking/Storage	
Other ()	
Total	

Cash Advanced	687.79
Balance Due Employee	65.84
(or) Balance Due City	

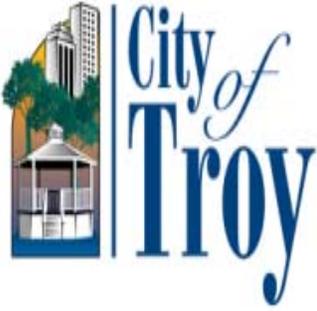
Robin E. Beltramini Requested By Date June 21, 2006
EBM Date 6-28-06
Department Head Date

Approved - Human Resources Director Date
[Signature] Date 7-5-06
Approved - Financial Services Director Date

Notes and Explanations:

Charge to: Council - Education + Training

Dept. Account # 102-7960



TO: MAYOR AND MEMBERS OF CITY COUNCIL
FROM: LORI GRIGG BLUHM, CITY ATTORNEY
 ROBERT F. DAVISSON, ASSISTANT CITY ATTORNEY
 CHRISTOPHER J. FORSYTH, ASSISTANT CITY ATTORNEY
 SUSAN M. LANCASTER, ASSISTANT CITY ATTORNEY
 ALLAN T. MOTZNY, ASSISTANT CITY ATTORNEY
DATE: June 30, 2006
SUBJECT: 2006 SECOND QUARTER LITIGATION REPORT

The following is the quarterly report of pending litigation and other matters of interest. **The accomplishments during the SECOND quarter of 2006 are in bold.**

A. ANATOMY OF THE CASE

Once a lawsuit has been filed against the City or City employees, the City Attorney's office prepares a memo regarding the allegations in the complaint. At that time, our office requests authority from Council to represent the City and/or the employees. Our office then engages in the discovery process, which generally lasts for several months, and involves interrogatories, requests for documents, and depositions. After discovery, almost all cases are required to go through case evaluation (also called mediation). In this process, three attorneys evaluate the potential damages, and render an award. This award can be accepted by both parties, and will conclude the case. However, if either party rejects a case evaluation award, there are potential sanctions if the trial result is not as favorable as the mediation award. In many cases, a motion for summary disposition will be filed at the conclusion of discovery. In all motions for summary disposition, the Plaintiff's version of the facts are accepted as true, and if the Plaintiff still has failed to set forth a viable claim against the City, then dismissal will be granted. It generally takes at least a year before a case will be presented to a jury. It also takes approximately two years before a case will be finalized in the Michigan Court of Appeals and/or the Michigan Supreme Court.

B. ZONING CASES

These are cases where the property owner has sued for a use other than that for which the land is currently zoned and/or the City is suing a property owner to require compliance with the existing zoning provisions.

1. Troy v. Papadelis and Papadelis v. Troy - This is a case filed by the City against Telly's Nursery, seeking to enjoin the business from using the northern parcel for commercial purposes. After a lengthy appellate history, an order was entered in the Oakland County Circuit Court, requiring compliance on or before April 29, 2002. The Papadelis family failed to comply with the court's order, and therefore a Contempt Motion was filed. Oakland County Circuit Court Judge Colleen O'Brien determined that the defendants were in contempt of court, and required them to pay \$1,000 to the City of Troy. However, the court also determined that the defendants

were in compliance with the City of Troy zoning ordinances as of the date of the court decision. The Troy City Council authorized an appeal of this decision to the Michigan Court of Appeals. It was filed on September 27, 2002. The neighbors filed an application for leave to appeal, which was denied by the Michigan Court of Appeals on 2/10/03. After receiving criminal citations from the City for expansion of the business, Papadelis filed a federal lawsuit against the City of Troy, alleging civil rights violations and seeking an injunction against the prosecution and/or further expansion. The neighboring property owners filed a Motion to Intervene, which was granted by Federal US District Court Judge Arthur Tarnow. Troy filed a counterclaim in the Federal Court case but it was dismissed by Judge Tarnow, who refused to exercise jurisdiction over the counter-complaint, since it would require him to interpret the opinion of the Oakland County Circuit Court Judge. Troy has subsequently filed two separate motions to dismiss the Papadelis complaint. One of the motions asserted the same jurisdictional claim that was raised against the counter-complaint. The Court granted Troy's motion based on jurisdictional issues and dismissed the case without prejudice. The court did not rule on the other motion, but instead, directed the Papadelises to re-file their case in state court. The Papadelis family then re-filed its lawsuit in Oakland County Circuit Court. Troy filed an answer and a counterclaim. Troy also immediately filed a motion for summary disposition seeking dismissal of the complaint and a judgment in favor of Troy. The counterclaim seeks an order requiring the Papadelis family to remove two greenhouses and other structures that have been built upon the property without approvals that are required under the zoning ordinance. The Court scheduled an early intervention conference (settlement conference) for October 18, 2005. The Court has set the hearing date for the Motion for Summary Disposition for January 4, 2006. Subsequent to the filing of Troy's Motion for Summary Disposition, Plaintiffs' filed a Cross Motion for Summary Disposition, and the hearing was rescheduled for January 18, 2006. On February 17, 2006, the Court entered its written Opinion and Order, dismissing the Papadelis claim for money damages and their claim for injunctive relief. However, the Court also granted Summary Disposition in favor of the Plaintiffs on their claim for declaratory relief, and held that "retail" activity was not occurring on the northern parcel, and that the "agricultural" activities on the northern parcel were protected under the Right to Farm Act. Additionally the Court ruled the Plaintiffs' were exempt from City permitting requirements under the agricultural building permit exemption of the State Construction Code Act. The Court also dismissed the City's counterclaim. Troy has filed an appeal with the Michigan Court of Appeals. Plaintiffs' have filed a cross appeal challenging the dismissal of their claims for money damages and injunctive relief. **All the required briefs have been filed with the Court of Appeals, which will either schedule an oral argument or will inform the parties that the case will be decided without oral argument. Since this case was assigned to the expedited track for summary disposition appeals, a final decision on appeal is expected before the**

end of September of this year. On June 16, 2006, the Building Department discovered that the Papadelis family was erecting a new, large pole barn structure on the property at 3301 John R. Road. This structure was likely in violation of local and/or state law. The Building Department followed the procedure for issuing a Stop Work Order. In addition, our office filed an emergency motion with the Court of Appeals, seeking to enjoin construction of the building pending final outcome of the appeal. On June 21, 2006, the Court of Appeals granted the motion for immediate consideration, but denied the motion to enjoin construction of the building. The denial of the motion has no bearing on the final outcome of this appeal, and if Troy ultimately prevails on appeal, the new building will have to be removed. Despite the issuance of the Stop Work Order, the construction continued on the new building. The Papadelis Family then filed a Motion to hold the City Attorney and the Director of Building and Zoning in contempt of court. In this Motion, the Papadelis family argued that the Circuit Court ruling (Judge Colleen O'Brien) allows the construction of the new building without a permit and without having to comply with the zoning ordinance provisions regulating the size and location of buildings. Judge O'Brien denied this Motion on June 28, 2006, and ruled that her earlier ruling (the ruling on appeal) was limited to the buildings on the property at the time of the ruling, and did not extend to allow for new construction on the site.

2. Williams et. al v. City of Troy and Ken Freund- Some of the residents in the Middlesex Country Homesites Subdivision filed this lawsuit against the City and developer Ken Freund. The lawsuit challenges that the City of Troy improperly approved the Freund Site Condominium project without requiring an official re-plat of the property. The Troy City Council granted preliminary approval of the site condominium plan on March 3, 2003. Each of the parties filed a Motion for Summary Disposition. On 9/3/03, Judge Kuhn heard oral arguments from all parties on the Motions for Summary Disposition. On 3/24/04, the Court entered an order that holds that a re-plat is not required for site condominium developments. This resulted in the Court granting Summary Disposition in favor of the City on Counts I and II of the Plaintiffs' Complaint. However, Judge Kuhn failed to rule on Count III, a violation of substantive due process allegation. The City then filed a Supplemental Brief asking for dismissal of Count III. Judge Warren (who succeeded Judge Kuhn) granted the City's Motion for Summary Disposition and entered an Order closing the case on May 25, 2005. The Plaintiff then filed a Claim of Appeal with the Michigan Court of Appeals. The Court of Appeals placed this matter on its new fast track procedure, since all issues were decided by summary disposition at the trial court level. All parties have submitted briefs to the Court of Appeals. **Plaintiff subsequently filed an Application for Leave to Appeal with the Michigan Supreme Court. The City of Troy and Ken Freund both filed**

Responses to this Application. On June 26, 2006, the Michigan Supreme Court denied the Plaintiff's application for leave to appeal, thereby upholding the earlier decisions in favor of the City. This case is now concluded.

3. Gerback v Troy, et al –The lawsuit stems from City Council's denial of a requested re-zoning of a 2.74 acre parcel of property, located on the west side of Rochester Road, south of Trinway. The property is currently zoned R-1C (one family residential). Plaintiff unsuccessfully sought to re-zone the property to R-1T (one family attached residential). Plaintiff argues in his complaint that the denial of the requested re-zoning was "arbitrary and capricious," and fails to advance a legitimate government interest. Count I of the complaint alleges a denial of substantive due process, and argues that the denial of the rezoning bears "no reasonable relationship to the health, safety and welfare of the public of Troy." Count II asserts an equal protection claim, where Plaintiff argues that he has been treated less favorably than other owners of "similarly situated" property, since properties of greater depths have received the requested R-1T zoning. The complaint seeks an injunction that "prevents the City of Troy from interfering with Plaintiff's proposed use of the property." Troy filed an answer, affirmative defenses and a motion for summary disposition. In November, this motion was granted in part and denied in part. Plaintiff was granted the opportunity to amend the complaint. Plaintiff has filed an amended complaint and is essentially raising the same claims that were raised in the original complaint. Plaintiff argues that the R-1C zoning classification is arbitrary and capricious, and it denies him equal protection under the law. The amended complaint, like the original, seeks an injunction. The parties have completed the discovery phase, and a trial date has been set. Troy has filed a new motion for summary disposition, which argues that there are no genuine issues of material fact as to any of Plaintiff's claims. **The hearing on this new motion is set for July 12, 2006. In the meantime, Plaintiff has made an offer of settlement, which will be considered at the July 10, 2006 City Council meeting.**
4. Gerback (as a member of 300 Park Venture, L.L.C.) v Troy – This lawsuit was filed August 25, 2005, but it was not served on Troy until September 20, 2005. The case involves a parcel consisting of 0.892 acres located on the northwest corner of Rochester Road and Marengo that is presently zoned R-1B (One Family Residential). Plaintiff filed an application to rezone the property to B-1 for the purpose of developing a Binson's Home Health Care Center. The Planning Commission voted to recommend that City Council deny the rezoning. On August 1, 2005, City Council postponed the decision on the rezoning request until the first meeting in March 2006, to allow for the Planning Commission to consider amending the Future Land Use Plan in the Rochester Road Corridor between Square Lake Road and South Boulevard, before Council would make a decision on the rezoning request. In count I of the complaint, the Plaintiff contends City Council has breached a clear legal duty by refusing to act on Plaintiff's Rezoning Request. He seeks a writ of

mandamus requiring City Council to act on the rezoning request “within a reasonable time period, not to exceed twenty-one (21) days.” Counts II and III allege City Council has effectively denied the rezoning request by the postponement. He argues that such denial constitutes a violation of Plaintiff’s right to substantive due process (count II) and the right to equal protection under the law (count III). In both counts II and III, Plaintiff seeks an injunction that prevents Troy “from interfering with Plaintiff’s proposed use of the Property.” In addition to responding to the complaint, Troy also filed an immediate motion for summary disposition, arguing that the Plaintiff had failed to set forth a claim that entitled him to his requested relief. The hearing on this motion is scheduled for January 4, 2006. After a hearing, the Court granted Troy’s Motion for Summary Disposition in part, and dismissed Count I of Plaintiff’s complaint that sought a writ of mandamus. As to the other two counts of the complaint, the Court determined there were issues of fact that could only be decided at a trial. The parties are now conducting discovery in preparation for trial. **Plaintiff filed a motion to amend the complaint to reinstate the mandamus claim and to add a new claim for damages based on inverse condemnation. After a hearing on the motion, the Court took the matter under advisement and indicated a written decision would be issued. On June 21, 2006, Judge Chabot issued her written opinion, denying the Plaintiff’s motion to amend the complaint. Trial is scheduled for July 13, 2006.**

5. **D & K Hannawa, LLC v Troy –The lawsuit was filed to amend the recorded plat known as Supervisor’s Plat No. 23. In order to amend a recorded plat, a lawsuit must be filed and served on all property owners within 300 feet of the proposed development, as well as the state and local government and utility companies. This particular plat is proposed for amendment, since a platted private alley precludes their construction of their proposed building on Lots 1 and 2. Plaintiff D & K Hannawa, LLC is asking that the plat be amended as the first step in vacating the alley.**

C. EMINENT DOMAIN CASES

These are cases in which the City wishes to acquire property for a public improvement and the property owner wishes to contest either the necessity or the compensation offered. In cases where only the compensation is challenged, the City obtains possession of the property almost immediately, which allows for major projects to be completed.

1. Parkland Acquisition (Section 36)

Troy v. Premium Construction, L.L.C. – The City has filed this lawsuit against Premium Construction, L.L.C. (John Pavone and Mukesh Mangala) to acquire property for a park in Section 36. After a prolonged discovery process, a bench trial began on February 22, 2005. The Court had to

interrupt the bench trial proceedings with a number of other matters, including criminal jury trials, and had the parties on stand by and/or took limited testimony for several months. The last testimony in the lengthy bench trial was taken on June 10, 2005. After the testimony, the Judge required the parties to submit post-trial "Finding of Facts and Conclusion of Law" and a summary Memorandum, which were timely submitted by July 13, 2005. Replies to those briefs were due July 20, 2005. The parties are now anxiously waiting for the Judge's decision. It is unknown when the decision will be rendered. After several months, Oakland County Circuit Court Judge Mark Goldsmith requested portions of the transcript of the lengthy trial proceedings. Unfortunately, this request has been unexpectedly delayed, since the transcribing court reporter broke his wrist, and is unable to complete the work himself and/or have others complete it for him. The parties continue to wait for the Court's decision. **The Court issued his written opinion on February 3, 2006. The Defendants filed a Motion for Attorney Fees, and a hearing on that request was scheduled for April 5, 2006. The Court issued a written order on June 9, 2006 determining the amount of attorney fees. An appeal of the Court's decisions was filed with the Michigan Court of Appeals on June 30, 2006.**

D. CIVIL RIGHTS CASES

These are cases that are generally filed in the federal courts, under 42 U.S.C. Section 1983. In these cases, the Plaintiffs argue that the City and/or police officers of the City of Troy somehow violated their civil rights.

There are no pending civil rights cases at this time.

E. PERSONAL INJURY AND DAMAGE CASES

These are cases in which the Plaintiff claims that the City or City employees were negligent in some manner that caused injuries and/or property damage. The City enjoys governmental immunity from ordinary negligence, unless the case falls within one of four exceptions to governmental immunity: a) defective highway exception, which includes sidewalks and road way claims; b) public building exception, which imposes liability only when injuries are caused by a defect in a public building; c) motor vehicle exception, which imposes liability when an employee is negligent when operating their vehicle; d) proprietary exception, where liability is imposed when an activity is conducted primarily to create a profit, and the activity somehow causes injury or damage to another; e) trespass nuisance exception, which imposes liability for the flooding cases.

1. Carrie Zanoni v. City of Troy, Troy Police Officer Joshua Jones and Sgt. Christopher Stout, City of Clawson, Clawson Police Officers Bigelow and

Weston, and Rebecca Roose aka Rebecca Ann Renaud This lawsuit was initially filed as a auto negligence case against Rebecca Ann Roose, who struck Carrie Zaroni with her motor vehicle on Livernois and Woodslee in the City of Troy on August 17, 2003, causing very serious injuries. Plaintiff Zaroni was allowed to amend the complaint to add the City of Troy and its police officers and the City of Clawson and its police officers as co-defendants on November 25 2005. According to the amended complaint, Zaroni argues that the City of Troy and its police officers are at least partially at fault for her injuries. She argues that the officers had contact with her prior to her accident, and should have known that she would be struck by an automobile or otherwise would have been involved in an accident. She had been drinking prior to the accident, and therefore argues that the police officers were obligated to take her into custody or otherwise take some action to prevent the accident. She was not driving at the time of her contact with the Troy police officers, and was not incapacitated. In addition to responding to the amended complaint, the City has filed an immediate motion for summary disposition, on the basis that Plaintiff has failed to set forth a viable claim against the City of Troy and/or its police officers. **On May 3, 2006, the Court granted the City's Motion for Summary Disposition, and the case against the City has now been dismissed.**

F. MISCELLANEOUS CASES

1. Catherine Norris and Kathleen Livingway v. City of Troy – This lawsuit is identical to lawsuits filed in 12 other communities in the State of Michigan. The complaint asserted that the revenue paid by cable television companies, pursuant to franchise agreements, constitutes an impermissible tax that is prohibited by the Headlee Amendment. In the Troy case, a motion for summary disposition and a motion for class certification were scheduled for 4/21/04. Prior to a final decision in Troy's case, Plaintiffs filed appeals in the Michigan Court of Appeals against some of the original twelve communities who had received quicker decisions from the circuit court. Troy's suit was then stayed until these appeals were concluded. However, we have participated in a coordinated municipal defense. Oral argument on the appellate cases (including St. Clair Shores, Grand Rapids, Westland, Muskegon, Canton and Livonia) was July 12, 2005. On July 26, 2005. the Michigan Court of Appeals affirmed all of the dismissals in favor of the municipalities. In August, Plaintiff filed an Application for Leave to Appeal with the Michigan Supreme Court. The municipal defendants have filed a formal response to the application, requesting a denial of the application. **On May 4, 2006, the Michigan Supreme Court denied the Plaintiff's application for leave to appeal, thereby affirming the earlier rulings in favor of the municipal defendants. This case is now closed.**
2. Kent Fehribach v. City of Troy – In this lawsuit, there are two challenges to the City's political sign ordinance. Plaintiff is challenging the restriction of placing

political signs in residential areas more than 30 days prior to an election and the two sign per residence limit. Plaintiff filed a motion for a temporary restraining order, which was heard in Judge Gadola's absence by Judge Steeh. Judge Steeh temporarily restrained the City from enforcing the two provisions against the plaintiff until Judge Gadola entered a subsequent order. An Opinion and Order Granting Preliminary Injunction was entered on 10/18/04. The City has filed its answer and affirmative defenses. Meanwhile, amendment of the sign ordinance is underway. Discovery is on-going. The Plaintiff has scheduled Marlene Struckman's deposition for July 28, 2005. Troy filed a motion for summary judgment with the Court, arguing that the case was moot after amendments to Troy's sign ordinance. Counter motions were filed by Plaintiff. The Court has scheduled oral argument on the cross motions for summary disposition for January 10, 2005. In February, Judge Gadola granted Plaintiff's motion for summary disposition. He issued a judgment in favor of Plaintiffs in the amount of \$1.00. In addition, he ruled that Troy's former political sign ordinance was unconstitutional. Plaintiff recently filed a motion with the court requesting that the City pay his attorney fees and costs in connection with the litigation. Negotiations regarding attorney fees are ongoing. **The Court awarded costs and attorney fees in the amount of \$28,000. This case is now concluded.**

3. City of Troy v. Raymond and Linda Winter– The City filed this lawsuit requesting abatement of a nuisance and injunctive relief, after exhausting all other available remedies to get the home habitable. The home is currently posted, since the piles of debris have completely foreclosed entry into the house and into each of the rooms and the staircases in the house. The City is seeking an order to allow us to hire a contractor to open the pathways to the home and inside the home. When the City was unable to serve the Plaintiffs with a copy of the complaint, the Court ordered alternative service on December 8, which allows the City to mail a copy of the complaint by certified mail, as well as affix the Summons and Complaint to their front door. The Defendants then have 28 days to file a response to the Complaint. Defendants filed a response in February. Council is being asked to consider a proposed consent judgment that was negotiated between our office and the attorneys representing Mr. and Mrs. Winter. Under the terms of this consent judgment, the Winters would abide by an incremental schedule to get each floor of their home in compliance with Troy's zoning ordinances. **In April, the City and the Defendants entered into a Consent Judgment that provided the Defendants with some time to get compliance with the City rules and regulations. The Defendant's also successfully completed one phase of the required clean up.**
4. City of Troy v. Ronald Griesmayer– The City filed this lawsuit requesting abatement of a nuisance and injunctive relief at 2766 Rhodes, in the City of Troy. The lawsuit requests injunctive relief in order to get the residence in a habitable state. The homeowner was recently discharged from probation, without making satisfactory progress on his promised clean up of the debris

and litter in the home. Troy inspectors report that the unsanitary condition of the home has led to pest infestation, and therefore required the filing of a lawsuit to abate the nuisance. The City was not able to personally serve a copy of the lawsuit on the Defendant. However, the Court did grant our request for an order for alternate service, which allows the City to serve Defendant by certified mail and affix the Summons and Complaint on their front door. The Defendant now has 28 days to file a response to the Complaint. **A default was entered against Mr. Griesmayer for his failure to respond. Shortly thereafter, the property was sold, and the interior of the home has been gutted to allow for necessary improvements. A voluntary dismissal of the case was entered on March 29, 2006.**

5. In Re Hooters of Troy Inc. – **Hooters has filed this lawsuit to challenge the June 19, 2006 City Council denial of their application to transfer a liquor license and entertainment permit. Hooters was seeking to re-locate their business from John R to Rochester Road, to the building that was previously occupied by the Wagon Wheel Saloon. Hooters has signed agreements with the former owners (Sign of the Beef Carver- Wagon Wheel), for the building and also the liquor license with entertainment permit. Pursuant to state law, local legislative approval is required for a transfer of Class C Liquor License and entertainment permit. In their complaint, Hooter’s alleges that the City Council denial of the transfer of the liquor license violates their equal protection rights and due process rights. They are asking the Court for an order of superintending control, which means they are asking a Circuit Court Judge to overrule City Council’s decision. Hooters is also asking for costs, attorney fees, and incidental damages as a result of the delay in moving its operation to Rochester Road.**

If you have any questions concerning these cases, please let us know.

TROY FIRE DEPARTMENT



2005 ANNUAL REPORT



Fire Department Memorandum

July 1, 2006

TO: John Lamerato, Acting City Manager

FROM: William S. Nelson, Fire Chief

SUBJECT: 2005 Annual Report

I am pleased to submit the Troy Fire Department's Annual Report for 2005. This report documents the activities of the divisions and sections of the department.

It is significant to note that while structure fires and fire loss increased by 28% and 45% respectively, there was no loss of life or serious injury due to fire in Troy.

Major accomplishments during 2005 included:

- Receipt of the 2005 Life Safety Achievement Award from the Residential Fire Safety Institute.
- Expansion of the Regional Response Team to become a regional effort within Oakland County with members from 13 police, fire, and public safety departments participating.
- A replacement engine from HME, Inc was delivered and placed in service at fire station 4.
- Replacement ruggedized laptop computers were installed in six engines and three staff vehicles to complete the transition of preplan data from paper to electronic format.

I would like to thank the City Council, you and your staff, and the other city departments for their continued support of the Troy Fire Department. I would also like to recognize the members of the department, volunteer and career, and the members of the Troy Firefighters Women's Auxilliary for their dedication and support.



Troy Fire Department Mission Statement

To provide the highest possible level of fire protection, rescue and hazard mitigation to the community.

This shall be accomplished with a team of professionals, both volunteer and career, by providing fire prevention, public education, emergency operations and planning.

This Department realizes that the members are the Department's most valuable resource and the key to its future.





Troy Fire Department Analysis of 2005 Incident Activity

During 2005 the Troy Fire Department responded to 1,225 calls for service compared to 1,228 in 2004. This represented a .02% decrease.

There was an increase in fire activity from 181 in 2004 to 227 in 2005, up 25%. Structure fires increased from 75 incidents in 2004 to 98 in 2005, up 28%.

The majority of the increase in structure fires occurred in residential structures (single family and apartments). In residential occupancies we saw an increase of 12 incidents in 2005 over 2004.

Fire loss saw an increase. In 2004 our loss was \$1,613,915. In 2005 our fire loss was \$2,334,001. This is an increase of 45%.

During 2005 the Troy Fire Department responded to 566 false alarms. Most of those responses were to buildings with alarm systems that reported a fire for various reasons. Of that figure, 188 were confirmed system malfunctions. That total figure, 566, represents 46% of the department's responses.

Included in this report are charts that outline the activity of the stations. These charts show station activity by runs, fires, and structure fires. You will note that total station response is higher than the total department response. This is due to sending multiple stations to reported structure fire, and multiple alarm responses.



TROY FIRE DEPARTMENT

2005 Annual Report

Incident Breakdown
and

Percentage of Change

Fire Incidents	2005	2004	Percent Change
Structure Fires	96	75	28%
Outside Structure Fires	2	3	-33%
Vehicles	66	45	47%
Grass	23	28	-18%
Refuse	26	14	86%
Other Fires	14	16	-13%
Total All Fires	227	181	25%
Non Fire Incidents			Percent Change
Overpressure/Explosion	3	1	200%
Rescue/Extrications	43	42	2%
Hazardous Conditions (1)	151	200	-25%
Public Service	19	23	-17%
Good Intent (2)	206	203	1%
False Alarms	380	366	4%
System Malfunctions	187	201	-7%
Weather Emergencies	7	11	-36%
Other Non-Fires	2	0	200%
Total Non Fire Incidents	998	1047	-5%

1. Includes spills or leaks with no fire, excess heat, arcing wires; and chemical emergencies.

2. Includes smoke scares; wrong locations; steam mistaken for smoke; and controlled burning.

Category	2005	2004	Percent Change
Total Fires	227	181	25%
Total Non Fire Incidents	998	1047	-5%
Total Alarms	1225	1228	0%

Page Two
Structure Fire Breakdown

Where Fires Are Occurring	2005	2004	Percent Change
Public Assembly	6	5	20%
Educational	3	0	300%
Institutional	0	1	-100%
Single Family Dwelling	50	35	43%
Apartments	13	16	-19%
Motel/Hotel	0	0	0%
Stores/Sales	4	3	33%
Office	2	4	-50%
Industrial	8	8	0%
Storage	3	0	300%
Construction/Other	7	2	250%

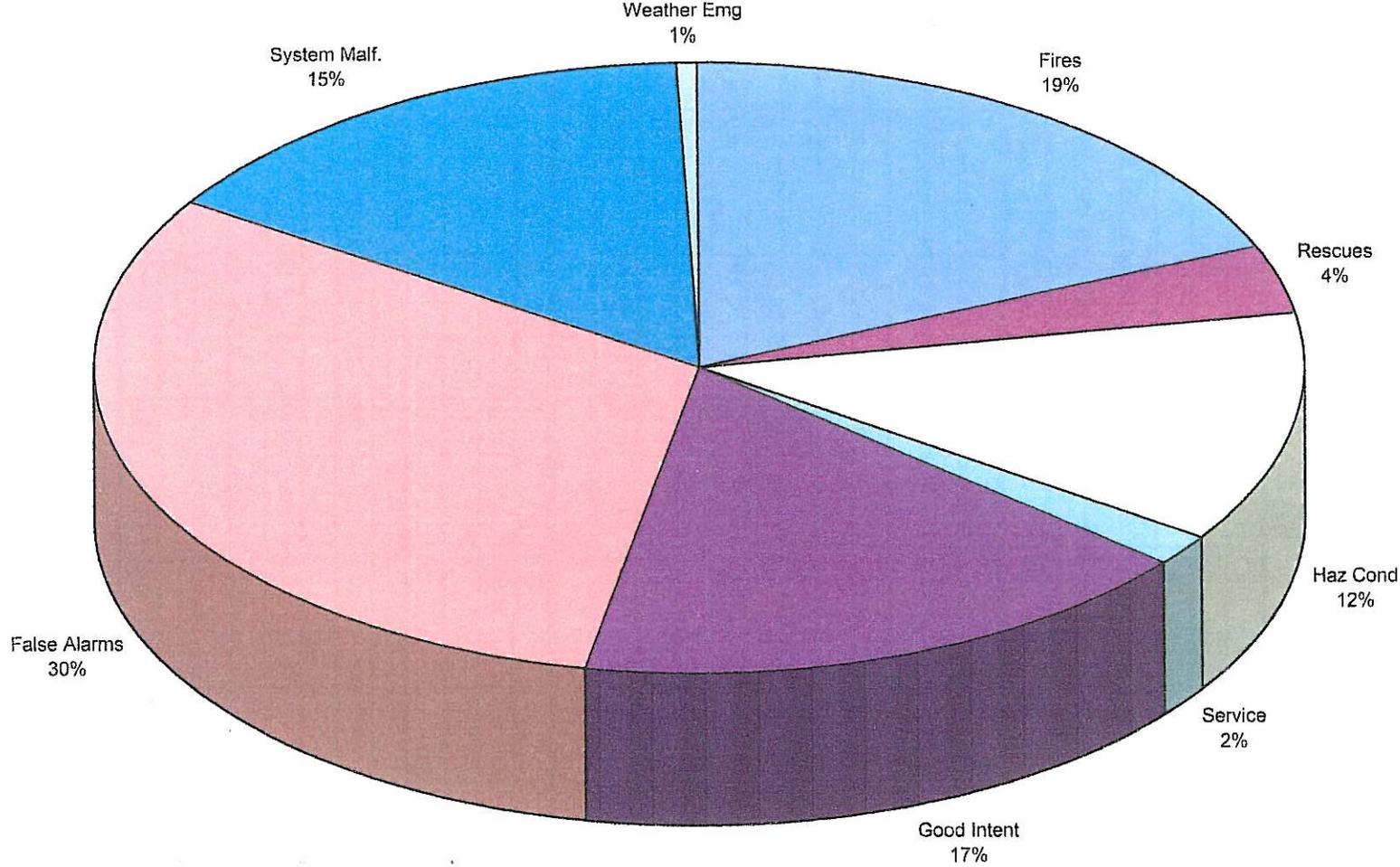
Fire Cause	2005	2004	Change
Incendiary/Suspicious	12	9	33%
Children Playing	2	0	0%
Smoking	3	0	0%
Heating	6	7	-14%
Cooking	20	21	-5%
Electrical	2	2	0%
Appliances/AC	5	2	200%
Open Flame, Ember	4	5	-20%
Other Heat/Spark/Flame	2	7	-71%
Other Equipment	2	4	-50%
Natural	1	1	100%
Exposures	5	0	0%
Undetermined	37	20	85%

TROY FIRE DEPARTMENT
INCIDENTS BY STATION
2005

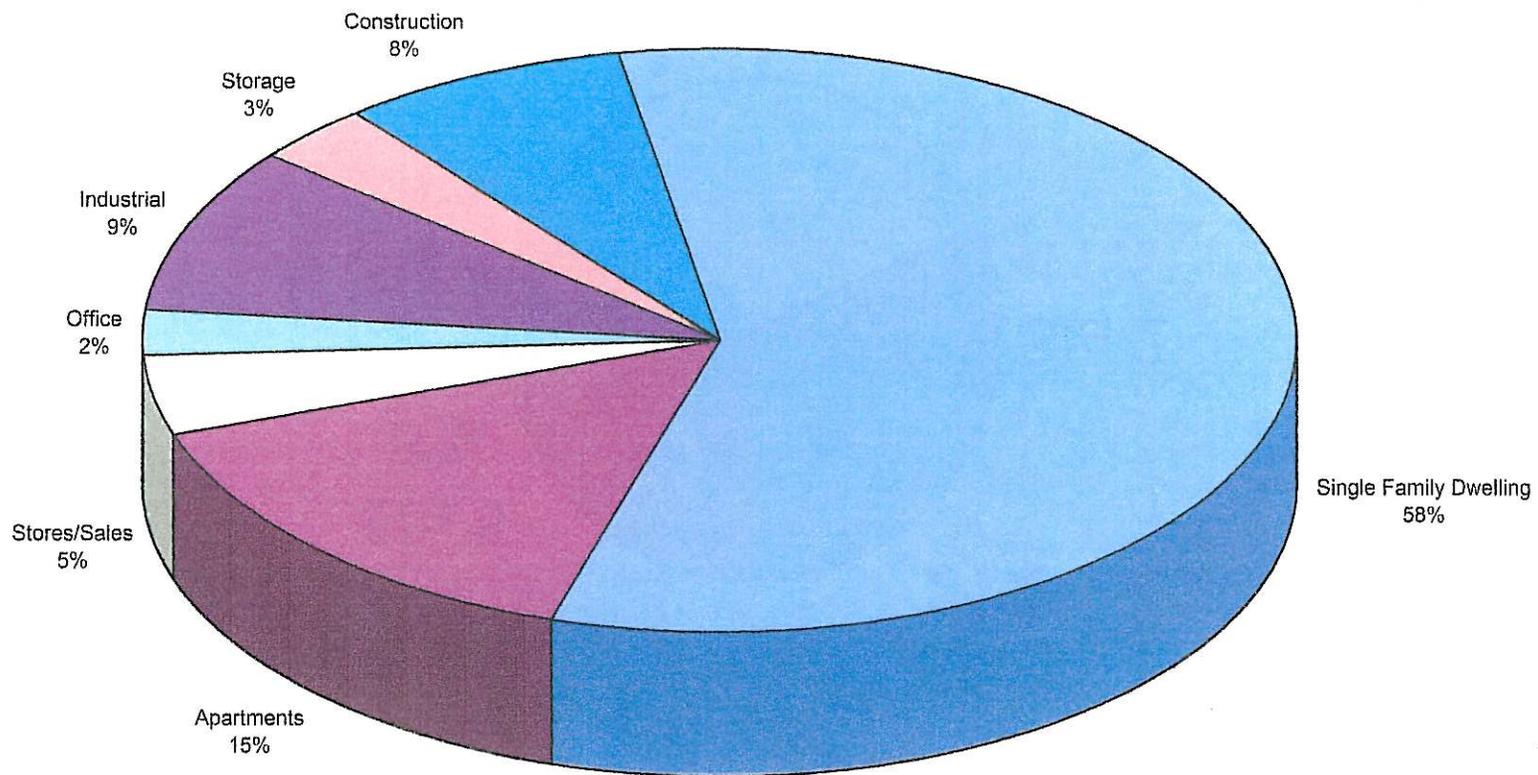
Fire Incidents	Sta 1	Sta 2	Sta 3	Sta 4	Sta 5	Sta 6
Structure Fires	21	11	17	16	17	6
Outside Structure Fires	2	0	0	0	0	0
Vehicles	11	15	17	13	4	6
Grass	5	4	6	3	1	4
Refuse	2	4	2	6	5	1
Other Fires	5	1	3	2	3	0
Total All Fires	46	35	45	40	30	17
Non Fire Incidents		0				
Overpressure/Explosion	0	0	1	0	0	0
Rescue/Extrication	7	7	4	15	5	5
Hazardous Conditions (1)	37	20	29	28	21	14
Public Service	1	3	1	3	3	3
Good Intent (2)	46	26	59	31	15	24
False Alarms	68	23	143	74	13	36
System Malfunctions	27	7	71	42	6	30
Weather Emergencies	0	1	1	1	1	2
Other Non-Fire Incidents	0	0	1	0	0	0
Total Non Fire Incidents	186	87	310	194	64	114
Fires by Type						
Public Assembly	1	0	2	1	1	0
Educational	1	0	0	0	2	0
Institutional	0	0	0	0	0	0
Single Family Dwelling	11	8	2	6	12	5
Apartments	4	0	5	3	1	0
Motel/Hotel	0	0	0	0	0	0
Stores/Sales	1	0	2	0	1	0
Office	0	0	2	0	0	0
Industrial	0	1	2	5	0	0
Storage	0	2	0	0	0	0
Construction/Other	3	0	2	1	0	1
Total Responses *	256	138	358	249	98	138

* Includes Normal Two Station Responses

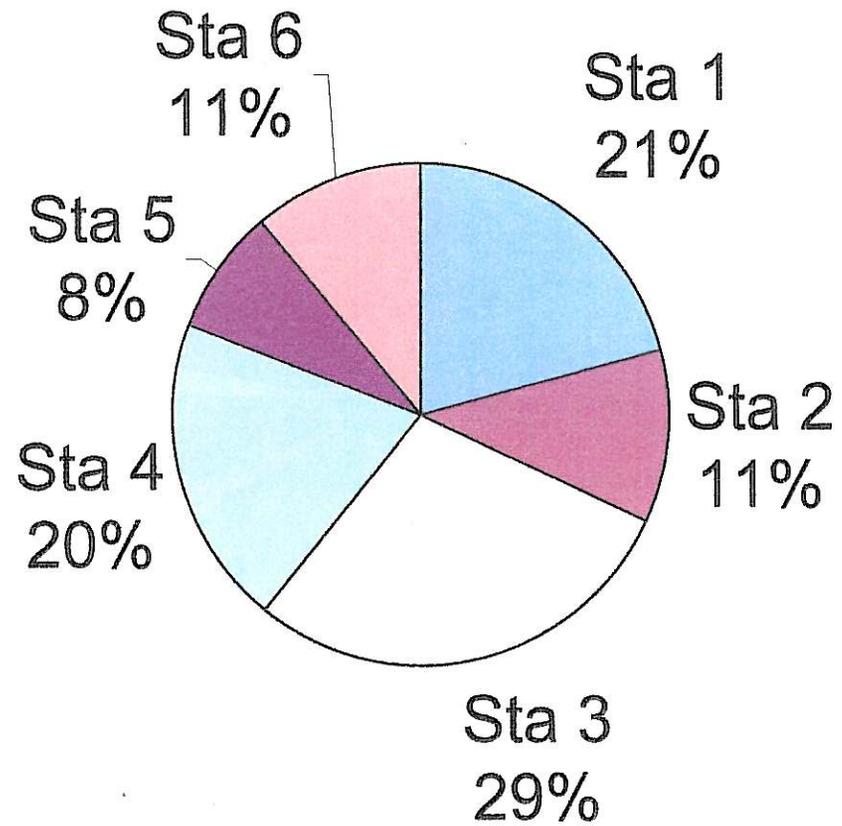
TYPES OF RESPONSES 2005



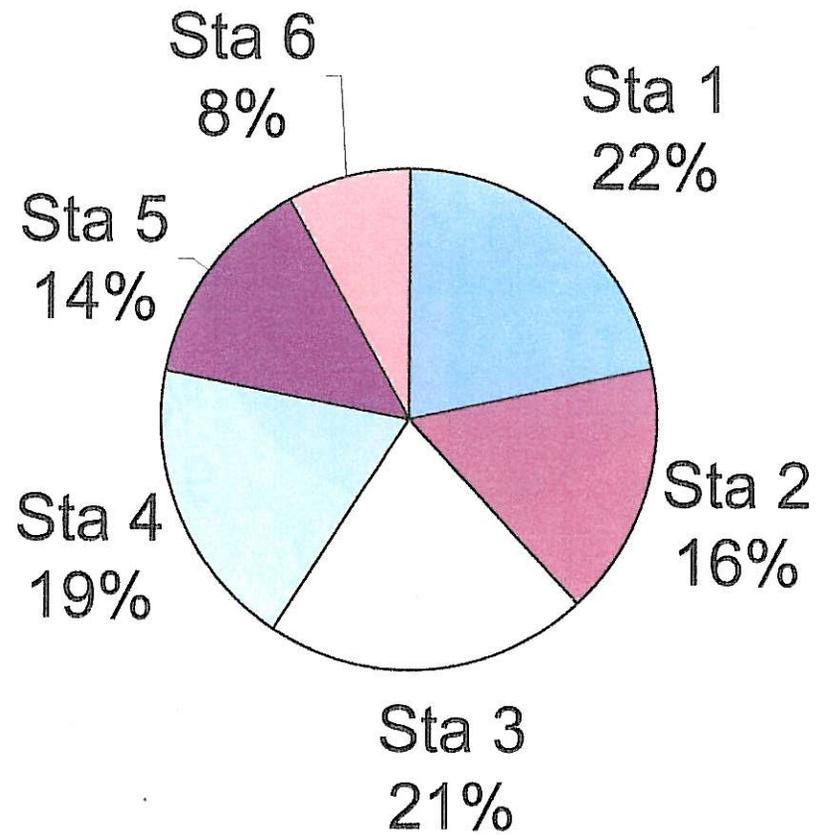
TYPES OF STRUCTURE FIRES 2005



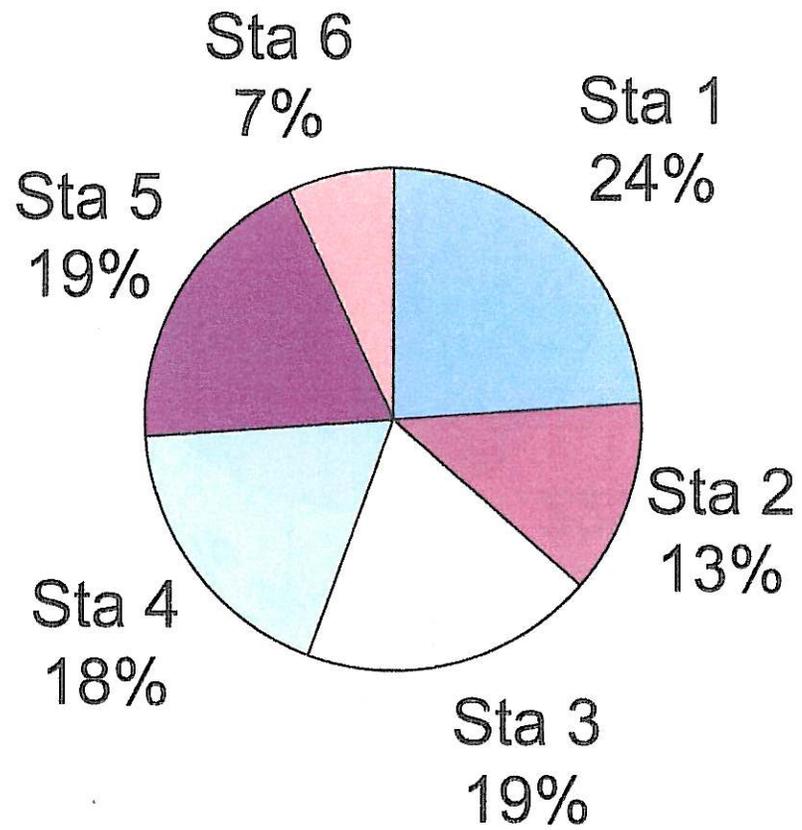
Incident Response 2005



Fire Incidents 2005

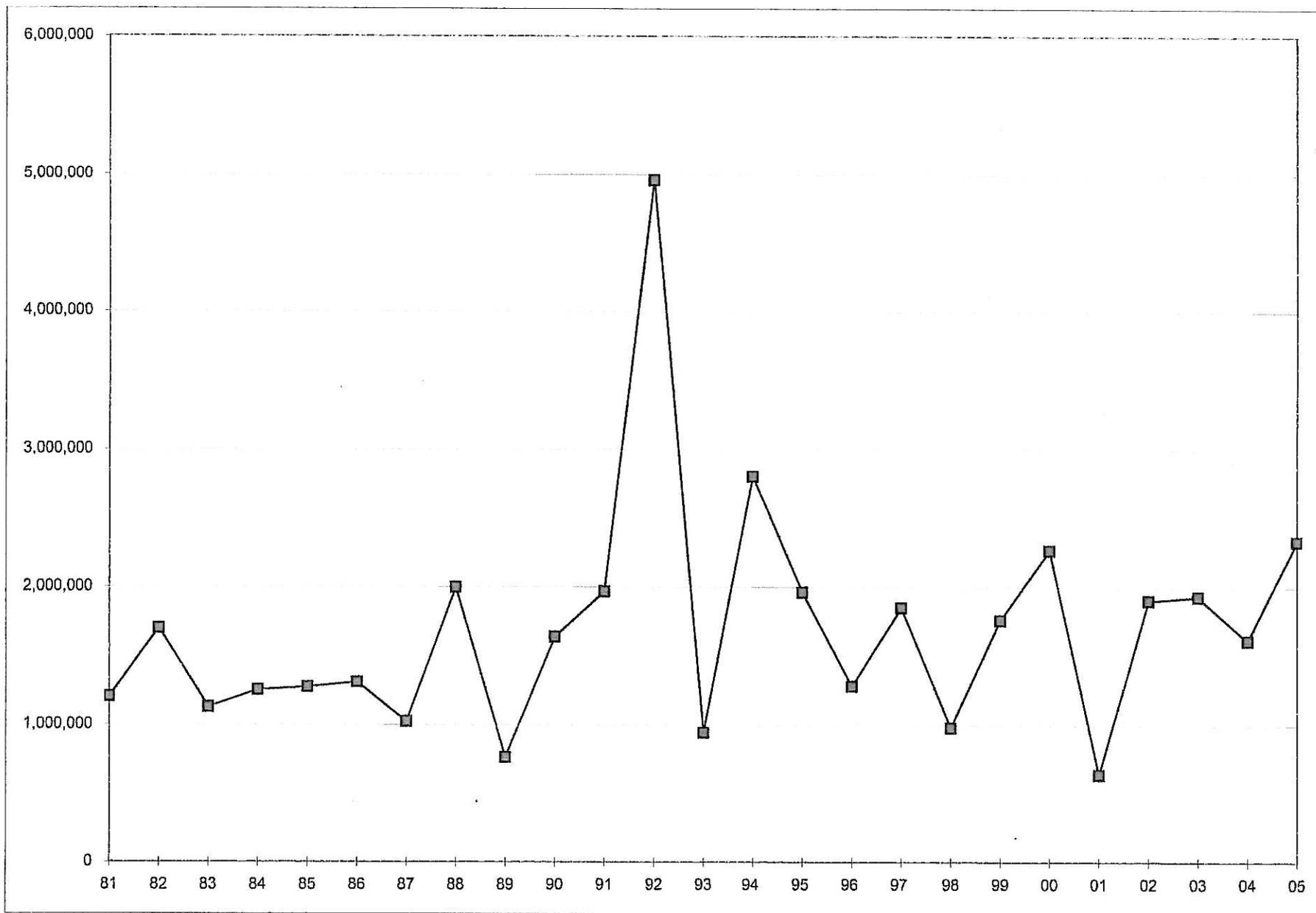


Structure Fires 2005



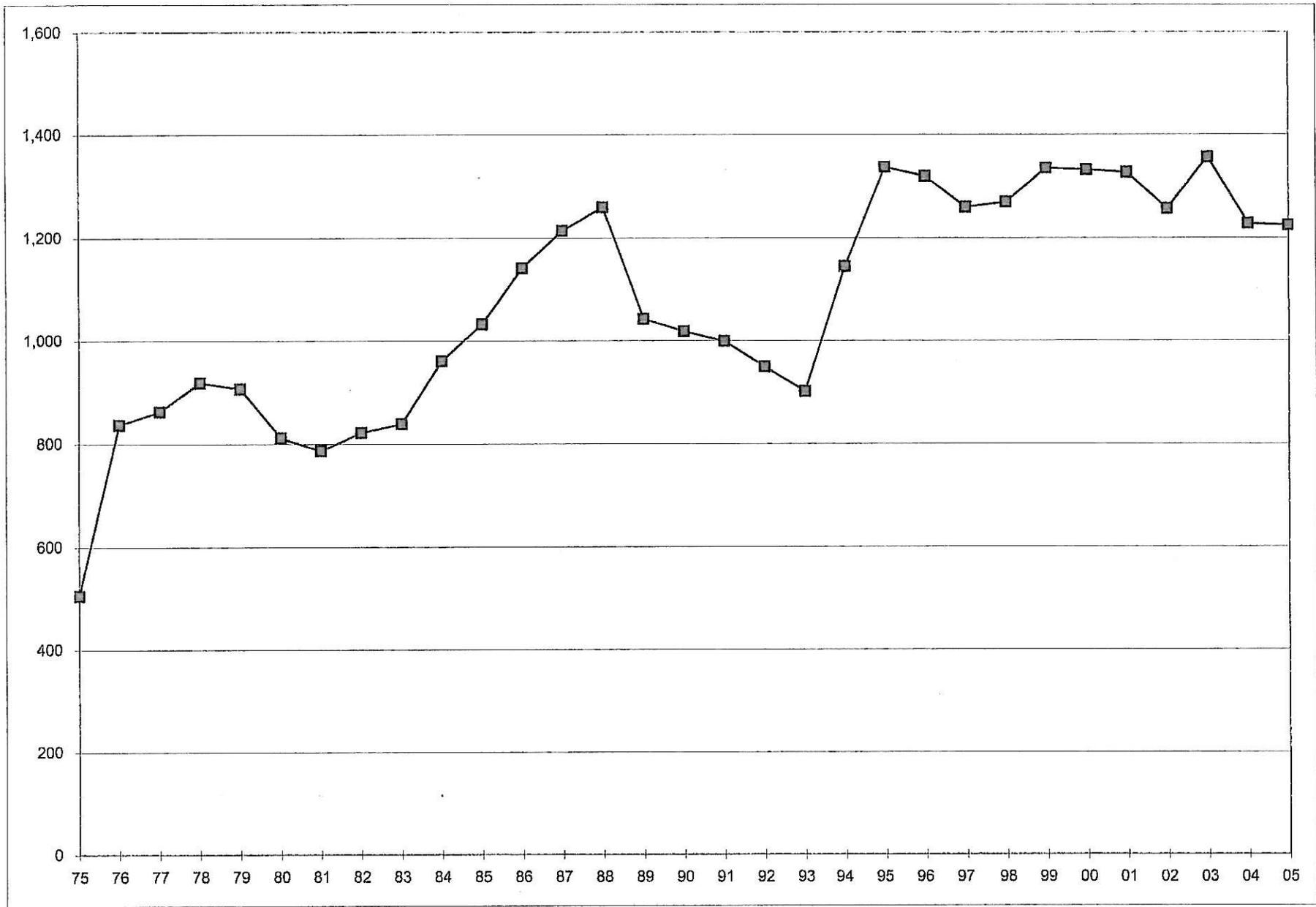
ANNUAL FIRE LOSS

1981-2005



YEARLY FIRE RESPONSE

1976-2005





Troy Fire Department Seniority List

Station 1

Years

Richard Wiles, Jr.	30.03
Dale Bise	30.02
John Foster	29.04
Dan Bise	28.03
Randall Kurth	24.05
David Weaver, Jr.	24.04
Dane Lawicki	23.08
John Collins	18.07
Paul Firth	18.00
Michael Sackner	17.09
Thomas Hoerle	15.01
Charlie Noonan	13.01
Jeff Gifford	11.10
Donald Hudson	11.01
Jason Dalbec	11.01
John Schoenbeck	9.11
Thomas O'Herron	8.10
Adam Kuz	7.07
Ryan Wolf	7.07
Adam Enterkin	6.10
Thomas Kmiec	5.10
Brian Dodoro	4.03
Garry Lenaway	4.03
Randy Odgers	4.03
Richard A. Wiles	4.03
Chris Ackerman	1.03
Walter Verbruggen Jr.	.09
Jason Voss	.06

Station 2

Years

Gerald Williams	30.03
Thomas Duncan	27.06
Scott Noble	25.08
Tonya Perry	21.02
Scott Stoglin	19.09
John Milliron	19.04
Joel Barthlow	19.01
Brian Verbruggen	18.00
Paul Lucas	17.10
Thomas Berlin	16.11
Glen Malone	16.11
Peter Dungjen	16.04
Steven Bauman	15.05
Donald Douglas	14.05
Jerry Bayliss	14.04
Michael Carter	13.00
Terry Smart	9.10
Jeff Otto	8.02
Sam Kalef	6.07
Christopher Steigerwald	6.07
Michael Koehler	6.00
Wade Rickard	5.08
Thomas Cleary	5.01
Kirk Linton	3.11
Aaron Boryczka	3.06
Daniel Inman	3.03
Jonathan Duncan	3.02
Drew Ginther	3.02
Keith Kohring	.08





Troy Fire Department Seniority List

Station 3

Years

David Roberts	27.00
Stan Godlewski	22.03
Charles (Patrick) White	21.01
Tim Wren	20.01
Susan Roberts	18.05
Jeff Bieber	16.05
Jim Haney	15.01
Richard Riesterer	14.11
Orville Allen	14.00
Eric Caloia	12.11
Donald Dougherty	11.11
Tim Dalglish	9.00
Michael Rusing	9.03
Mark McKimson	8.07
David Basile	8.02
Rob Bittner	7.07
Glenn Lanctot	7.05
Christopher Roberts	7.03
Paul Orrico	5.06
Sean Murphy	5.03
Nicholas Herzek	4.03
John Thomas	4.00
Kelley St. Cyr	3.08
William Corsaut	3.02
Adam Green	2.07
Carolyn Davis	1.05
Allan Soriano	1.05
Richard Leach	.10
Dan Mahrle	.06
Timothy Blackwood	.04

Station 4

Years

Walt Verbruggen	27.08
Mark Flint	25.08
Harry Hartfield	25.05
Greg Latka	24.09
James Davison	23.02
Terence Chartier	21.07
Jack Spreyer	21.01
Anthony Pabian	18.10
Robert Bunker	15.11
Ronald Griffiths	12.00
Stephen Vaillancourt	11.10
Larry Schultz	8.08
Daniel Jackson	7.07
Shawn Hugg	6.07
Brian Typinski	5.11
James Hazen	5.03
Reid Vandekerkhove	4.07
Matt Arnold	3.09
George Hawes	2.07
Jay Hernandez	2.07
Eric Baroky	2.03
Chris Miltimore	2.03
Jeff Miltimore	1.07
Michael Cleary	.05





Troy Fire Department Seniority List

Station 5

	<u>Years</u>
Robert Potts	29.07
William Barr	27.06
Glenn Plaskon	25.03
Robert Ziebell	24.00
Richard Pausch	23.10
Gary Wood	21.09
Randy Beachum	19.06
Jeff Denny	19.03
Phil Thor	19.02
Dan Thompson	18.08
Gerald Ball	18.05
Michael Viel	18.03
Jay Reynolds III	17.05
Gregory McMenamin	13.04
Mark Merian	13.01
Harold Kyte	13.01
Richard Bewick	11.08
Jason Reynolds	9.02
Ken Grand	7.07
Raymond Hella	7.07
John Schaufler	5.08
Adam Sinutko	5.08
Christopher Huck	5.04
Dan Madden	4.07
Mark Vleck	2.04
Steven McGee	2.01
Will Wood	1.08
James Roll	.02

Station 6

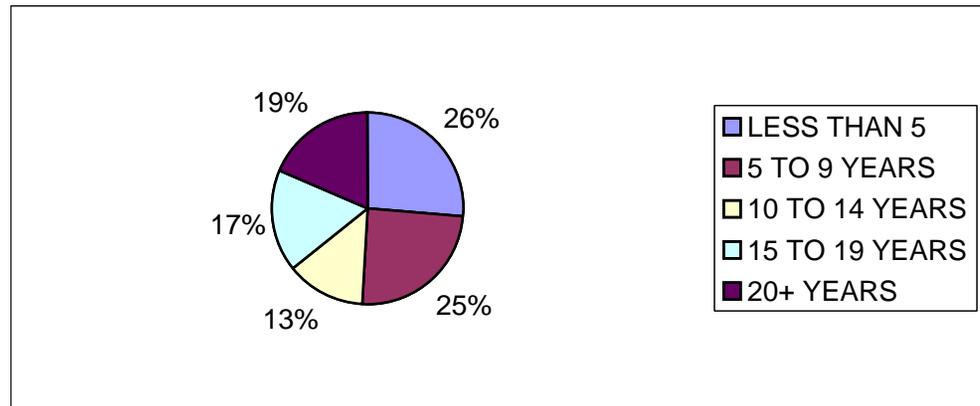
	<u>Years</u>
Ken Coppock	22.08
Joseph McKay	21.00
Daryl Klinko	20.05
Richard Harding	19.03
Donald Lockard	18.04
Paul Koehn	16.01
Mark Colombo	15.11
Stephen Pallotta	14.11
Bill Petrusa	14.11
Dan Carcone	12.11
Steven Splan	12.03
Peter Hullinger	12.03
Steven Gerard	9.02
Joseph K. LaGarde	9.02
Charles Roberts	9.02
Robert Shenk	9.02
Ali Taqi	7.10
Fred Reddig	6.07
Karen Lawson	5.08
Dustin Lockard	5.04
Dennis Lundstedt	3.03
Todd Dudzinski	3.03
Joseph J. LaGarde	2.11
Thomas Schramski	1.04
Andrew Satterfield	.06
Richard Bovensiep	.05
Darcy Schmidt	.04
Mark Jankowski	.01



FIREFIGHTER CREDITED SERVICE BY STATION AS OF 12-31-05

	LESS THAN 5 YEARS	5 TO 9 YEARS	10 TO 14 YEARS	15 TO 19 YEARS	20+ YEARS
FIRE STATION 1	7	6	4	4	7
FIRE STATION 2	6	7	3	9	4
FIRE STATION 3	10	9	4	3	4
FIRE STATION 4	8	5	2	2	7
FIRE STATION 5	5	6	4	7	6
FIRE STATION 6	8	8	5	4	3
DEPT. TOTAL	44	41	22	29	31

LESS THAN 5	44
5 TO 9 YEARS	41
10 TO 14 YEARS	22
15 TO 19 YEARS	29
20+ YEARS	31





FIRE PREVENTION DIVISION



2005 Annual Report



ENGINEERING



EDUCATION



ENFORCEMENT

FIRE PREVENTION DIVISION

Overview

A proactive approach to fire prevention principles and practices serves to provide for a community free from the destructive forces of fire. This approach is carried out through installed fire protection and detection systems with an adequate and easily accessible water supply for fire extinguishment should it be needed.

The following is the 2005 Annual Report for the Fire Prevention Division as obtained from data logged by Division personnel. This report, however, does not reflect time spent in the management, planning, supervision, and administration of the Division, and cannot account for errors in data gathering, nor can it account for missing data due to program software shortfalls.

Inspections

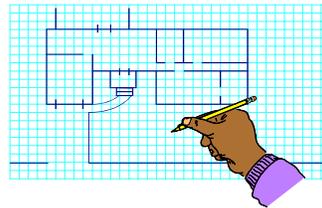
During 2005, 546.5 hours were spent conducting 1,330 construction related inspections, 874 existing building inspections, 15 hazardous materials inspections, and 47 miscellaneous or other type inspections for a total of 2,266 inspections.

Fees

The Division continued its fee assessment for fire alarm permits, fire protection permits, hazardous material permits, fireworks permits, special event permits, overtime inspections, and false fire alarm activations as required by ordinance. The Division accounted for \$22,995.00 from issuing 178 fire alarm permits; \$36,398 from issuing 308 fire protection permits; \$3,150.00 from issuing four hazardous materials permits; \$100.00 from issuing one fireworks permit, \$250.00 from issuing five exhibit/craft/trade show permits, \$1,300.00 in overtime inspections; and \$5,300.00 in false alarm fees for a total of \$69,593.00.

Fire Prevention Activities

The Fire Prevention Division continued to perform the normal variety of fire prevention activities. While not all activities are listed, some of these activities included the following:



Plan Review

Except for one and two family residences, the Fire Prevention Division reviews building construction plans, tenant renovation plans, individual site plans, and residential development plats. The Division also has primary plan review responsibility for specialized fire protection systems such as fire alarm and extinguishing systems. The Division reviewed a total of 936 plans during 2005 including building, site, engineering, subdivision, and water main plans. The Division coordinates regularly, and values a close working relationship with the Building, Planning, Engineering, and Water Departments.

Construction Related Inspections

The Fire Prevention Division's role in new construction includes inspection of construction methods as well as inspection and testing of fire protection systems including fire suppression, fire detection and alarm, smoke control, and related systems. The Division interfaces on a daily basis with the city's building, electrical, and mechanical inspectors to coordinate inspections for buildings under construction and renovation.

Existing Building Inspections

The Fire Prevention Division performs existing building and tenant inspections in all types of structures. This also includes inspection and testing of fire protection systems including fire suppression, fire

FIRE PREVENTION DIVISION

alarm and detection, and related systems; and hazardous materials in existing occupancies.

Violations

Violation notices are issued when an inspection reveals fire code violations and safety related hazards. All violations are tracked until: 1) they are corrected; 2) they are successfully appealed through the appeal process; or 3) they are referred to the Law Department. The Division issued a total of 1,106 violations and cleared 970 violations.

Hazardous Materials & Firefighter Right To Know

In order to minimize hazards to responding firefighters and to comply with Federal and Michigan Right-to-Know requirements, the Fire Prevention Division surveys and develops site-specific informational bulletins for all firefighters. These bulletins, known as H.A.P.I.S. (Haz-Alerts / Pre-Incident Surveys), contain information about hazardous materials and other unusual hazards that exist within the community. Working with the Local Emergency Planning Committee, efforts have been made to assist businesses in Troy as well as in Oakland County to report hazardous materials and make appropriate information available to fire fighters for purposes of pre-incident planning.

Inspection Related Activities

Division personnel perform various fire inspection related activities including preparing inspection reports and violation notices, researching codes and standards, researching hazardous materials, and inputting data in the computerized fire records management system (FRMS). In addition, Division personnel attend a variety of meetings. These include planning and design meetings with architects, engineers, owners, developers, and contractors regarding new construction and renovation projects.



Public Education & Training

The Fire Prevention Division conducts public education by providing public fire safety education programs to the citizens of the community. This activity includes: fire safety lectures; school programs; and Fire Safety House demonstrations. 2005 marked the third year of the "Safe at Home" fire safety education program within the Troy School District. With cooperation and planning from key TSD personnel, this program is delivered within every Troy elementary school with curriculum for 1st, 3rd, and 5th grades. This program continues to be successful and will be further enhanced as needed in the future. A total of 211 public education programs were conducted in 2005 reaching 8,878 children and 2,447 adults for a total of 11,325 people. The Fire Prevention Division also occasionally assists with the training of firefighters by conducting various training programs for the stations and assisting at the Oakland Fire Training Academy.



Administrative Activities

Division personnel perform various administrative tasks in the fire department offices. These include reviewing journals and technical publications, and returning telephone calls. In addition, Division personnel attend a variety of meetings. These include Division as well as office staff, department officer, safety, and open

FIRE PREVENTION DIVISION

house committee meetings; department training meetings; traffic committee meetings; Troy Daze committee meetings; and various professional organization meetings.

Support Activities & Other Assigned Duties

The Fire Prevention Division continues to take part in numerous other activities in support of the overall mission of the fire department, some of which include the following:

Incident Responses & Investigations

Division personnel continue to respond to incidents to support fire suppression personnel. In addition, a Division member shares a one week rotation with other staff members and is available 24 hours a day serving as the department duty officer in order to guide dispatchers, respond to and conduct fire investigations, investigate hazardous conditions and overcrowding complaints, and handle miscellaneous requests and notifications.

Training Attended

In order to maintain skill proficiency, expertise, and job certification, personnel attend continuing education as necessary. Division personnel attend training programs related to such topics as code enforcement, plan review, fire protection systems, alarm systems, and hazardous materials.

False System Alarms

The Division continued tracking and billing for false alarm activations in all properties within the city and by visiting commercial properties, after the occurrence of two or more false alarms, to discuss maintenance requirements with responsible individuals. Out of 1,225 total incidents in 2005, 566 were classified as "false calls." Of these false calls, activated system alarms overall totaled 548, (502 commercial, 46

residential). Thirteen businesses were responsible for generating between 5 and 13 false activations. Other incidents classified as false calls included malicious and/or mischievous, carbon monoxide, central station error, and bomb scares.

False system alarms accounted for 47% of total incident responses, placing an unnecessary burden and risk on the department. The "System Trouble/Test" and "System Impairment" entries into the C.A.D. system, however, continued as an aid to reduce the number of responses to false alarms. This potentially prevented unnecessary dispatching of fire stations to false alarm activations from known testing and maintenance to these systems.

Explorer Post 911

Members of the Explorer Post support the Division and the department by participating in the annual Troy Daze community fair and the department's annual open house. Additionally, post members staffed and operated a booth at Troy's annual Community Kaleidoscope and operated the Fire Safety House at various events in and around Troy. The members educated and informed many people in matters related to fire and life safety. Members continue to participate in the annual March of Dimes Walk America, monitoring the safety and security of walkers. Members continue to learn basic fire fighting and safety related skills as well as develop professionally within the post.



Accomplishments

FIRE PREVENTION DIVISION

The Fire Prevention Division remains a staunch advocate of installed fire protection, usually in the form of automatic sprinklers, because of their undisputed record of providing life safety and property protection.¹ During 2005, nearly one third of commercial buildings in Troy remain equipped with automatic fire sprinklers. This equates to approximately 65% of existing, commercial / industrial floor space protected by automatic fire sprinklers.



The Division continued its Fire Inspection Resource Allocation Model as a method for identifying and completing existing building inspections based upon occupancy type.

Over the Christmas holidays, several Division members participated with the Troy Police Department, Troy VFW post, and the Troy People Concerned charity organization, by delivering food baskets and installing 5 smoke detectors in homes of needy families in Troy.



¹ Statistics reveal that there has never been a multiple loss of life from fire in occupancies where an automatic fire sprinkler system was installed and operational. Sprinkler systems are both effective and affordable. So much so that national building and fire prevention codes make allowances to site development, construction methods and occupancy practices where fire protection is installed.



Troy Fire Department Fire Investigation/Juvenile Fire Setters

Fire Investigation

Both the number of structure fires and the number of fires requiring the investigative unit were up from 2004. The percentage of fires being investigated by the unit went up from 22% to 28%. The unit investigated 63 fires, resulting in 264 man-hours. Of the 63 fires investigated, 11 were juvenile related.

Twelve of the fire investigations were found to be arsons. The most common single cause of accidental fires we had in 2005 were cooking related.

In 2005 Arson/Suspicious fires caused \$399,000 in direct losses. \$256,000 was property loss and \$143,000 was in content loss.

The Fire Investigation unit consists of one Assistant Fire Chief, five Fire Lieutenants, and one Police Sergeant. In 2005, the members of the unit attended over 174 hours of fire investigative training. Members of the investigation unit also served on three different boards of directors for fire investigation organizations.

They published articles related to fire investigation and have taught at numerous seminars and classes on fire investigation. The unit also

hosted for the second straight year, a Courtroom Testimony Class offered to Fire Investigators.

Our arson-to-structure fire ratio went from 3% in 2004 to 4.1% in 2005. This is far below the national average of over 13%. But both nationally and in Troy, juveniles accounted for 50% of these arsons. In Troy, juveniles accounted for 63.6% in 2005.



Juvenile Fire Setters

Fires started by juveniles are not all determined as incendiary or arson fires. Fires classified as children playing with matches, lighters or fire play are handled internally. There are several times, however, when the juvenile fire setters need more specialized intervention at which time we refer them to the **Straight Talk Program**, sponsored by the U of M Burn Center. The goal of these types of programs is to raise awareness of the individuals as to what can happen, as well as change the dangerous behavior they have demonstrated.



Troy Fire Department Training Section Report

The training section of the Troy Fire Department is responsible for the ongoing training of our firefighters, new recruit training (in cooperation with the Oakland Fire Training Institute), training new Police Service Aids, and continuing education for the Police Service Aids. The training division staff is responsible for providing subject content, equipment, and record keeping for all training activities. The training division is also responsible for updating the fire dispatch portion of Computer Aided Dispatch System. The division also began providing content development support and logistical support for training of the Special Response Unit members

The continued success of our fire fighting training is due to the firefighters' commitment to training and the efforts of the station training officers. Each year, every Troy firefighter is required to attend a minimum of sixty hours of instruction. In 2005, Troy firefighters attended a total of 18,823 hours of instruction, covering more than seventy different subject matters relating to incident response, fire investigation and fire prevention.

One member of each fire station serves as that station's training officer. The station training officer (with the support of training division staff) is responsible for providing training that is pertinent, challenging, and up to date with constantly changing fire suppression tactics and technology.

As in past years, the Troy Fire Department along with the Oakland Fire Training Institute presented the Fire Fighter I & II Academy. This year we held classes on Monday and Thursday evenings. There were also several all day Saturday sessions. The new academy started in October 2005, and will end in May 2006. We have five students enrolled in this year's academy. During the six months of the academy, the students each receive about 300 hours of instruction.

In 2005, one new Police Service Aide was given forty hours of training on fire dispatch. In addition, forty hours of continuing education training on fire dispatch were provided to existing Police Service Aides.

The Fire Department was fortunate to have 13 houses that were slated for demolition as a result of the Big Beaver widening project donated for training. These houses were used for live fire, rescue, ventilation and Rapid Intervention Team training. The training conducted in these houses alone accounted for 1,345 hours of training. All of the training sessions that were done in these houses were valuable, due to the realism of the training that could be provided as a result of being in an actual structure. In addition to the Big Beaver houses, three other houses scheduled for demolition were also donated to the Department. These houses were also used for a variety of different training evolutions. In 2005, the Department conducted a total of twelve live fire-training sessions.

Two of the Fire Stations conducted training sessions in the newly constructed training tower at the Combined Regional Emergency Services Training Center at the Oakland Community College-Auburn Hills campus. This high-tech. training facility provides state of the art training in a safe controlled environment. Training evolutions at the center included live fire attack as well as search and rescue.

In 2005, the five-minute training program that was started in 2004 was continued. The intent is that on

training nights at the stations, five minutes are taken at the beginning of the session to present and discuss the topic of the five-minute training. With some relevant and timely exceptions, the topics presented in these trainings focus on some element of safety as it relates to fire fighting. The goal is accident and injury prevention. New five minute trainings are being sent to the stations on a bi-weekly and frequently weekly basis.

The training portion of the Fire Department intranet site was continuously enhanced with the addition of timely and pertinent videos and Power Point programs. One notable program is a Power Point program on gasoline/electric and hydrogen/electric hybrid vehicles. The number of gasoline/electric vehicles on the road is increasing steadily. Hydrogen/electric vehicles are not yet available to consumers, but there are a small number of these vehicles that are being used for research by area manufacturers that travel through our city. Our members are learning how to react to a situation if one of these vehicles is involved in a fire or an accident in which victims have to be rescued. There are distinct differences from a fire fighter safety standpoint between these vehicles and traditional gasoline vehicles.

Members of the department also participated with outside agencies in joint training sessions which covered a wide variety of topics including vehicle extrication and advanced vehicle stabilization, hazardous material training, fire officer training, live fire training, instructor development, high-angle rescue, confined space rescue, fire prevention training and public education training.

In the last quarter of 2005 the Training Division supported the members of the Department in completing two courses that were offered on line from the Federal Emergency Management Agency (FEMA). The subjects of these courses are **The National Incident**

Management System and the **National Response Plan**. By taking these courses members will be better able to respond to disaster type incidents when the Troy Fire Department may have to work with a number of other responding agencies. At the end of 2005 about one third of department members had completed these courses. The Department made use of the computer center in the Troy Library to help members complete these courses. Several Department members completed other FEMA courses besides the two that are described above. The topics of these classes dealt with a range of subjects including emergency preparedness, hazardous material response and disaster response.





Troy Fire Department Apparatus Section

The Fire Department owns, operates and maintains a fleet of 27 vehicles, 1 trailer mounted air compressor, an SRU trailer, a light trailer, and a Fire Safety House trailer. The fleet includes the following:

- 9 Pumpers
- 1 Reserve Pumper
- 1 Training Aerial/Pumper
- 3 Aerial Platforms
- 3 65' Aerial/Pumpers
- 4 Special Response Vehicles
(1 owned by Oakland County)
(1 RRTN vehicle)
- 1 Trailer Mounted Air
Compressor
- 1 Vehicle Mounted Air
Compressor
- 1 Grass Fire Unit
- 1 SRU Trailer
- 1 RRTN Decontamination
Trailer
- 1 Fire Safety House Trailer
- 1 Light Trailer
- 4 Utility Vehicles
- 1 Mobile Command Vehicle
- 1 Antique Pumper

During 2005, the Troy Fire Department received a new Hazardous Materials vehicle from the State of Michigan. This vehicle is used for the State of Michigan Regional Response Team Network.

It will respond to incidents in Troy, as well as when called upon for incidents anywhere in the State.

In 2005, the department took delivery of the new Engine 4-2. This engine has a 1500-gallon per minute pump, carries 1000 gallons of water, and has hydraulic rescue tool, electric, and air tool reels.

During 2005, the department also developed specifications and solicited bids for the replacement of Ladder 1. Ladder 1 is a 1984 Sutphen Platform. The new platform should be delivered in November of 2006.

One of the goals of the Troy Fire Department is to replace pumpers when they are between 15 to 18 years old, and ladder trucks when they are between 20 and 25 years old. Presently the average age of front line fire apparatus is 9 years old.

Maintenance on our apparatus is a high priority. Every piece of apparatus must be ready to run at full capacity, for many hours when called upon. Our apparatus have extensive systems built into them, such as pumping systems, foam systems, communications systems, including computers, electrical systems, both 12 volt and 110 volt, and other complex components needed to perform their functions.

Every piece of apparatus receives two complete services and a complete check over while at the Motor Pool facility. The Motor Pool provides other services, such as brake system repairs, suspension repairs, and tire replacement.

Below are some brief statistics concerning the Troy Fire Department apparatus capabilities:

Pumping Capacity –
22,500 gallons per minute

Water Carried –
10,700 gallons

Truck Mounted Deluge Guns –
11,000 gallons per minute

Elevated Master Streams –
6,000 gallons per minute

Elevated Ladders – 480 feet

Ground Ladders – 965 feet

5" Supply Line – 6,900 feet





Troy Fire Department Special Response Unit

The Special Response Unit was officially established in 1983 with the addition of four police officers. The Unit is trained and equipped to respond to and mitigate hazardous material incidents, and technical rescue situations where specialized raising and lowering techniques are required. Today, SRU has grown into a multi-tasked regional team, including members from Clawson FD, Bloomfield Hills DPS, Berkley DPS, Bingham/Franklin FD, Beverly Hills DPS, Hazel Park PD, Huntington Woods DPS, Oak Park DPS and Alliance Mobile Health, the City of Troy's contracted medical first responder company.

In 2005, SRU had two full activations and several partial activations. We responded to Oak Park on an odor

investigation coming from the city's sewers and to a location on Maple on a chemical spill. The partial activations occurred when suspicious letters or packages were found and SRU had to assess for chemical, biological, radiological or explosives dangers before they were investigated. For the third straight year, SRU assisted Berkley Public Safety Department during the Woodward Dream Cruise to assure the safety of its citizens and visitors. We completed over 400 hours of training.

The team acquired over \$100,000 in grant funds and special equipment ranging from a portable x-ray machine to instruments that identify unknown substances.





Troy Fire Department Regional Response Team Network

The City of Troy hosts one of 16 State of Michigan Regional Response Network (RRTN) Teams. The RRTN is comprised of members from over 13 Police, Fire and Public Safety jurisdictions throughout Oakland County, as well as Troy SRU members. The primary mission of the Regional Response Teams is to rapidly respond to and assist jurisdictions in effectively addressing the consequences of a critical incident involving weapons of mass destruction (WMD) and toxic industrial chemicals (TIC). The teams will accomplish this mission in collaboration with and supported by other Regional Response Teams, as well as by local, state, and federal resources. The response and assistance may include pre-

deployment of assets to assist crisis management activities due to a credible threat throughout the State of Michigan. A secondary mission of the Regional Response Teams is to respond to a technological and/or natural incident in which the team's training, equipment, and experience can be effectively utilized.

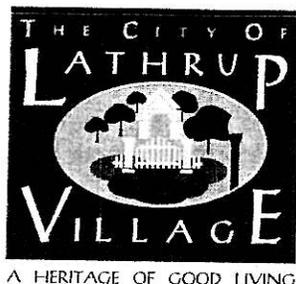
In 2005, the RRTN took possession of a new \$180,000 Hazardous Material vehicle, a \$105,000 mass decontamination system, and a \$300,000 Safer Star Advanced Plume Modeling System. All of the equipment was either purchased by or had funding provided by Michigan State Police Homeland Security Section.



COUNCIL MEMBERS

RENEE McCLAIN
 KYRIAN NWAGWU
 MARIA MANNARINO THOMPSON

FRANK M. BROCK, JR., MAYOR
 ALLEN WEAKS, MAYOR PRO TEM



CITY OF LATHRUP VILLAGE

**A RESOLUTION TO OPPOSE
 THE BALLOT PROPOSAL TO BAN AFFIRMATIVE ACTION**

WHEREAS, many decisions of the United States Supreme Court have ruled that Affirmative Action is necessary and legitimate for realizing true democracy in our great nation, which is growing increasingly diverse and multicultural; and

WHEREAS, the campaign to amend Michigan's Constitution would outlaw Affirmative Action and nullify the Supreme Court's legacy of supporting Affirmative Action; and

WHEREAS, the proposed constitutional amendment would remove from local governments, including K-12 education systems and public universities, their ability to control their own policies, processes, and practices by eliminating the ability to consider race, color, gender, ethnicity or national origin in the areas of personnel hiring, education, contracting, and admissions; and

WHEREAS, the City of Lathrup Village has long recognized that the diversity of its citizens is one of its most valuable assets and further recognizes that it must be allowed to continually review and improve its processes to increase diversity among its workforce and contractors to better reflect the composition of the City and better serve its residents; and

WHEREAS, the "Michigan Civil Rights Initiative" is certain to have broad and far reaching negative consequences by irreparably harming the ability of all Michigan residents to enjoy a fair chance in education and employment; and

WHEREAS, the proposed constitutional amendment would remove the ability of locally elected officials to bring about diversity within the operations of local government by violating the fundamental principle of local control as embodied in the Home Rule Cities Act, which seeks to ensure that each city is allowed to determine how best to serve its residents; and

WHEREAS, numerous civic organizations, labor unions, business groups, educational institutions, persons from all political parties, religious, ethnic, and women's organizations oppose the adoption of this amendment; and

WHEREAS, the campaign being waged to promote this amendment will, if successful, reverse many of the advancement that have been made in race, color, gender, ethnic and national origin equality to date.

NOW, THEREFORE, BE IT RESOLVED, that the Lathrup Village City Council reaffirms its support for diversity and affirmative action programs as well as the principle of local control; and

BE IT FURTHER RESOLVED, that the Lathrup Village City Council goes on record as opposing the "Michigan Civil Rights Amendment" to the Michigan Constitution since it in no way furthers the civil rights of Michigan citizens and instead is completely contrary to the promotion and continuance of civil rights in this state; and

BE IT FURTHER RESOLVED, that we wish to encourage our citizens as well as our citizen organizations to become informed and educate themselves on this important issue and to actively participate in efforts to defeat this proposal; and

BE IT FINALLY RESOLVED, that a copy of this resolution be forwarded to Governor Granholm, each and every member of the Michigan State Legislature, Oakland County Executive L. Brooks Patterson, and governing body of all municipalities in Oakland County.

Motioned by Nwagwu, Seconded by Mannarino-Thompson
Yes: Brock, McClain, Nwagwu, Mannarino-Thompson, Weaks
No: None
Resolution Adopted

I, Gloria Harris-Ford, City Clerk for the City of Lathrup Village do hereby certify that the foregoing is a true and accurate copy of a resolution adopted by the Lathrup Village City Council at a Regular Meeting held on June 19, 2006.


Gloria Harris-Ford, City Clerk

July 2006

July 2006							August 2006						
S	M	T	W	T	F	S	S	M	T	W	T	F	S
2	3	4	5	6	7	8	6	7	8	9	10	11	12
9	10	11	12	13	14	15	13	14	15	16	17	18	19
16	17	18	19	20	21	22	20	21	22	23	24	25	26
23	24	25	26	27	28	29	27	28	29	30	31		
30	31												

Monday	Tuesday	Wednesday	Thursday	Friday	Sat/Sun
					July 1
					2
3	4	5	6	7	8
	7:30pm Planning Commission Special/Study (Council Boardroom)	8:30am BUILDING CODE BOARD OF APPEALS (Conference Room LL)			9
10	11	12	13	14	15
7:30pm City Council Meeting (Council Chambers)	7:30pm Planning Commission Regular Meeting (Council Chambers)				16
17	18	19	20	21	22
	3:00pm Brownfield Redevelopment (Conference Room C) 7:30pm BZA (Chambers) 7:30pm Historic District Commission (C)	7:30am DDA Meeting (Conference Room Lower Level)			23
24	25	26	27	28	29
7:30pm City Council Meeting (Council Chambers)	7:30pm Planning Commission Special/Study (Council Boardroom)				30
31					

August 2006

August 2006							September 2006						
S	M	T	W	T	F	S	S	M	T	W	T	F	S
		1	2	3	4	5						1	2
6	7	8	9	10	11	12	3	4	5	6	7	8	9
13	14	15	16	17	18	19	10	11	12	13	14	15	16
20	21	22	23	24	25	26	17	18	19	20	21	22	23
27	28	29	30	31			24	25	26	27	28	29	30

Monday	Tuesday	Wednesday	Thursday	Friday	Sat/Sun
	August 1	2	3	4	5
	7:30pm Planning Commission Special/Study (Council Boardroom)	8:30am BUILDING CODE BOARD OF APPEALS (Conference Room LL)			6
7	8	9	10	11	12
	7:30pm Planning Commission Regular Meeting (Council Chambers)				13
14	15	16	17	18	19
7:30pm City Council Meeting (Council Chambers)	7:30pm BZA (Chambers) 7:30pm Historic District Commission (Conference Room C)	7:30am DDA Meeting (Conference Room Lower Level)			20
21	22	23	24	25	26
	7:30pm Planning Commission Special/Study (Council Boardroom)				27
28	29	30	31		
7:30pm City Council Meeting (Council Chambers)					

7/24 PH-Street Vacation-Sect. 22
 7/24 PH - ZOTA 219
 7/24 PH - ZOTA 215-C

September 2006

September 2006							October 2006						
S	M	T	W	T	F	S	S	M	T	W	T	F	S
	3	4	5	6	7	8	1	2					
10	11	12	13	14	15	16	8	9	10	11	12	13	14
17	18	19	20	21	22	23	15	16	17	18	19	20	21
24	25	26	27	28	29	30	22	23	24	25	26	27	28
							29	30	31				

Monday	Tuesday	Wednesday	Thursday	Friday	Sat/Sun
				September 1	2
					3
4	5	6	7	8	9
	7:30pm Planning Commission Special/Study (Council Boardroom)	8:30am BUILDING CODE BOARD OF APPEALS (Conference Room LL)			10
11	12	13	14	15	16
7:30pm City Council Meeting (Council Chambers)	7:30pm Planning Commission Regular Meeting (Council Chambers)				17
18	19	20	21	22	23
7:30pm City Council Meeting (Council Chambers)	7:30pm BZA (Chambers) 7:30pm Historic District Commission (Conference Room C)	7:30am DDA Meeting (Conference Room Lower Level)			24
25	26	27	28	29	30
7:30pm City Council Meeting (Council Chambers)	7:30pm Planning Commission Special/Study (Council Boardroom)				

7/24 PH-Street Vacation-Sect. 22
 7/24 PH - ZOTA 219
 7/24 PH - ZOTA 215-C

June 20, 2006

TO: John M. Lamerato, Acting City Manager
FROM: Brian P. Murphy, Assistant City Manager/Services
Timothy Richnak, Public Works Director
SUBJECT: Agenda Item – Report and Communication
2006 Community Development Block Grant Funds

SUMMARY:

The Community and Home Improvement Division of Oakland County has notified the City of Troy that we can now obligate and expend program year 2006 Community Development Block Grant (CDBG) Funds as follows:

Administration	\$ 2,500.00
Water Sewer Improvements	93,816.00
Public Services	70,000.00
	<hr/>
TOTAL:	\$166,316.00

To: Mayor and City Council
cc: John Lamerato, Acting City Manager
Lori Grigg Bluhm, City Attorney

From: Robin Beltramini, Council Member

Subject: Meetings of National League of Cities FAIR Steering Committee and City Futures Panel on Public Finance, Cambridge MA, June 15-17, 2006

Date: June 27, 2006

This was a highly productive meeting from an educational standpoint, and a frustrating one from the policy and mechanics standpoints. There were several consistent themes from the speakers, whether their reference was public policy research, federal government experience, state/municipal finance interrelations, or academia. It seems that structural deficits are prevalent at all levels of government. Health care, as an employee benefit, and as a family expense, will have a huge impact on finance and budgeting. There is an unclear distinction as to the roles of the various levels of government as to the provision of public services. There is an educational gap when it comes to recognizing the true factors that impact public finance. I have included in this packet of information several of the power point outlines from the presentations, as well as the executive summary of the Massachusetts Municipal Association-sponsored study, and a plethora of information from Moody's regarding municipal bond ratings.

Structural deficits: The best definition is "Normal revenue growth is inadequate to cover normal cost increases without adjusting level of service." Admittedly, this is a simplification and a deficit can be avoided with the intervention of efficiencies. However, the point was made that even with efficiencies, at some point the cost increase will be such that revenue alone must cover it. For example, eventually a police department will have no further cross-training that can be done and all shifts will require a certain number of personnel to be effective. The same is true for public works and most other service areas.

Property tax as a relative burden has many measurement methods. Inequities exist, even in a system saturated with "amendments" designed to alleviate those inequities. While economists, for statistical purposes, tend to measure tax burden against the economy (GDP), most families have a far different measurement tool—taxes as a percentage of family income. One is broad, statistical, "defensibly accurate" while the other is real, "on the ground"—a "what it means to me" measurement. It is often difficult for policy-makers to reconcile the two.

The *Four Big Challenges in Public Finance* from the Center on Budget Policy Priorities is particularly elucidative on this and other points. That presentation, like others, looked at alternative taxes, the Tax-payer Bill of Rights (TABOR) and Stop Over Spending (SOS) style initiatives that have sprung up in the various states. The presentation

includes a modicum of information on the federal budget process and policy issues that ultimately impact state and local governments. Virtually the same message, with different examples, was offered by Robert Tannewald, PhD., Director of the New England Public Policy Center. Dr. Tannewald's presentation specifically highlighted the impact of business taxes on the economy. He reported a significant shift 3-4 years ago in what sorts of taxes businesses began reviewing. Essentially, most quit focusing on the corporate income tax and began looking at all other taxes (e.g., Michigan's SBT). While an identical tax structure across the country could have standardized components (e.g., property, income, payroll), the percentages might be different in order to reflect the local economy. Property tax is an outdated revenue source with the national economy currently being much more dependent on services than goods. Therefore, a whole new tax system, such as VAT may have to be considered. From a long-term economic perspective, it is felt that a comprehensive tax will not have sustainable increases—because of increased efficiencies, cheap components, etc. Also, "value added" is, by definition, a knowledge-based concept and therefore, there is no taxable transaction.

Included is a power point outline, "History of Property Tax Limitations," that was put together by the City of Cambridge Assessor. It is a good summary of the movement nationally, over time. The Massachusetts-specific information is interesting as a trend summary. In looking at the two states, and Cambridge compared with Troy, there are significant similarities.

Health Care and Other Post Employment Benefits: Health care treatment costs seem to be uncontrollable. Happily, Troy has implemented the defined contribution plan for new hires. For our employees under the defined benefit plan, and already retired employees, we will have continuing costs to fund. The Government Accounting Standards Board (GASB) has instituted a requirement for the ability to fund such current and future costs to be included in the "notes" section of municipal budgets in the very near future (GASB 45). This makes those expenses transparent for any outsider wishing to know more about the fiscal health of a municipality—taxpayers, businesses, other governments, bond rating agencies and purchasers. . .

Intergovernmental Relations: Stan Finkelstein Director of Association of Washington Cities and Seattle University instructor prepared a thorough and cogent summary of trends impacting cities, revenue shifts, and some ways cities are adapting to cope with these changes. I've included Stan's presentation outline as an attachment.

Geoffrey Beckwith, Director Massachusetts Municipal Association, explained the report prepared by Northeastern University regarding the revenue sharing issues in Massachusetts. The situation there is much the same as what we face here in Michigan with two major differences, Michigan cities can levy and collect income taxes and Massachusetts cities are responsible for supervision of the local educational system. I do not mean to imply that these offset each other, just that they are the primary differences in the state systems as it relates to the report. I have included the summary of that report as well. To the list of trends impacting the ability of local governments to

provide expected service Geoff added: a hardening of the political system, political relationships being rewarded has caused a more polarized system; who to blame has become a mantra that simply broadens small stories rather than solving the problem; sound bites (from all levels of government) have led to oversimplification and the need to choose sides where no sides appropriately exist. Geoff also mentioned some noteworthy “coping mechanisms.” Dialogue and Education are tops on the list. Dialogue with business folks, young adults, average citizens interested in good governance, neighborhood organizations, and academics. Build lateral coalitions. Dialogue with the state level folks can be helpful, but may not be as fruitful as an informed, united local citizenry. Educate our citizenry regarding why local taxing matters—what we do, on how much money, what benchmarks and accountability measures exist now or can be built into our systems. While we speak in business terms, because they are readily understood, it must be known that we do not do business work per se, and we have different requirements and measurements for much of the work we are required to perform.

Moody’s information: I have included documents from Moody’s rating service arm as well as the power point outline from Susan Freiner’s presentation. In addition to being Moody’s lead analyst for local governments in Massachusetts and Vermont, she is a member of the rating committee. The “National Medians” document is particularly interesting as it gives benchmarks for various financial attributes and groups them by population and ratings. The major components impacting a bond rating are fairly standard across the rating services, but this is a good reference document for them.

I am fairly certain that this is more than you ever wanted to know. I did not include the NLC report from the CityFutures Panel on Public Finance. It is available online at the NLC Website. As the economy changes, expectations change, and our relationships with other levels of government change, all this is worthy food for thought. Again, thank you for the opportunity to serve on NLC’s Finance, Administration, and Intergovernmental Affairs Steering Committee. It is an education and a privilege.

REB

Four Big Challenges in Public Finance

Presentation to the
National League of Cities
June 15, 2006
Boston, MA

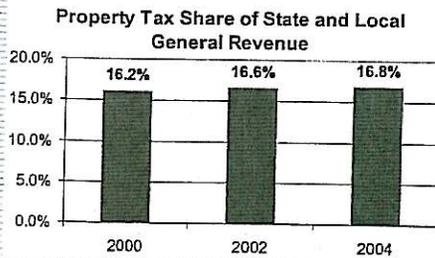
Nick Johnson
Director, State Fiscal Project
Center on Budget & Policy
Priorities



Challenges

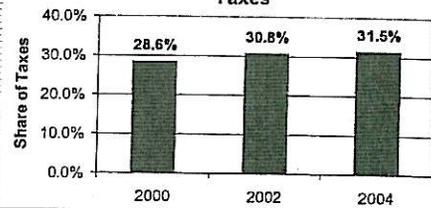
- The Property Tax and State-Local Fiscal Relationships
- State Structural Deficits
- TABOR
- The Feds

The Property Tax: Is It Rising...



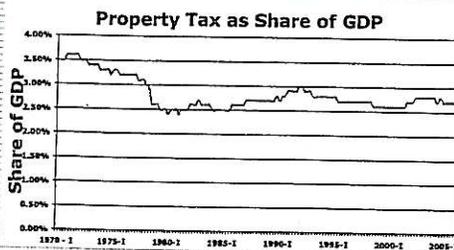
Source: Census Bureau

Property Tax Share of State and Local Taxes



Source: Census Bureau

... or Not?



Source: Bureau of Economic Analysis

Property Tax

- Whether property tax burdens are rising is a **relative** question
 - As a share of the economy: *no*
 - As a share of state and local taxes: *yes (at least shortterm)*
 - On businesses: *not as much as on residences*
 - Local variation
 - As a share of a family's income: *depends on whether the family's income is rising*

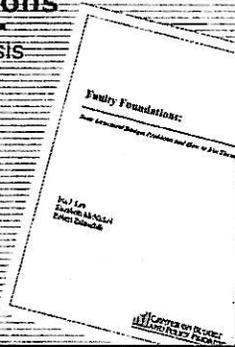
Property tax cont'd

- To at least some extent, declining aid from the state is the culprit
- Defining the problem can help define the solution
 - Some families face large & rising residential property tax burdens relative to incomes
 - Property tax circuitbreakers may be ideal solution
 - What's the future hold for state aid?

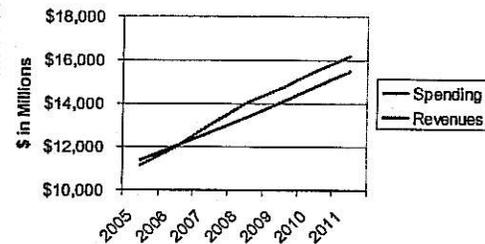
State Structural Deficits

"Faulty Foundations"

- State-by-state analysis of structural deficit risks
- Builds on work of numerous other analysts
- Will update regularly



What a Structural Deficit Looks Like: Maryland General Fund



Source: Maryland Spending Affordability Committee Briefing, November 2005

What Do We Mean By a "Structural Deficit"?

A state has a structural deficit when:

- the "normal" growth of revenues under existing tax policy
- is chronically inadequate to finance the "normal" growth of expenditures for the current set of state programs ("current services")
- even at times of healthy economic growth.

Why Are All States at Risk of Having Structural Deficits?

- The growth rate of state spending needed to maintain "current services" usually approximates the growth rate of state personal income (PI)
 - but*
- Most state tax systems & individual taxes are structured such that the "natural" rate of growth in revenue lags behind the rate of growth in PI.

Study Looked at Factors that Put State at Risk for Structural Deficit



Ten Risk Factors

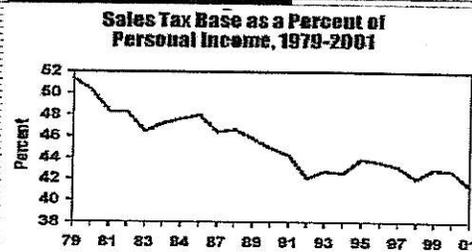
- Services under sales tax
- Corporate income tax strength
- Untaxed E-Commerce
- Tax preferences for elderly
- Progressivity of personal inc. tax
- Tax policy mix and choices
- Expenditure needs/trends
- Process barriers such as IT/ETs
- Failure to delink from federal policy
- Findings of other studies

Many States Are At Risk of a Structural Deficit

Number of Factors Contributing to Structural Gap

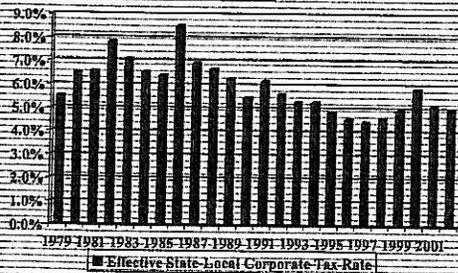
1-2	3	4	5	6-7	8-10
Alaska	Alabama	Arizona	Connecticut	Florida	Minnesota
Arkansas	Georgia	California	Illinois	Colorado	Mississippi
Ohio	Kentucky	Idaho	Indiana	Illinois	New Jersey
OKLAHOMA	MISSISSIPPI	MISSOURI	IOWA	MARYLAND	NEW MEXICO
Nebraska	NEW HAMPSHIRE	PORTLAND	MASSACHUSETTS	NEW YORK	VERMONT
New Mexico	South Dakota	Michigan	Montana		Washington
Pennsylvania	Washington	Mississippi	New Hampshire		
South Carolina		Alabama	North Carolina		
Tennessee		Missouri	Ohio		
Texas		Missouri	Oregon		
Utah			Utah		
Virginia			West Virginia		

The Sales Tax Base Has Eroded



Source: William Fox, Three Characteristics of Tax Structures Have Contributed to the Current State Fiscal Crisis, April 3, 2003.

Corporations Increasingly Avoid State Taxes



Source: Steve Haggard, Cong. Research Service, "Average Effective Corporate Tax Rates, 1969 TO 2002," Updated September 6, 2004.

State Corporate Tax Avoidance Greater Than Federal

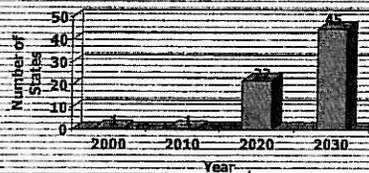


Most States Offer Non-Means-Tested Breaks to the Elderly

- 26 states completely exempt Social Security income
- Pension income is fully or partially exempt in 30 states
- Four out of five states give additional personal exemptions or credits based on age
- Also, many states assist local governments with the costs of age-based property tax reduction programs

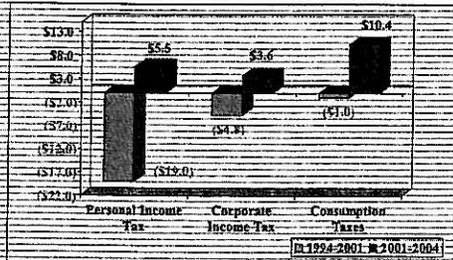
Cost of Senior Tax Breaks Will Grow

States where seniors are more than 17 percent of population



Source: Census Bureau projections

Making things worse: state tax actions



SOURCE: DEBEAUX & ASSOCIATES, STATE TAX ACTION 1994-2002

Making things worse: federal tax actions

- Estate tax:** 24 states still have estate or inheritance tax; remaining states are losing \$14 billion through 2007. Loss of fast growing revenue source.
- American Jobs Creation Act of 2004 = QPRT:** 18 states are decoupling; remaining states will lose \$800M to \$1.2 B annually when fully phased in - and eroding their corporate taxes

Options for improvement

- Expand sales tax base to include more services
- Adopt SSTP and seek federal legislation, enforce use tax collection by "bricks and clicks" retailers
- Close corporate tax loopholes, adopt "combined reporting," eliminate wasteful economic development giveaways, enact a value-added tax as a corporate AMT, decouple from federal corporate tax cuts

More options for improvement

- Reduce income and property tax breaks based solely on age
- Update personal income taxes with more progressive rate structures to capture income growth at upper income levels
- Avoid substituting sales/sin tax revenue for PIT revenue in the overall mix
- Preserve a state estate tax

And still more options ...

- Avoid new artificial and arbitrary limits on revenues and tax reform-powers; modify existing ones
- Oppose new federal preemptions of state and local taxing authority
- Improve budget transparency, especially by requiring long-range revenue and current-services spending forecasts

TABOR

What is a TABOR?

- A state constitutional amendment
- Limits growth in state budget by a formula of inflation (CPI) + population
- Requires voter approval to override the limit

➔ Shrinks state budget over time

Colorado is the only state in the nation that has TABOR

- Colorado adopted its Taxpayer Bill of Rights (TABOR) in 1992
- TABOR strangles budgets slowly, squeezing tighter every year. Bad effects took some years to appear, now are hurting Colorado.
- In November 2005, Colorado voted to put TABOR in "time out" for five years

Consequences in Colorado

- In 1991-92, Colorado ranked 35th in state and local spending for K-12 as a share of personal income. In 2000-01, it fell to 49th.
- In 1991-92, Colorado ranked 30th when comparing the average salary of teachers to annual earnings in the private sector. In 2001-02, Colorado fell to 50th.

Source: NEA, NCES, AFT, Grapevine, and CBPP

Consequences in Colorado

- In 1991-92, Colorado ranked 35th in state spending for higher education as a share of personal income. In 2003-04, it fell to 48th.
- The appropriation for University of Colorado in FY 2004 was roughly the same it received in **FY 1995** — but it has an estimated 4,927 additional students.

Source: NEA, NCES, AFT, Grapevine, and CBPP

Consequences in Colorado

- In 2003, only 69% of kids in Colorado received scheduled immunizations, ranking the state 50th in the nation, down from 24th. (Only by investing additional funds in immunization programs was Colorado able to improve its ranking to 43rd in 2004.)
- In 1992, Colorado ranked 23rd in adequacy of pre-natal care. In 2002, it ranked 48th.
- In 1992, Colorado ranked 33rd in percentage of low-income children lacking health insurance. In 2004, it ranked 50th.

Source: The Bob Policy Center, CBPP and the University of Colorado

TABOR Did Not Improve Colorado's Economy, as Proponents Claim

Average Annual Employment Change Before and After TABOR

	1980-1992	1992-2004
Colorado	2.1%	2.6%
Mountain States (median)	2.1%	2.8%

Source: Bureau of Labor Statistics

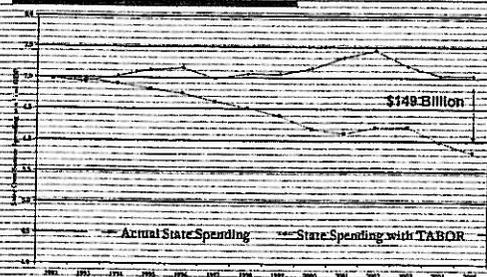
Colorado's Time-Out

- Broad-based and bipartisan campaign to suspend TABOR
 - Republican Gov. Bill Owens joined with Democratic legislature
 - Unanimous support from Chambers of Commerce and active leadership of the business community
 - Involvement of unions, higher-ed, churches, health care providers, teachers, local officials, seniors, non-profits, etc.

TABOR's Flawed Formula

- TABOR's **inflation-plus-population formula** doesn't capture the growth in costs of the goods and services purchased by the state
 - CPI measures what consumers - not governments - buy
 - Subpopulations that governments serve (i.e. prisoners, special education students, the elderly) generally are growing more rapidly than overall population
- So each year, the state can spend a little less than it needs to; over time, the gap grows

Population-Plus-Inflation Formula Would Shrink State Governments Over Time



Source: CBPP analysis of NASBO data

TABOR's Threat to Local Governments

- The direct threat: Colorado's TABOR and some other states' versions include limits on local government revenues that are at least as restrictive as the state limits
- The less-direct threat: If states have to cut spending, aid to localities may be the first place they look

TABOR Across The Country

- TABOR has qualified for the November 2006 ballot in **Oklahoma and Maine**
- TABOR initiatives (sometimes called Stop Overspending or SO5) are being pushed in **Michigan, Nevada, Nebraska, Oregon, and Montana**
 - Signatures challenged in **Missouri**
 - Statutory version moving in **Pennsylvania**
 - Measure withdrawn from ballot in **Ohio** = statutory version enacted
- Maine and Nevada versions also include *local* limits

Explaining What's Wrong with TABOR: General Messages

- TABOR forces the state to cut the services you care about: education, health care, public safety
- TABOR is a political gimmick: It won't bring real reform or accountability
- TABOR is a proven failure: Colorado, the only state that has a TABOR, recently voted to suspend it

Explaining What's Wrong with TABOR: Colorado

- Show that your proposal is TABOR
 - Three core features
 - Bells and whistles don't matter
- Tell the Colorado story
 - TABOR hurt public services
 - A broad coalition worked to suspend it
- Colorado speakers
 - Republicans, business owners, ranchers

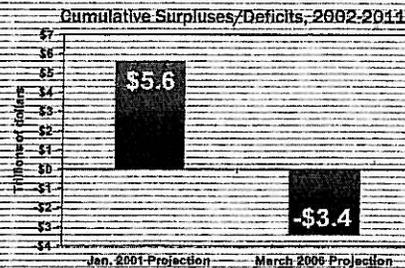
Explaining What's Wrong with TABOR: Make It Relevant

- Impact studies to show possible outcomes at state and local level
- Tap into importance of quality education for quality of life in the state
- Show how it would affect things people care about
 - Football in Ohio

Meanwhile, in Washington D.C. ...

- Budget cuts**
- Tax cuts**
- Budget process changes**

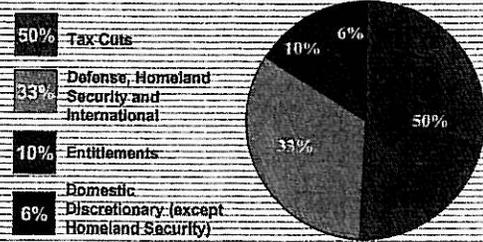
From Large Surpluses to Large Deficits in Just 5 Years



Source: CBPP; calculations based on Congressional Budget Office data. Assumes extension of tax cuts and Allowance Minimum Tax rate.

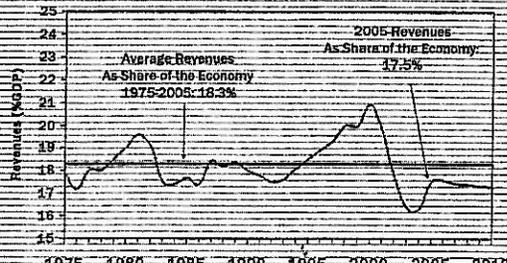
Legislation Adding to Deficits: Mostly Tax Cuts and Defense

Cost, 2002-2011, of legislation enacted since January 2001



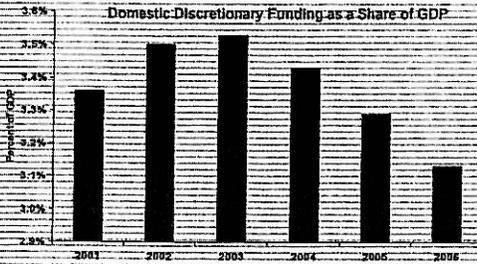
Source: CBPP calculations based on Congressional Budget Office data. Assumes extension of tax cuts and Alternative Minimum Tax relief.

Revenues as Share of the Economy are Below Their Historical Average



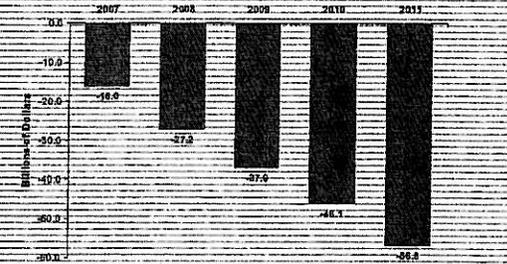
Source: CBPP calculations based on Congressional Budget Office Data

Since 2001, Funding for Domestic Discretionary Programs Has Fallen as a Share of the Economy

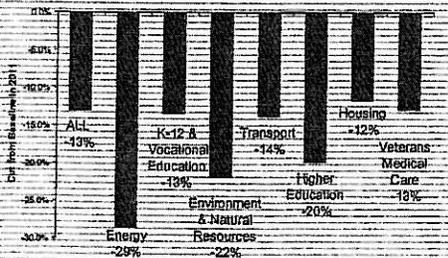


Source: CBPP calculations based on CBO data

President's Proposed Cuts in Domestic Discretionary Funding Grow Deeper Over Time



President's Budget Calls for Large Cuts to Broad Range of Domestic Programs

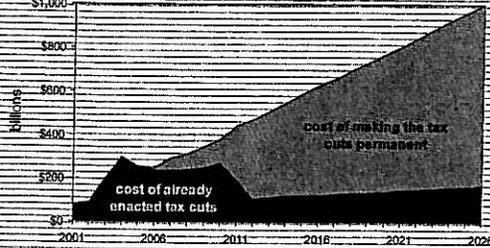


Budget Process Changes on the Horizon

- Both Senate and House are likely to take up changes to the "budget process" soon
- Goal: to protect themselves against charges of fiscal irresponsibility
- Possible problematic items:
 - Mandatory cuts to discretionary spending (based on President's proposal)
 - Deficit-reduction targets that favor spending cuts over revenue increases
 - And more!

Making the Tax Cuts and AMT Relief Permanent Would Cost Trillions

Cost of tax cuts with interest, adjusted for inflation



Source: CBPP calculations from Congressional Budget Office data

Long-Term Revenue Outlook Poor if Tax Cuts Extended

- If the tax cuts are extended, federal revenues over the next decade are projected to remain lower than the average levels in the 1960s, 70s, 80s, and 90s
- Exacerbates mismatch between revenues and expenditures
- But letting tax cuts expire will not be enough to address long-term budget imbalance

What Would It Take to Balance the Budget While Preserving the Tax Cuts?

To balance the budget by 2016 while making the tax cuts permanent, policy-makers would have to:

- Cut Social Security benefits by 45%
- Or cut defense spending by 66%
- Or cut Medicare by 56%
- Or cut every other program except Social Security, Medicare, defense, and homeland security by 32%

Wrapping up: The fiscal reform agenda, from the bottom up

- Address property taxes wisely
- Fix state structural deficits
- Stop TABOR
- Reduce federal tax cuts & avoid bad federal budget-process changes

History of Property Tax Limitations

National League of Cities

Presented by: Robert P. Reardon
City of Cambridge
June 15, 2006

1

The Constitutionality of Assessment Limitations

- US Supreme Court has made two rulings on "Acquisition Value"
- In the 1989 Allegheny Pittsburg Coal Co vs County Commission of Webster County, 488 U.S. 336, ruled 9-0 that the tax assessor could not use historic purchase price because it was a violation of the Equal Protection Clause
- In 1991 Nordlinger vs Hahn, 505 U.S. 1, ruled in a split decision that California's Proposition 13 did not violate the Equal Protection Clause because it was imposed as a state constitutional amendment

2

Types of Property Tax Limitations

- Limits on Tax or Mill Rate
- Limits on the increase in Tax Levy
- Limits on what is Taxed
- Limits on increases in Assessed Value
- Classification of Property for Taxation including different rates for a class

3

Maryland - 1959

- Adopted an assessment increase limitation of 10% for homestead or owner occupied properties at the state level
- County and municipal governments are allowed to cap the increase at a rate of between 0 and 10%
- No limitation for assessment increases for school districts

4

California - 1978

- **June 1978 Referendum known as Proposition 13**
- **Limits Tax Rate to less than 1% on any parcel**
- **Assessed values “rolled back” to its 1975-1976 value**
- **Assessed value of a property can not increase at more than 2% per year**
- **If ownership changes the property is reassessed to it market value**

5

Iowa - 1978

- **Statue limits the growth of total assessed values in the state to 4% (originally 6%) per year since 1980**
- **New construction, improvements to existing buildings and utility property are limited to 8%**
- **“Roll Back Percentages” are calculated for each class of property to maintain 4% cap**
- **Residential and Agricultural property are further limited to smallest increase in each class if either is less than 4%**

6

Arizona -1980

- Each parcel has two separate values – Fair Market Value (FMV) and a Limited Property Value (LPV)
- Statutory annual growth is the greater of 10% or 25% of the difference of last years LPV and this year's FMV

7

Florida - 1995

- Assessment limitations which applies only to homestead/owner occupied homes
- Restricts increases in assessment to the lower of 3% or the change in the Consumer Price Index
- New Construction may increase the assessment beyond statutory limits

8

Other Limitations

- State of Washington (1997) – Referendum limiting assessed values increases to 15% per year for all property
- Texas (1997) – Referendum limited assessed value increases of homestead property to 10% per year plus increases as a result of improvements. Value reverts to market value upon sale.

9

Massachusetts - 1978

- Nov 1978 Referendum known as Proposition 2 1/2
- Limits total Tax Levy to less than 2 ½% of fair market value or 2 ½% increase over prior year levy
- Property Tax Levy “rolled back” to its 1977-1978 tax levy for each community
- New construction and improvements are added to levy limit as new growth
- Property tax classification allows for cities and towns to shift real estate burden from resident class to commercial class
- Allows for “override vote” for operating expenses

10

Massachusetts Overrides

Fiscal Year	City & Town Override Votes	Percent of Entire 351 City & Towns
2000	29	8.3%
2001	41	11.7%
2002	46	13.1%
2003	52	14.8%
2004	67	19.1%
2005	65	18.5%
2006	74	21.1%

11

Municipal Finance Task Force

Mission Statement

The Municipal Finance Task Force was created by the Metro Mayors Coalition to review trends in municipal finance and local aid, to understand the impact of such trends on municipal budgets and services, to enable municipalities to develop strategies and policies to better navigate these trends, and to provide recommendations to municipal leaders, the Legislature and the Executive Branch.

12

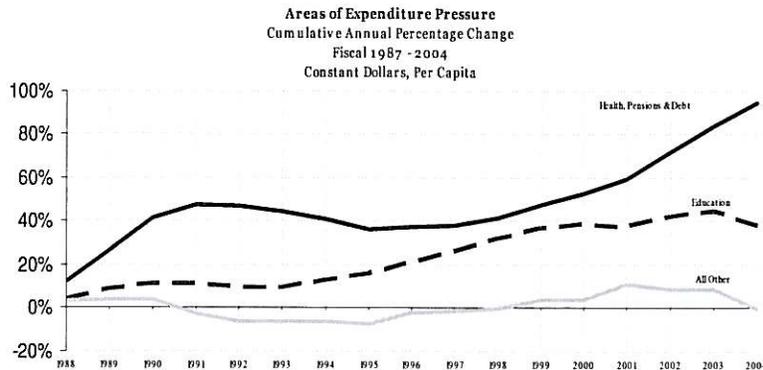
Municipal Finance Task Force Members

John Hamill, Chairman, Sovereign Bank New England – Chairman of Task Force
Mayor Thomas Ambrosino, City of Revere
George Anzuoni, Director of Finance, City of Revere
Katharine Bradbury, Senior Economist and Policy Advisor, Federal Reserve Bank of Boston
Janice Bourque, Senior Vice President and Group Head of Life Sciences Practice, Comerica Bank
Alan Clayton-Matthews, The McCormack Graduate School of Policy Studies, UMass Boston
Patrick Dello Russo, Chief Financial Officer/Auditor, City of Melrose
Louis DePasquale, Assistant City Manager for Fiscal Affairs, City of Cambridge
Ruth Ellen Fitch, President, Dimock Community Health Center
Catherine Gover, City Council, City of Everett
Mayor Mary Clare Higgins, City of Northampton; Vice President, MMA
State Representative Rachel Kaprielian, 29th Middlesex
Kathleen Kelley, President, Massachusetts Federation of Teachers
William Kennedy, Partner, Nutter, McClennen & Fish
Mayor William Phelan, City of Quincy
James Segel, Partner, Smith, Segel & Sowalsky
Lisa Signori, Chief Financial Officer, City of Boston
State Senator Steven Tolman, 2nd Suffolk and Middlesex
Michael Widmer, President, Massachusetts Taxpayers Foundation

13

Report Summary

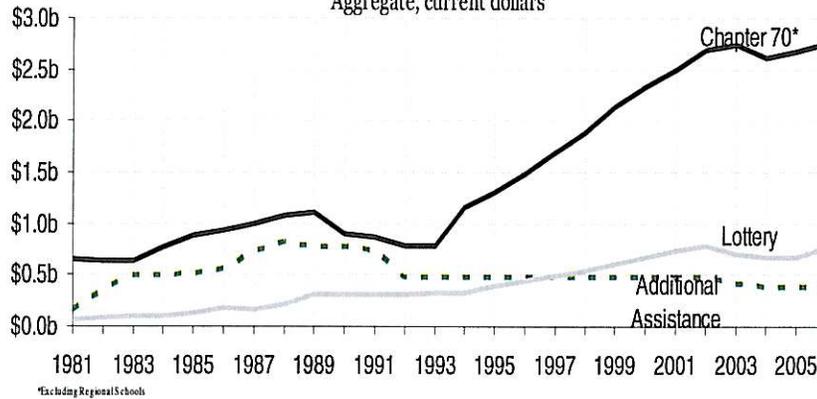
Massachusetts cities and towns are facing a long-term financial crunch caused by increasingly restricted and unpredictable local aid levels, constraints on ways to raise local revenue, and specific costs that are growing at rates far higher than the growth in municipal revenues.



14

Report Summary

Components of "Section Three" Local Aid
Fiscal 1981 - 2006
Aggregate, current dollars



15

Report Highlights

- Since 1981, per capita annual growth of municipal budgets has averaged 1.1% after adjusting for inflation.
- State expenditures for local aid reached its peak in FY88 at 20% of total state expenditures, it dropped to 13.4% in FY93 and increased more recently to 16.4% in FY04.
- Since 1987, per capita expenditures by cities and towns for core municipal services (excluding schools, health care insurance, and some fixed costs) have averaged -0.3% growth in real terms.
- None of the three major aid formulas is currently working as intended.

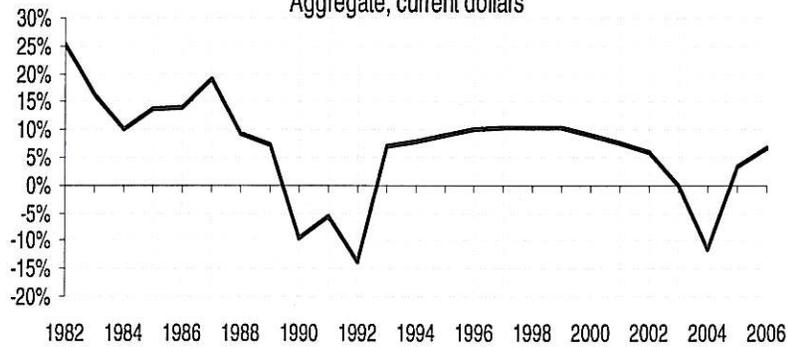
16

Report Highlights

Annual Percent Change in Net Local Aid

Fiscal 1981 - 2006

Aggregate, current dollars



17

Report Highlights

Municipal Revenue Sources

Chart 2.1
Fiscal 1988 Municipal Revenue Sources
Peak Local Aid Year
Fiscal 1981 Constant Dollars, Per Capita

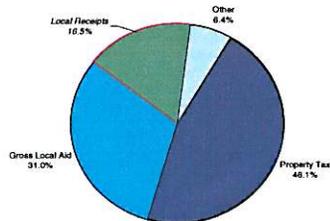
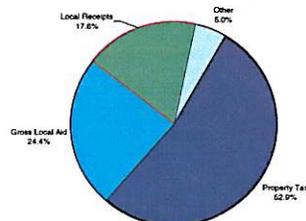


Chart 2.2
Fiscal 2004 Municipal Revenue Sources
Most Recent Year
Fiscal 1981 Constant Dollars, Per Capita



18

Report Highlights

Greater Dependence on Property Taxes

- The Massachusetts Department of Revenue (MDOR) reports that residential property taxes now represent 72% of all property taxes paid, up from 68% in 2000.
- Excluding communities with residential tax exemptions, MDOR reports that the average family tax bill has increased \$910 from FY2000 to FY2005.

19

Municipal Expenditures

Squeeze on Municipal Services

Chart 3.1
Fiscal 1987 Local Government Expenditures by Category
Fiscal 1987 Constant Dollars, Per Capita

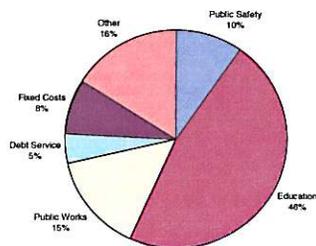
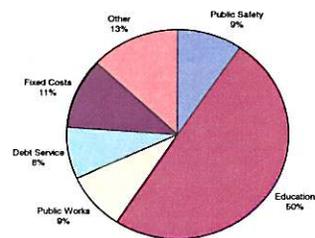


Chart 3.2
Fiscal 2004 Local Government Expenditures by Category
Fiscal 1987 Constant Dollars, Per Capita



20

Report Recommendations

1. Ensure State Assistance is Sufficient and Predictable

- Adopt a revenue sharing policy that allocates a fixed percentage of state tax receipts to local aid.
- Return to a formula for distributing general government local aid, holding current Additional Assistance communities harmless, but using additional funding as a base to broaden non-school aid.
- Fulfill commitment to use Lottery proceeds to benefit local government by lifting the current cap.
- Review Chapter 70 aid formula – re-examine the municipal growth factor and minimum local contribution, and consider adding an income element. However, any reforms must be fully understood to avoid creating new inequities in such a complex funding system.
- Consider the use of “circuit breakers” for certain categories of municipal expenses that are prone to uncontrollable increases.

21

Report Recommendations

2. Provide Communities with Additional Ability to Control Non-Property Tax Local Revenues

- Grant additional flexibility in developing local option revenue sources, such as local option meals taxes, parking excise taxes or rental car surcharges.
- Consider changes to update the motor vehicle excise tax – particularly updating the valuation schedule and addressing widespread fraud in vehicle registrations.
- Review telecommunications taxation and Internet hotel/motel taxes issues. These costs are estimated at \$140 million and up to \$7.3 million respectively.

22

Report Recommendations

3. Give Municipalities Tools to Control Costs

- The municipal health care crisis must be a top priority for policymakers. Several strategies and issues are discussed to address ways to control health insurance costs.
- Encourage regional service delivery and cost sharing.
- Clarify the roles of municipal and state governments, and develop a plan to let the state take responsibility for funding what are properly state functions, such as RTAs and counties.

“The Changing World of Intergovernmental Relations”

National League of Cities
Futures Panel on City Finances
June 15, 2006

Stan Finkelstein
Association of Washington Cities
stanf@awcnet.org or (360) 753-4137

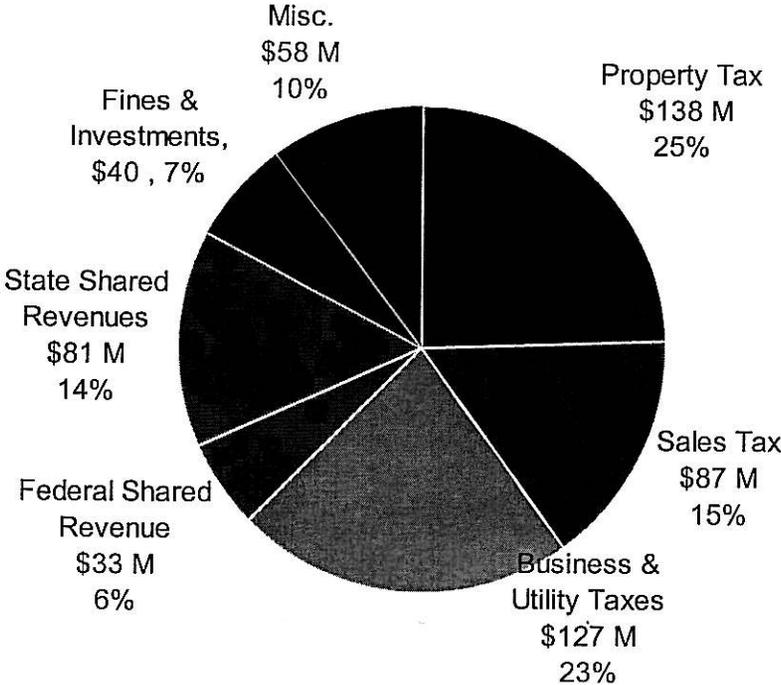
- * How have intergovernmental relations changed?
- * How are they changing now and into the foreseeable future?
- * How can cities best position themselves to respond to the changing intergovernmental landscape?

Trends that Have Impacted Cities 1980-2005

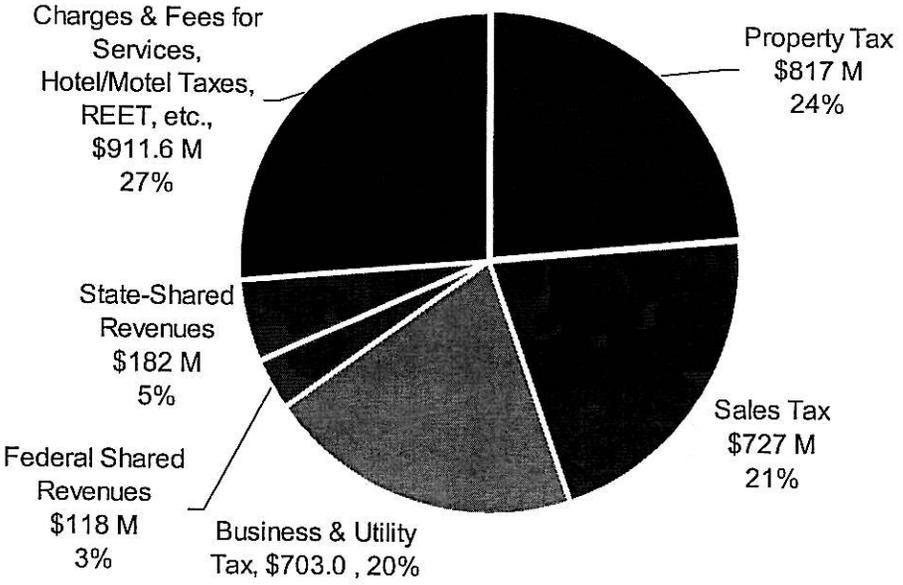
1. The impact of economic downturns on intergovernmental fiscal relations
2. The reality of double digit inflation in health care costs
3. The effects of massive federal deficits
4. The growth of populism and initiatives
5. The anti-government mindset
6. More local taxing authority and less direct assistance
7. Awareness of the impacts of unfunded mandates

Comparison of Operating Revenues 1980 & 2005

**City Operating Revenues
1980 = \$530 M**

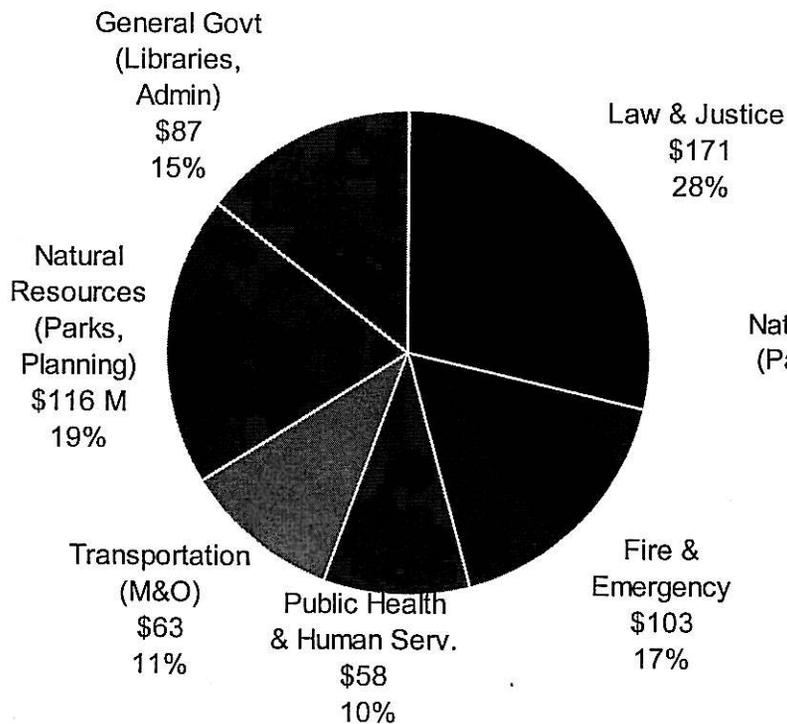


**City Operating Revenues
2005 = \$3.5 Billion**

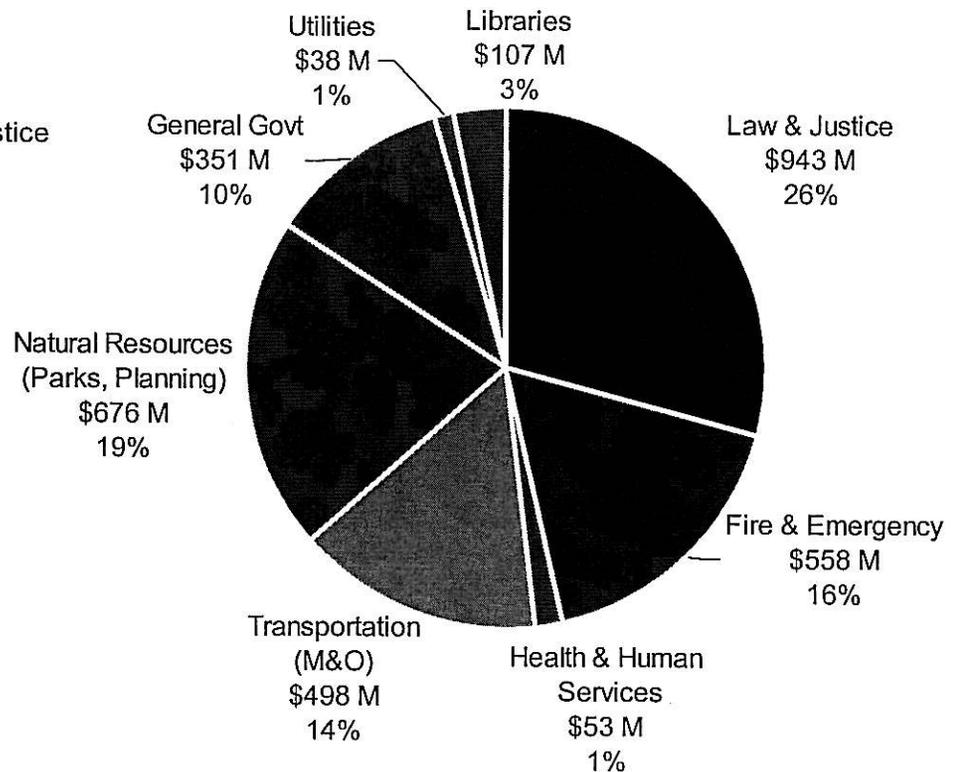


Comparison of Operating Expenses 1980 & 2005

City Operating Expenses
1980 = \$598 M*



City Operating Expenses
2005 = \$3.2 Billion



* Includes some expenses paid with restricted revenues.
Excludes one-time capital & utilities.

Current trends in Intergovernmental Fiscal Relations

1. Role of the legislature in providing a “safety net” for revenue deficient cities
2. Emphasis on economic development
3. Increased concerns about government “accountability”
4. Extrication of the federal government from domestic assistance programs

How Can Cities Best Position to Respond to the Changing Fiscal Landscape?

1. Wean ourselves from dependence on Federal and state assistance programs
2. Develop local fiscal capacity
3. Adopt inter-temporal fiscal management strategies
4. Continual monitoring of infrastructure needs and finances
5. Creation of cost effective partnerships
6. Adoption of accountability and performance measurement programs
7. Encouragement of state “fair play” fiscal policies



January 2006

Economic Report: Increasing Aid to Cities and Towns is Essential for Economic Prosperity
Local Aid Increases Key to a Stronger, More Competitive Massachusetts Economy

Increasing local aid to cities and towns is central to economic success and prosperity in Massachusetts, according to a new report, *Revenue Sharing and the Future of the Massachusetts Economy*, a major economic study authored by economists at Northeastern University's Center for Urban and Regional Policy (CURP), and released in January at the Massachusetts Municipal Association's Annual Meeting, attended by over 1,000 local officials.

The report concludes that in order for the Massachusetts economy to be competitive and successful, cities and towns must receive major local aid increases to deliver the services and amenities that workers want for their families, while relieving the exploding property tax burden in the state.

Mayors, selectmen, administrators, councillors and key local officials from across the state, meeting at the MMA's 27th Annual Meeting and Trade Show on Saturday, January 14, 2006, received a detailed briefing by Dr. Barry Bluestone, a noted Northeastern University economist and Director of CURP.

Dr. Bluestone stated that increased local aid is essential for Massachusetts to attract businesses and economic development, compete for jobs, and retain young workers in the state. Bluestone stated that "Massachusetts needs to renew and rebuild a state-local economic partnership, and it is clear that local aid is essential for our economic success." The report calls for the state to share 40% of state tax collections with cities and towns as local aid.

"We know that cities and towns are vitally important to our prosperity and economic future," said the members of the MMA Board of Directors in a joint statement. "It is imperative that the Governor and state leaders address these vital issues today, otherwise our communities will continue to struggle, property taxes will be too high, and our economy will suffer."

The MMA engaged Northeastern University to conduct an independent, comprehensive study of key economic trends and principles regarding attracting and retaining jobs and people, as well as a review of the treatment of local aid over the past twenty-five years, and the tax shift that has caused today's record over-reliance on the property tax.

In releasing the report, Dr. Bluestone and Northeastern University concluded that:

- Businesses seek out a town or city that meets their needs in terms of a combination of workforce, infrastructure, public services, and cultural and recreational amenities, and "unless cities and towns have the resources to offer attractive locations for investment, everything the state does in the way of economic development incentives will prove inadequate or futile";

- Current local aid is insufficient to ensure the level of vital local services necessary to attract businesses and people to Massachusetts, noting that current aid to cities and towns, when adjusted for inflation, is nearly \$700 million below fiscal 2002 levels;
- Local property taxes are too high throughout the state, because local aid is too low, and this is hurting our economy;
- Massachusetts is falling further behind as young talented workers leave for other states, reporting that we are the only state to lose population two years in a row;
- The state needs to invest in all aspects of municipal services, including education, public safety, culture and recreation and infrastructure in order to attract and retain families and jobs;
- The state should commit to revenue sharing by dedicating a fixed share of state tax revenues to local aid (CURP endorses the Massachusetts Taxpayers Foundation's recommendation of 40%, which would provide \$1 billion);
- The state should allow cities and towns to reduce reliance on property taxes by diversifying local revenues, allowing local-option meals taxes and eliminating state-set telecommunications tax loopholes;
- The state should loosen its imposition of unfunded mandates, and give cities and towns greater local management authority in key areas such as employee benefits and regionalization efforts; and
- Massachusetts needs a renewed state-local fiscal partnership in order for our economy to be competitive, and to attract and retain young families, jobs and investment.

The full report is available to be read and downloaded from the MMA's website at www.mma.org.

The MMA is the statewide nonprofit, nonpartisan association formed in 1979 to promote and build strong and effective local government across the Commonwealth, serving as the voice of local government before the state and local government, and providing a wide range of publications, training and service programs for cities and towns and municipal officials.

Bond Ratings for U.S. Cities

Presented by:

Susan Kendall Freiner
Vice President/Senior Analyst
Public Finance Group

June 16, 2006



National League of Cities
Joint Meeting of Finance, Administration &
Intergovernmental Relations Steering
Committee & Public Finance Panel
Cambridge, Massachusetts

Moody's Investors Service

Overview

- What is a bond rating?
- Five primary credit factors
- OPEB & GASB 45
- The Cambridge, Massachusetts Story
- 2005 National Medians
- NLC vs. National Medians



Moody's Investors Service

2



Moody's Investors Service

What is a Credit Rating?

- Denotes relative credit quality
- Assessment of issuers' ability and willingness to repay debt in full and on time
- Independent opinion
- Forward-looking projection



Moody's Investors Service

3

A Credit Rating is NOT:

- An audit
- A recommendation to buy, sell or hold a security
- Static or permanent
- An opinion of a community's quality of life



Moody's Investors Service

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Moody's Investors Service

Moody's Public Finance Ratings

Long -Term Ratings

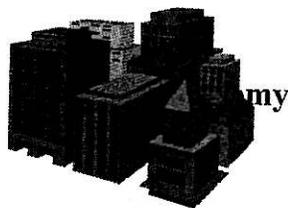
Investment Grade	Aaa	Highest quality
	Aa1/Aa2/Aa3	High quality
	A1/A2/A3	Upper Medium quality
	Baa1/Baa2/Baa3	Medium quality
Below Investment Grade	Ba1/Ba2/Ba3 B1/B2/B3	Speculative elements
	Caa1/Caa2/Caa3	Danger of/in default



Moody's Investors Service

5

Five Primary Credit Factors



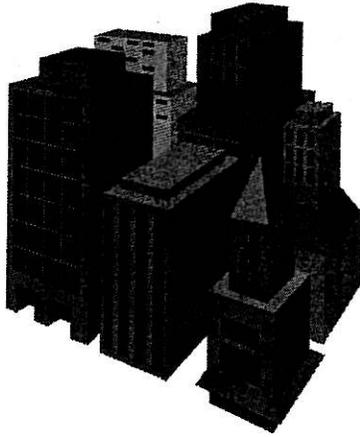
Moody's Investors Service

6



Moody's Investors Service

Economy



- Tax Base - Size, location, diversity, components of base
- Growth Trends
- Largest Taxpayers
- Employment Base
- Socio-economic Indicators
income levels, population trends, housing values, etc.



Moody's Investors Service

7

Financial Performance



- Operating performance
- Balance sheet/Reserve level trends
- Financial flexibility
- Adequate liquidity
- Budgetary assumptions



Moody's Investors Service

8



Moody's Investors Service

Debt Position



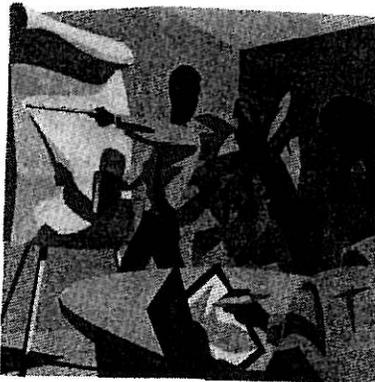
- Debt Levels
 - Direct & Total Debt
 - Adjusted Debt Burden
- Debt Structure
- Capital Plans & Future Borrowing
 - Impact on future debt position
 - Issuance restrictions



Moody's Investors Service

9

Management



- Ability to:
 - Achieve budgetary targets
 - Make mid-year corrections
 - Recognize and respond to problems and constraints
 - Provide appropriate disclosure and timely financial statements-POS/OS



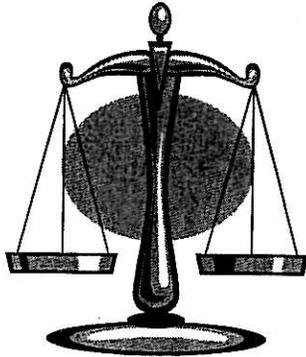
Moody's Investors Service

10



Moody's Investors Service

Legal Security



- What is the legal pledge securing the debt?
- General Obligation, revenue or lease debt?



Moody's Investors Service

11

Information Used in Moody's Credit Analysis

- Preliminary Official Statement (POS/OS)
- Audits—at least three years
- Preliminary financial statements for most recent year
- Approved budget for current year
- Capital Improvement Plan
- Pension & OPEB Actuarial Studies



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12



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GASB 45 and OPEB Liability Disclosure

MOODY'S BELIEVES CHANGE IS POSITIVE

- **Captures government's liability on financial statements**
- **Improves disclosure of financial obligations**
- **Easier to evaluate evenly across the board**
- **No wholesale downgrades expected**



Moody's Investors Service

13

Moody's Opinion

- **Disclosure is Good**
- **Management Practices Could Improve**
- **Different approaches by different governments**
- **Reporting of liability does not change a credit profile—presumably these liabilities are already worked into a municipality's rating**
- **With better information trends will be analyzed to determine the impact on relative credit strength**



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14



Moody's Investors Service

Information Likely to be Used in Moody's OPEB Analysis

- **Actual vs. Required Contributions**
- **Actuarial Assumptions**
- **Evidence of flexibility under local and state statutes as well as contractual obligations**
- **Funding progress in relation to financial reserves, liquidity, and debt levels**
- **Funding progress in relation to comparable cities**



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15

Questions Likely to be Asked in the Evaluation of OPEB Liabilities

- **Has an actuarial assessment of OPEB liabilities been performed? If so, when and what is the accrued actuarial liability, actuarial value of plan assets, and funded ratio?**
- **What healthcare and other post-employment benefits subject to the standards are provided? What are the benefits eligibility requirements?**
- **Describe the mechanism (e.g. single-employer or agent multiple employer) through which benefits are provided.**



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16



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Questions Likely to be Asked in the Evaluation of OPEB Liabilities (cont.)

- What legislative or other actions would be required to reduce benefit costs?
- What is the total cost of retiree health and related benefits in the budget? How much has this sum changed in recent years, and what has accounted for that?
- Has the municipality set up or intend to set up a trust for OPEB?
- How does the municipality intend to fund this trust?
- What are the investment assumptions?
- What's the amortization assumption?



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17

The Cambridge, Massachusetts Story

- Rating History
 - 1981 Baa
 - 1986 A
 - 1991 Aa1
 - 1997 Aaa
- Important Rating Factors in Cambridge
 - Proposition 2 ½ levy limit (enacted 1980)
 - High % tax-exempt property and student population
 - Universities add stability to local economy
 - Formal PILOT agreements with institutions
 - Significant Excess Levy Capacity (\$65 million FY06)



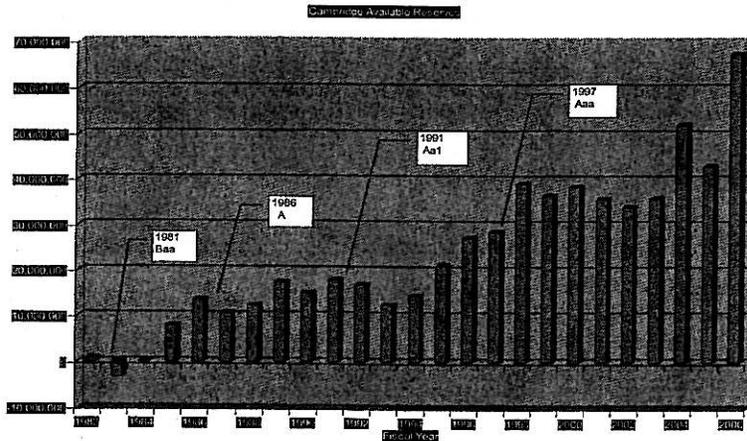
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18



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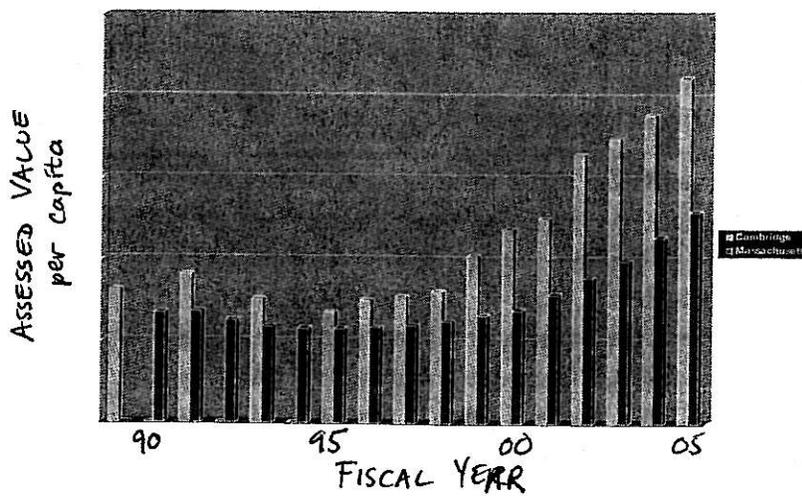
Cambridge, Mass. Reserve Growth



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19

Cambridge, Mass. Wealth Growth



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20



Cambridge vs. National Medians (2005)

	National Medians	National Aaa Medians	Cambridge, Mass.
Median Moody's GD/Issuer Rating	A2	Aaa	Aaa
General Fund Balance as % of Revenues	26.2	24.3	35.7
Unreserved, Undesignated General Fund Balance as % of Revenues	17.2	12.7	28.7
Direct Net Debt as % of Full Value	1.1	0.9	0.6
Debt Burden (Overall Net Debt as % Full Value)	2.7	1.9	1.4
Total Full Value (\$000)	1,307,283	6,406,363	21,087,000
Full Value Per Capita (\$)	70,962	175,886	209,359
Population (2000 Census)	15,931	41,845	101,355
Per Capita Income (2000 Census)	\$22,160	\$42,680	\$31,156



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21

Moody's Ratings--Cities

- **National--2177 ratings**
 - Median rating A2
 - Does not include counties or independent school districts

- **NLC--43 ratings**
 - Median rating Aa3



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22



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National Medians vs. NLC

Municipal Financial Ratio Analysis - U.S. & NLC Cities

	National Medians (2005)	NLC Medians (most recent available)
Median Moody's GO/Lease Rating	A2	Aa3
General Fund Balance as % of Revenues	26.2	27.7
Unreserved, Undesignated General Fund Balance as % of Revenues	17.2	19.3
	2.7	2.9
Total Full Value (\$000)	1,307,283	10,791,270
	70,962	74,616
Population (2000 Census)	15,931	89,750
	\$22,160	\$22,736
Median Home Value (2000 Census)	\$119,598	\$131,650



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23

Q & A



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24



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25

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The Six Critical Components of Strong Municipal Management:

Managerial Methods to Promote Credit Enhancement

Summary

Municipal credit ratings do not generally peak in boom times and fall in recessions. One of the main factors behind this stability is the proven ability of governmental managers to implement strategies that maintain credit strength over the long-term. A strong governmental management team prepares well for economic downturns, maintains strong controls during boom times, and manages well during all economic cycles. To this point, strong management is a reason behind the fact that, even in the economic difficulties of calendar year 2003, the rate of upgrades exceeded downgrades by a factor of 270 to 144.

The five key factors Moody's assesses in determining a credit rating are: debt, finances, the debt's legal security, economy/demographics, and management strategies. Assessing managerial strength is the most subjective of our five rating factors, yet it is also essential. This special comment will address the most critical components that public managers can utilize to position their governments better for the short- and long-term, for maximum credit stability or improvement.

The six critical components of strong management are:

1. **Conservative budgeting techniques**
A careful, organizational approach to budgeting that ideally involves conservative fiscal policies and multi-year modeling.
2. **Fund balance policies**
Adoption of a clearly delineated fiscal plan which includes a fund balance target level and the instances in which reserves may be used.
3. **Debt planning**
A formalized debt plan that includes target and maximum debt levels, targets for pay-as-you-go funding of capital work, and incorporation of these debt policies into a multi-year capital plan.
4. **Succession and contingency planning**
A formalized succession/contingency plan which typically includes written documentation of organizational structures, succession plans should key personnel change, and specific scenarios to respond to likely changes that might affect credit.
5. **Strategic planning for economic development**
Feasible economic development plans that suit the particular strengths and needs of the community, with clear guidelines that detail allowable incentives.
6. **Timely disclosure**
Timely audited financial documents that are attested to by an outside firm, and the direct disclosure of any material events as soon as possible.



1. GOOD BUDGETING

Moody's recommended approach incorporates conservative budgeting and allows for contingency planning and mid-year flexibility. Specifically, we recommend: conservative revenue forecasting, tight expenditure controls and multi-year budget planning.

Conservative Revenue Forecasting

Moody's seeks to understand the many variables used to create robust budgeted revenue projections. We also prefer to see governments that work with information that is updated on a regular basis. For instance, Moody's analysts anticipate that feasible property tax revenue projections will be based on historic trends and include reasonable assumptions about the future of the local real estate market, the direction of national interest rates, and the local government's likely tax collection rate. Similarly, sales tax revenue projections might incorporate recent actual trends and indicators of likely future purchasing demand – such as population trend numbers, expected unemployment rates and the impact of current and expected nearby retail competition.

In our analysis, Moody's associates will assess a government's local revenue forecasting by looking at historic trends and budgetary assumptions, including comparisons of budget-to-actual results on a line item basis for the major revenues and expenditures, usually over several years. The strongest management teams have a solid track record of meeting projections in most line items over several years. We also analyze the assumptions behind the current and upcoming years' budgets, to see if we believe the government is likely to reach its targets in the future.

Overall, our reason for focusing on this analytical area is that rosy revenue budgeting can lead to shortfalls within a fiscal year. These shortfalls must then be filled, either by last-minute revenue enhancements, expenditure cuts, one-shots or draws into reserves. All of these measures undermine future financial flexibility, which can create fiscal problems in subsequent years and pose a significant challenge to credit strength.

Tight Expenditure Controls

Similarly to our analysis of revenue growth, Moody's analysts will also look for strong management by assessing the government's track record of expenditure controls and conservative but reasonable expenditure projections. In Moody's view, the strongest management teams are able to discuss the levels of flexibility within each expenditure line item as well as discuss the details about the assumptions behind their budgeting. We bring to these expectations a sensitivity to political realities and to the extremely difficult balancing act that government officials must perform between providing services and controlling costs. As with the revenue side, we consider tight expenditure controls part of strong management because such controls lessen the likelihood of fiscal distress, within a fiscal year and beyond.

Further, in times of economic weakening, revenues such as sales tax and income tax are likely to stagnate or even decline, and property tax collection rates may fall. Therefore, expenditure controls are key to keeping a budget balanced. Otherwise, over-budget expenditures are usually paid through draws from reserves, cash borrowing or one-shot revenues like asset sales. Using any of these approaches weakens the government's options the following fiscal year, when the continued expenditure growth could cause further fiscal distress.

Multi-Year Budget Planning

Because the results of one fiscal year of course impact the next fiscal year, Moody's recommends that governments implement multi-year fiscal planning. Generally done over three- to five-year timeframes – although sometimes up to 10 years – these long-term plans show the level of revenue growth necessary to reach particular spending levels and, alternatively, the impact that slowed revenues would have on spending. By plugging in various economic assumptions, government officials can use these plans to envision their budgetary needs over the near- to medium-term. Officials can “stress test” certain revenue streams – for instance, possibly learning that level state aid funding could be offset by the expected property tax revenue growth, allowing for normal expenditure growth even during a state's fiscal crisis.

Moody's has found that these documents serve as helpful planning tools, allowing officials to communicate “from the same page.” Fiscal plans are also helpful to our analysis, since they can lay out in black and white the arguments for how a government, in times of economic constriction or other challenges, plans to maintain financial stability. They can put numbers behind an argument that a worse-case scenario is still not a scenario of lowered credit strength.

The best fiscal plans are incorporated with long-term capital planning, identifying future debt service costs and additional operational costs that will result from new capital construction. These types of integrated plans demonstrate how the government will pay for increased services and inflationary budget growth. They identify areas of potential financial flexibility – for example, capital spending that could be reduced or fees that could be increased. In short, multi-year fiscal plans perform two important functions: one, they walk the reader through the “what if” questions with quantified, hard answers; and, two, they provide a road map that shows where the government's management team intends to go over the next several years.

2. FUND BALANCE POLICIES

Moody's analysts realize that many municipalities have experienced sustained expenditure pressure primarily driven by incremental salary costs, health insurance premiums and pension payments. As a result, in the last few years many municipalities have appropriated some of their reserves for operations. While Moody's understands these pressures, we also want to see adequate levels of generally available, highly liquid fund balances maintained, even in an environment of fiscal strain. Fund balance policies provide one of the best guarantees to bondholders that sufficient levels of fund balance will be maintained, regardless of economic cycles, cash crunches or administrative turn-over.

Maintaining adequate reserves has several internal and external benefits. Internally, reserves can provide for cash flow needs until major revenues are received, reducing or eliminating the need for cash flow borrowing; provide funds to leverage state or federal grants; and provide for the unexpected. Externally, reserves tend to be viewed favorably by investors, rating agencies and local banks with which a municipality does business, thus benefiting ratings and decreasing the potential need for external liquidity sources.

A municipality's fiscal policies should incorporate a plan related to reserves, specifically when they can be used, what the fund balance target level is and to what minimum level they will not drop below. We also prefer fiscal policies that define a target for cash as well as fund balances, as cash is a leading indicator of financial health. Moody's does not require specific fund balance levels, but one guideline is undesignated reserves that equal one to two months of operating expenses or between 5% to 10% of annual revenues. The specific targeted level should be predicated on the level of fiscal vulnerability faced by the particular government, including the cyclical vulnerability of the revenue stream, volatility of expenditure items and likelihood of natural disasters. A town located in a flood zone with a high reliance on sales taxes, for example, should have relatively high fund balances to hedge against the relative risk in its operations. Also, a county that is reliant on economically sensitive revenue streams such as sales or income taxes and is experiencing growing social service costs should also have higher reserves. The bottom line is that General Fund balances should be sufficient to address normal contingencies and maintain stability in reserves over time. This is always the case, and it is certainly important in smoothing the transition phase from a robust to weaker economy.

Moody's also prefers to see written investment and fund balance policies, and ideally those that have been adopted by the government in some formalized manner, such as a resolution. A written policy, while not necessarily legally binding, indicates to Moody's that the government officials have discussed the policy in full and arrived at a consensus behind it. In short, we believe written policies carry much more weight than verbal agreements do. For more information on Moody's view of fund balances, please refer to our special comment ["Your General Fund Balance – One Size Does Not Fit All!"](#)

3. DEBT PLANNING

As with fund balance policies, formalized debt planning and debt policies provide bondholders with reassurances that debt burdens and operational debt costs will be kept at manageable levels and that, simultaneously, capital needs will be met on an ongoing basis.

The debt burden measures how leveraged a community is by calculating the amount of debt outstanding as compared to the entity's full valuation. Ultimately, the more leveraged a tax base is, the more difficult it is to afford additional debt. Moody's views debt burdens that range from 3 to 4% as average, although this range varies somewhat by state. Therefore, in debt policies, Moody's prefers to see maximum debt burdens above which the community will not bond, identified as a percentage of the community's full valuation and also, possibly, as a per capita percentage. The best debt policies include both a target debt level, say, 2.5%, and a maximum debt level, for example, 4%, and then project the community's next five year's of capital borrowing against those levels. Also, if an entity plans to enter into an interest rate swap, Moody's believes that it is important to incorporate swap objectives into the debt policy. In our analysis of swap deals and their potential impact on credit quality, one of Moody's analysts' main concerns is the exposure of that issuer to the effects of interest rate volatility of variable rate interest. Therefore, we regard strong management teams as those that understand the purpose of the swap transaction and the risks inherent in the transaction. For more information on swaps, please refer to Moody's special report entitled ["Swaps and the Municipal Market: The Impact of Swaps and FASB 133 on Municipal Credit Quality."](#)

Existence of a regularly updated, multi-year capital improvement plan is critical to good management, as such plans itemize the future capital needs of the government and identify financing sources for each of the upcoming capital projects. The strongest governmental management teams then incorporate their capital improvement plans into their debt projections and multi-year fiscal projections – identifying how both their debt and operating capital expenditures will impact their balance sheets and financial operations.

On the operating side, Moody's recommends that – in addition to debt policies – management teams adopt policies for their pay-as-you-go financing of capital work and the percentage they believe debt service should represent of their overall expenditures. For instance, some governments have policies that ensure that 5% of building permit fees, impact fees or other earmarked revenues are diverted annually into pay-go capital spending. Others have policies that state that half of any annual operating surplus will be used for pay-go capital spending. The particular policy adopted should be determined by the needs of that individual government and can be honed by looking at peer group norms. Similarly, Moody's prefers to see policies that identify a maximum that debt service should comprise of total operating expenditures. Debt service payments represent a fixed expense and as such, they offer limited line-item flexibility should financial operations become stressed. The typical range for debt service as a percent of expenditures is 5 to 15%. Moody's recommends debt service policies that incorporate the near-term and long-term capital needs of the community and result in feasible, financially responsible goals for that community. For more information on Moody's analysis of debt, please refer to our special comment "Moody's Approach to Analyzing Municipal Long-Term Debt."

4. CONTINGENCY AND SUCCESSION PLANNING

Contingency planning is critical to good governmental management, and should be part of the management strategies we discuss throughout this report. Long-term budgeting, for instance, involves contingency planning because it depends on managers being able to quickly identify unexpected mid-year changes in their revenues or expenses and respond immediately, usually according to previously outlined plans. Fund balance policies, as discussed above, also serve as contingency plans, as they work best when they are adopted documents that continue to influence financial decisions even when the appointed and elected officials behind the policy change.

Similarly, changes in a government's management team should not jeopardize that government's credit strength. Moody's analysts should be given an outline of a government's organizational structure, including which department heads answer to whom, and whether certain department heads who are key to credit stability – namely, treasurer, finance director, business administrator and/or comptroller – have deputies with significant responsibilities. These questions help our analysts assess whether the government would continue to function smoothly if an individual member of the management team were to leave. Any further documentation on likely staff movement, such as a written succession plan, is also helpful. This issue is of particular importance if the government has appropriation, swap and/or variable rate debt outstanding, because in those cases the manager's ability and authority to act quickly on debt service budgeting requirements, payment due dates and puts is essential.

Other credit-risk scenarios that highlight the importance of contingency planning are: annexation proposals, voter referenda that could impact financial operations, and major tax appeals. In these three examples, the change is rarely a surprise; discussion of the burgeoning problem almost always takes place first. With any government that is facing one of these issues, Moody's analysts would want to be informed of the possibility beforehand and discuss in detail the government's plans for all possible outcomes. These discussions can be kept confidential and do not have to occur in conjunction with a bond sale. Moody's analysts are less concerned with what the particular challenge is and more concerned with seeing foresight and proactive planning by the government officials in response to it.

5. STRATEGIC PLANNING FOR ECONOMIC DEVELOPMENT

The economic viability of a locality drives its ability to generate adequate financial resources to meet operating and debt service needs. Because of this, Moody's believes that the strongest management teams are involved in targeted economic development initiatives that can influence the future vitality of their particular entity, mainly over the long-term.

In our analysis, Moody's considers the local government's economic size, its growth and redevelopment potential, government management of economic development, the size of the tax base, tax base diversity and concentration, whether there are unmet workforce issues, demographic measures, and likely growth trends. We want to see economic development strategies that suit that government's particular strengths and weaknesses and economic development staff members that have an accurate sense of the community, its needs and how they will achieve their office's economic goals. These goals should be consistent with the size and complexity of the particular tax base. For example, a small community with stable employers may warrant a small economic development staff, while a large city with, for example, a dependence on one industrial sector, may need a larger, more experienced staff able to deal with the challenges it could face.

In the case of economic development incentives, Moody's believes that strong managers use well-considered guidelines for the expected return on investment. Many well-run communities have economic incentive policies that state that a proposed development project may only be considered for an incentive if it is projected to return 100% of the investment or guarantee a certain number of jobs within a set timeframe, for instance, three years. The methodology used to project this return is also outlined in these policies. Moody's further recommends that management teams consider how the use of financial incentives, tax abatements or other economic development mechanisms impact

financial flexibility and whether there is the potential for long-term benefit, either through the creation of new jobs of generation of new revenue. For more information on how economic development plans factor into ratings, please refer to Moody's special comment "How Moody's Examines Economic Conditions As a Factor In Local Government Credit Analysis."

6. TIMELY DISCLOSURE

As Moody's analysts depend entirely on the documents and information provided to us by government issuers and their representatives, full and timely disclosure of financial matters is of essential importance to us and is a basic tenet of a well-functioning capital market system. Our analysts are not accountants who prepare the numbers or auditors who opine on the compliance of the reports. Instead, we rely on the information given to us to be accurate and complete. Therefore, in our view, the strongest management teams have audited or reviewed financial reports prepared annually, generally within six to nine months of the close of the fiscal year. The financial statements that are attested to by an outside firm – as opposed to preliminary documents prepared by members of the government's finance department – will be viewed as significantly enhanced. Moody's does not require or even expect all governments to employ national accounting firms, but we do recommend that even small governments employ a respected, established local, regional or national firm. To note, Moody's does rate the debt of issuers that do not publish annual audits (usually, small communities). However, we generally consider those issuers to have weaker financial reporting practices and therefore weaker management as related to disclosure.

The Governmental Accounting Standards Bureau (GASB) creates the accounting principles by which governmental accountants prepare their audited financial statements. Moody's is not the regulatory body behind GASB and, as such, we do not demand compliance with GASB standards. At the same time, we do believe that the strongest governmental management teams comply with GASB (assuming that is the norm in their state, with New Jersey's statutory accounting standard as one of several notable exceptions). This belief is based on our knowledge that GASB has become the industry standard. Additionally, GASB's commitment to being responsive to the needs of the entire affected community and adherence to a due process that gives interested parties ample opportunity to make their views known has resulted in the creation of a time-tested method for establishing accounting standards. Moody's recognizes that this process can become politically and emotionally charged; however, our overall interest in audited documents is in comparability of information and an accurate representation of the issuer's financial picture.

The other sign of strong management is timely disclosure of events that may have a material impact on credit quality. Moody's analysts are frequently contacted by government representatives – outside of any bond sale calendar – who want to inform our analysts of events taking place in their communities. Moody's encourages such communication. These types of informal notifications most frequently involve possible upcoming lawsuits, company closings or bankruptcies, referendum votes, and the like, but they can also serve as a way to keep us abreast of less dramatic events such as the unfolding of ongoing budget matters. Moody's analysts strongly prefer not to be surprised by events that might impact credit quality, and informal communication from the appropriate government official is a recommended way to avoid such surprises.

Conclusion: Why Strong Management Matters

Strong management refers to Moody's preference in seeing administrative strategies that improve credit strength in good times and provide strong assurances of maintaining credit strength in weaker times. Indications of credit strength include strategies to ensure that financial practices, debt management, contingency planning and economic development will serve the community well for the both short- and long-term. Strong management also means establishing reserve policy goals and financial and debt benchmarks. These policies additionally guarantee against the concern that a possible change in the government's politics or members will impact its financial operations. They create a baseline for future management teams and, if formally adopted, demonstrate "buy-in" by all affected parties.

Moody's prefers to see that management strategies will help ensure that financial practices are appropriate and responsive to the municipality's needs. We look for debt practices that are thoughtfully structured and in line with statutory and voter prescribed debt limits. We believe that the best managers are responsive to the demands for services relative to the needs of business and residential taxpayers, and have well thought-out contingency plans in place.

Many of the red flags of declining credit strength stem directly from weak budgeting. They include: revenue shortfalls, unanticipated expenditure growth, draws from reserves for operations, and short-term borrowing for operations. For these reasons, we believe overly optimistic budgets pose a greater risk to municipal credit worth than does a slowdown in economic activity. As Wade S. Smith wrote in his book *The Appraisal of Municipal Credit Risk*, "Economic recessions are in a sense disasters, but neither their arrival nor their impact on state revenues come unexpectedly." By implementing the steps recommended in this report – good budgeting, adoption of fund balance policies, debt planning, succession and contingency planning, strategic planning for economic development, and timely disclosure – local governments can create a bridge that carries them through near-term challenges without compromising short-term or long-term credit strength.

Related Research

Special Comments:

[Your General Fund Balance - One Size Does Not Fit All!, March 2002 \(74269\)](#)

[Moody's Approach To Local Government Financial Analysis , January 2002 \(73689\)](#)

[Municipal Credit Quality Deteriorates Sharply in 2003, Led By State Downgrades, January 2004 \(80905\)](#)

[Swaps And The Municipal Market: The Impace Of Swaps And Fasb 133 on Municipal Credit Quality, October 2002 \(76388\)](#)

Rating Methodologies:

[The Determinants of Credit Quality, May 2002 \(75047\)](#)

[How Moody's Examines Local Government Economic Conditions As A Factor In Its Municipal Credit Analysis, July 2003 \(78882\)](#)

[Moody's Approach To Analyzing Municipal Long-Term Debt, February 2004 \(81248\)](#)

To access any of these reports, click on the entry above. Note that these references are current as of the date of publication of this report and that more recent reports may be available. All research may not be available to all clients.

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2005 Local Government National Medians

Moody's Public Finance Group is pleased to present the 2005 Local Government National Medians Report covering key statistical information concerning cities, counties and school districts rated by Moody's Regional Ratings Team. The indicators shown are based on our analysis of tax-exempt and municipal obligations across the 50 states, and are derived from the data included in the Municipal Financial Ratios Analysis (MFRA) product available to clients on our web site. MFRA has provided a statistically significant large sample size of over 6,000 issuers carrying a Moody's General Obligation Unlimited Tax or Issuer Rating for the calculation of these medians, which we believe is the largest such municipal database of its kind. The indicators used in this year's report utilize the audited fiscal 2004 financial data from MFRA for each of the issuers included in the sample set, and provides a robust analysis of key ratios used in our rating process.

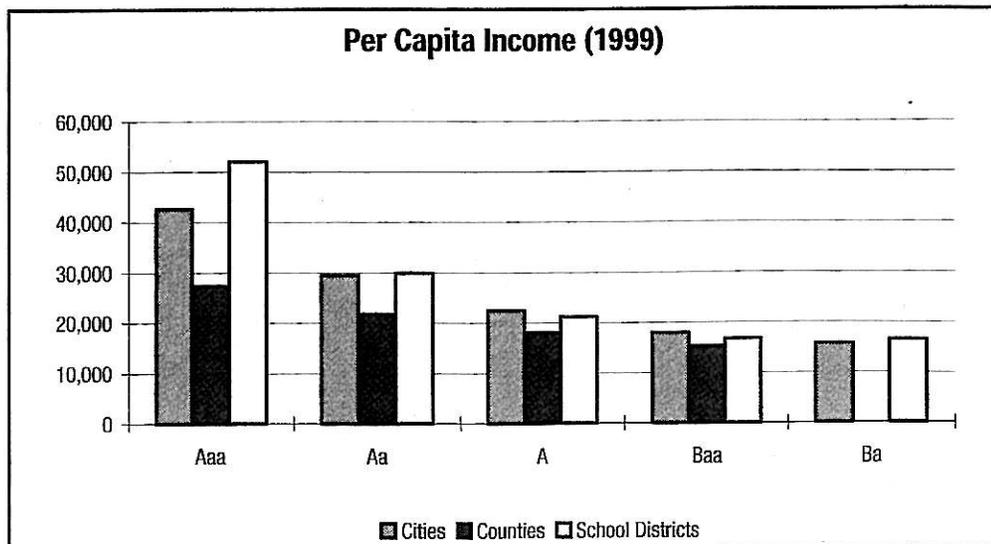
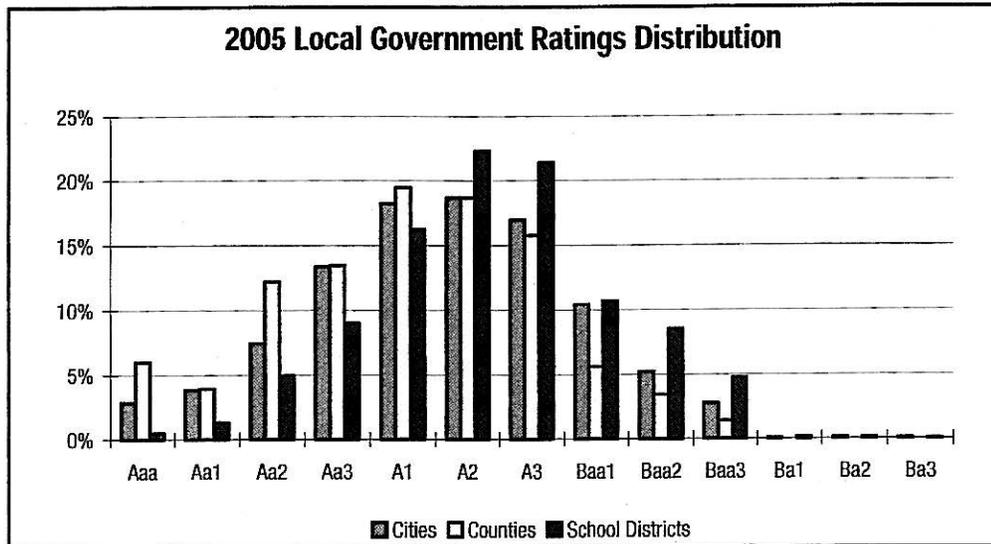
Moody's has provided overall ratio analysis for the three municipal sectors, but has further broken down each sector into distinct cohorts determined by population ranges.

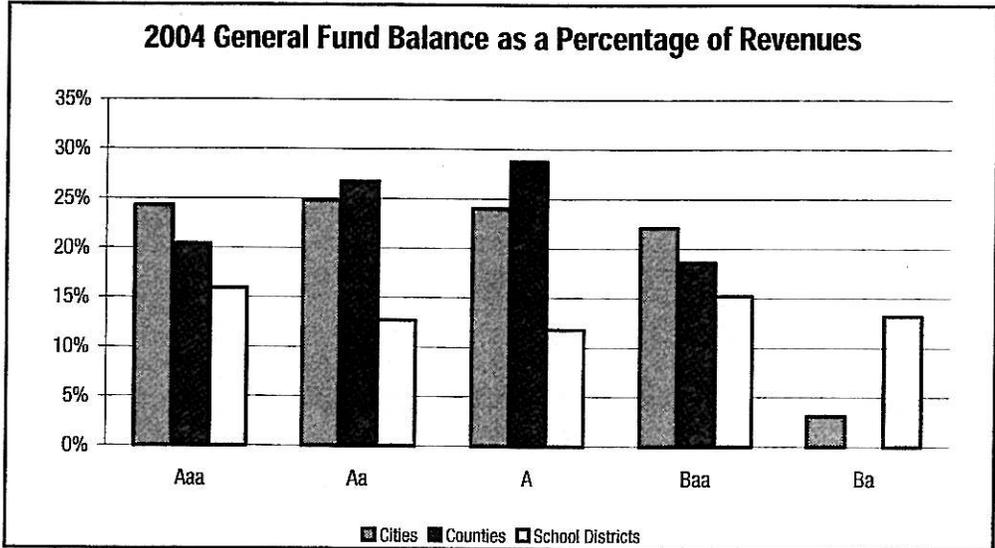
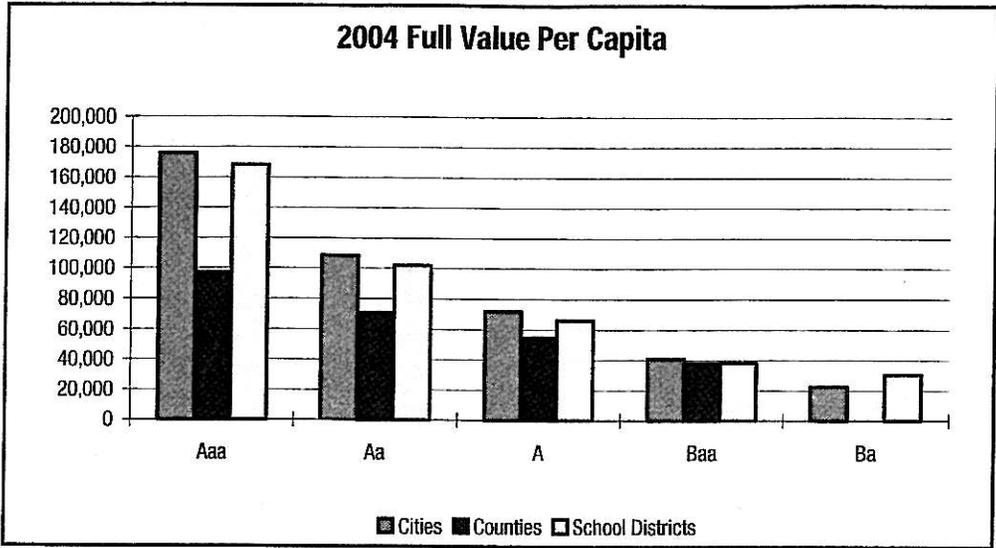
The selected indicators should be considered as broad guidelines only. Performance relative to the guidelines is not an absolute indicator of credit quality, and a bond rating cannot be inferred within this narrow context. Each municipal credit is unique, and the consideration of numerous credit factors, each weighed separately, leads to the determination of a Moody's rating.



Glossary

1. *General Fund Balance as % of Revenues*- General Fund Balance (Assets-Liabilities)/Annual General Fund Revenues; an indicator of liquidity and financial health of the issuer
2. *Unreserved, Undesignated General Fund Balance as % of Revenues*- a measure of the municipal entity's most liquid reserves
3. *Direct Net Debt as % of Full Value*- total par value of the issuer's direct tax-supported debt obligations, including capital leases, divided by the full valuation of the tax base; an indicator of leverage
4. *Debt Burden*- direct and overlapping tax-supported debt for the issuer. For counties, this includes all city and school district within the county. For cities, it includes a proportional share of the county's and school district's obligations.
5. *Total Full Value*- the estimated market value of all taxable properties within the jurisdiction; does not include tax-exempt entities such as universities
6. *Full Value Per Capita*- the Total Full Value divided by the most recent population; provides an indication of socio-economic levels within the municipal entity
7. *Per Capita Income*- taken from the latest decennial US Census (1999)





U.S. Cities

Municipal Financial Ratio Analysis - U.S. Cities (All)	
Selected Medians	National Medians
Median Moody's GO/Issuer Rating	A2 ¹
General Fund Balance as % of Revenues	26.20
Unreserved, Undesignated General Fund Balance as % of Revenues	17.20
Direct Net Debt as % of Full Value	1.10
Debt Burden (Overall Net Debt as % Full Value)	2.70
Total Full Value (\$000)	\$1,307,283
Full Value Per Capita (\$)	\$70,962
Population 2000 Census	15,931
Per Capita Income (2000 Census)	\$22,160

(1) Median rating of A2 is lower than in 2004 Local Government Medians report due to the expansion of the sample size as Moody's continued to populate MFRA during 2004 and 2005.

Municipal Financial Ratio Analysis - U.S. Cities (All)					
Selected Medians	Group Medians (Most Recent Available)				
	Aaa	Aa	A	Baa	Ba
General Fund Balance as % of Revenues	24.30	24.80	24.00	22.10	3.10
Unreserved, Undesignated General Fund Balance as % of Revenues	12.70	15.80	16.20	14.50	1.20
Direct Net Debt as % of Full Value	0.90	1.00	1.30	2.00	7.90
Debt Burden (Overall Net Debt as % Full Value)	1.90	2.40	2.70	3.80	10.40
Total Full Value (\$000)	\$6,406,363	\$3,010,548	\$968,018	\$319,327	\$1,232,353
Full Value Per Capita (\$)	\$175,886	\$108,323	\$72,090	\$40,626	\$22,416
Population 2000 Census	41,845	27,324	13,080	6,706	61,821
Per Capita Income (2000 Census)	\$42,680	\$29,477	\$22,488	\$18,012	\$15,733

Municipal Financial Ratio Analysis - U.S. Cities (Population > 500,000)					
Selected Medians	Group Medians (Most Recent Available)				
	Aaa	Aa	A¹	Baa²	Ba
General Fund Balance as % of Revenues	17.00	17.40	8.90	2.10	N/A
Unreserved, Undesignated General Fund Balance as % of Revenues	5.90	10.10	0.90	-5.30	N/A
Direct Net Debt as % of Full Value	1.50	2.10	4.10	7.50	N/A
Debt Burden (Overall Net Debt as % Full Value)	1.90	3.90	5.60	12.50	N/A
Total Full Value (\$000)	\$49,022,311	\$53,268,701	\$108,828,508	\$24,083,510	N/A
Full Value Per Capita (\$)	\$80,802	\$54,743	\$84,102	\$25,317	N/A
Population 2000 Census	637,422	656,562	1,223,400	951,270	N/A
Per Capita Income (2000 Census)	\$22,142	\$20,671	\$22,402	\$16,509	N/A

(1) Sample includes only 5 cities
(2) Sample includes only Detroit and Philadelphia

Municipal Financial Ratio Analysis - U.S. Cities (100,000 < Population < 500,000)

Selected Medians	Group Medians (Most Recent Available)				
	Aaa	Aa	A	Baa	Ba
General Fund Balance as % of Revenues	24.60	22.20	12.40	6.00	-10.90
Unreserved, Undesignated General Fund Balance as % of Revenues	12.20	13.30	8.80	3.40	-11.10
Direct Net Debt as % of Full Value	1.10	1.40	2.10	5.10	0.90
Debt Burden (Overall Net Debt as % Full Value)	2.50	3.20	4.10	5.80	1.80
Total Full Value (\$000)	\$17,854,678	\$10,806,815	\$7,707,701	\$7,063,333	\$3,727,536
Full Value Per Capita (\$)	\$89,205	\$62,934	\$42,572	\$41,681	\$30,987
Population 2000 Census	183,760	155,554	172,648	162,850	124,943
Per Capita Income (2000 Census)	\$25,198	\$20,890	\$17,511	\$15,904	\$15,733

Municipal Financial Ratio Analysis - U.S. Cities (50,000 < Population < 100,000)

Selected Medians	Group Medians (Most Recent Available)				
	Aaa	Aa	A	Baa	Ba
General Fund Balance as % of Revenues	29.00	26.80	20.70	7.20	3.10
Unreserved, Undesignated General Fund Balance as % of Revenues	15.90	20.40	13.00	3.20	1.20
Direct Net Debt as % of Full Value	0.80	1.10	1.10	2.90	11.00
Debt Burden (Overall Net Debt as % Full Value)	2.00	2.80	3.00	4.30	12.70
Total Full Value (\$000)	\$9,888,184	\$4,968,200	\$3,486,831	\$2,741,904	\$1,232,353
Full Value Per Capita (\$)	\$148,969	\$73,804	\$53,377	\$34,963	\$22,167
Population 2000 Census	64,742	66,237	59,643	71,329	61,821
Per Capita Income (2000 Census)	\$37,582	\$23,242	\$20,058	\$16,488	\$15,721

Municipal Financial Ratio Analysis - U.S. Cities (Population < 50,000)

Selected Medians	Group Medians (Most Recent Available)				
	Aaa	Aa	A	Baa	Ba
General Fund Balance as % of Revenues	26.60	25.60	25.00	24.50	N/A
Unreserved, Undesignated General Fund Balance as % of Revenues	12.80	16.90	17.20	16.20	N/A
Direct Net Debt as % of Full Value	0.70	1.00	1.30	1.90	N/A
Debt Burden (Overall Net Debt as % Full Value)	1.60	2.20	2.60	3.80	N/A
Total Full Value (\$000)	\$4,725,410	\$2,298,426	\$901,250	\$277,933	N/A
Full Value Per Capita (\$)	\$209,118	\$122,876	\$74,184	\$41,259	N/A
Population 2000 Census	20,810	20,784	11,786	5,882	N/A
Per Capita Income (2000 Census)	\$51,795	\$32,402	\$22,833	\$18,192	N/A

U.S. Counties

Municipal Financial Ratio Analysis - U.S. Counties (All)

Selected Medians	National Medians
Median Moody's GO/Issuer Rating	A1
General Fund Balance as % of Revenues	26.50
Unreserved, Undesignated General Fund Balance as % of Revenues	18.20
Direct Net Debt as % of Full Value	0.60
Debt Burden (Overall Net Debt as % Full Value)	2.10
Total Full Value (\$000)	\$5,137,686
Full Value Per Capita (\$)	\$59,978
Population 2000 Census	84,300
Per Capita Income (2000 Census)	\$19,174

Municipal Financial Ratio Analysis - U.S. Counties (All)

Selected Medians	Group Medians (Most Recent Available)				
	Aaa	Aa	A	Baa	Ba
General Fund Balance as % of Revenues	20.40	26.70	28.70	18.60	N/A
Unreserved, Undesignated General Fund Balance as % of Revenues	12.70	18.40	18.80	15.70	N/A
Direct Net Debt as % of Full Value	0.50	0.50	0.60	0.90	N/A
Debt Burden (Overall Net Debt as % Full Value)	2.20	2.20	2.00	2.40	N/A
Total Full Value (\$000)	\$64,635,610	\$14,092,695	\$3,166,819	\$1,025,416	N/A
Full Value Per Capita (\$)	\$96,630	\$70,946	\$54,732	\$37,884	N/A
Population 2000 Census	627,846	164,988	54,433	24,054	N/A
Per Capita Income (2000 Census)	\$27,352	\$21,770	\$18,073	\$15,273	N/A

Municipal Financial Ratio Analysis - U.S. Counties (Population > 1 Million)

Selected Medians	Group Medians (Most Recent Available)			
	Aaa	Aa	A	Baa
General Fund Balance as % of Revenues	21.20	21.40	8.20	N/A
Unreserved, Undesignated General Fund Balance as % of Revenues	13.30	13.60	4.50	N/A
Direct Net Debt as % of Full Value	0.30	0.40	1.00	N/A
Debt Burden (Overall Net Debt as % Full Value)	2.90	2.80	3.30	N/A
Total Full Value (\$000)	\$121,604,929	\$184,651,806	\$107,601,020	N/A
Full Value Per Capita (\$)	\$85,614	\$72,984	\$63,117	N/A
Population 2000 Census	1,162,670	2,253,362	1,419,369	N/A
Per Capita Income (2000 Census)	\$28,192	\$22,272	\$21,142	N/A

Municipal Financial Ratio Analysis - U.S. Counties (250,000 < Population < 1 Million)

Selected Medians	Group Medians (Most Recent Available)			
	Aaa	Aa	A	Baa
General Fund Balance as % of Revenues	21.40	16.90	11.00	-2.30
Unreserved, Undesignated General Fund Balance as % of Revenues	13.30	10.70	6.80	-3.00
Direct Net Debt as % of Full Value	0.50	0.50	0.50	1.60
Debt Burden (Overall Net Debt as % Full Value)	2.10	2.50	3.10	4.20
Total Full Value (\$000)	\$60,945,878	\$32,336,526	\$19,052,145	\$33,616,765
Full Value Per Capita (\$)	\$96,360	\$66,886	\$50,107	\$41,683
Population 2000 Census	615,301	433,501	369,993	735,343
Per Capita Income (2000 Census)	\$27,008	\$22,842	\$20,417	\$22,821

(1) Sample includes 3 entities (Erie County, NY, Monroe County, NY, and Plymouth County, MA)

Municipal Financial Ratio Analysis - U.S. Counties (100,000 < Population < 250,000)

Selected Medians	Group Medians (Most Recent Available)			
	Aaa	Aa	A	Baa
General Fund Balance as % of Revenues	18.90	29.30	19.30	9.90
Unreserved, Undesignated General Fund Balance as % of Revenues	6.70	21.10	14.10	6.00
Direct Net Debt as % of Full Value	1.50	0.50	0.50	0.30
Debt Burden (Overall Net Debt as % Full Value)	2.30	2.10	2.40	3.10
Total Full Value (\$000)	\$29,067,193	\$11,001,652	\$7,045,273	\$5,536,106
Full Value Per Capita (\$)	\$123,539	\$69,606	\$50,061	\$32,818
Population 2000 Census	189,453	149,577	134,768	165,889
Per Capita Income (2000 Census)	\$24,939	\$21,582	\$18,885	\$17,474

Municipal Financial Ratio Analysis - U.S. Counties (Population < 100,000)

Selected Medians	Group Medians (Most Recent Available)			
	Aaa ¹	Aa	A	Baa
General Fund Balance as % of Revenues	13.70	35.50	33.80	20.70
Unreserved, Undesignated General Fund Balance as % of Revenues	12.80	23.00	22.40	17.80
Direct Net Debt as % of Full Value	1.10	0.50	0.60	0.90
Debt Burden (Overall Net Debt as % Full Value)	1.20	1.50	1.80	2.40
Total Full Value (\$000)	\$9,555,000	\$5,908,365	\$2,464,823	\$980,797
Full Value Per Capita (\$)	\$108,984	\$73,046	\$57,046	\$38,025
Population 2000 Census	79,236	75,555	42,516	22,601
Per Capita Income (2000 Census)	\$28,852	\$21,110	\$17,863	\$14,975

(1) Sample includes only one entity, Albemarle County, VA

U.S. School Districts

Municipal Financial Ratio Analysis - U.S. School Districts (All)	
Selected Medians	National Medians
Median Moody's GO/Issuer Rating	A2
General Fund Balance as % of Revenues	13.50
Unreserved, Undesignated General Fund Balance as % of Revenues	7.20
Direct Net Debt as % of Full Value	1.50
Debt Burden (Overall Net Debt as % Full Value)	2.80
Total Full Value (\$000)	\$1,200,034
Full Value Per Capita (\$)	\$62,243
Population 2000 Census	14,352
Per Capita Income (2000 Census)	\$19,214

Municipal Financial Ratio Analysis - U.S. School Districts (All)					
Selected Medians	Group Medians (Most Recent Available)				
	Aaa	Aa	A	Baa	Ba
General Fund Balance as % of Revenues	15.90	12.70	11.80	15.20	13.20
Unreserved, Undesignated General Fund Balance as % of Revenues	11.20	5.00	5.60	8.10	0.20
Direct Net Debt as % of Full Value	0.90	1.10	1.60	2.30	2.30
Debt Burden (Overall Net Debt as % Full Value)	1.90	2.50	2.80	3.80	3.30
Total Full Value (\$000)	\$6,551,448	\$5,444,569	\$1,499,872	\$340,740	\$111,634
Full Value Per Capita (\$)	\$168,127	\$101,789	\$66,150	\$38,132	\$30,364
Population 2000 Census	59,018	49,112	21,439	8,051	2,132
Per Capita Income (2000 Census)	\$52,023	\$29,989	\$21,172	\$16,731	\$16,509

Municipal Financial Ratio Analysis - U.S. School Districts (Population > 200,000)					
Selected Medians	Group Medians (Most Recent Available)				
	Aaa	Aa	A	Baa	Ba
General Fund Balance as % of Revenues	18.60	9.20	7.90	-3.20	2.50
Unreserved, Undesignated General Fund Balance as % of Revenues	9.60	4.30	2.70	-4.20	0.20
Direct Net Debt as % of Full Value	0.90	1.10	1.10	1.70	5.00
Debt Burden (Overall Net Debt as % Full Value)	1.90	2.60	3.10	7.90	14.90
Total Full Value (\$000)	\$6,522,314	\$23,313,649	\$18,315,792	\$20,597,288	\$46,079,000
Full Value Per Capita (\$)	\$172,276	\$69,137	\$61,002	\$35,571	\$30,364
Population 2000 Census	393,550	296,949	324,315	480,612	1,517,550
Per Capita Income (2000 Census)	\$55,761	\$21,580	\$18,531	\$14,717	\$16,509

(1) Sample includes one entity, Philadelphia School District, PA

Municipal Financial Ratio Analysis - U.S. School Districts (100,00 < Population < 200,000)					
Selected Medians	Group Medians (Most Recent Available)				
	Aaa	Aa	A	Baa	Ba
General Fund Balance as % of Revenues	10.60	12.30	9.10	13.40	N/A
Unreserved, Undesignated General Fund Balance as % of Revenues	6.70	6.10	4.80	8.40	N/A
Direct Net Debt as % of Full Value	0.60	1.30	1.10	1.90	N/A
Debt Burden (Overall Net Debt as % Full Value)	1.30	2.60	2.80	4.70	N/A
Total Full Value (\$000)	\$12,637,503	\$11,640,000	\$7,677,180	\$6,199,489	N/A
Full Value Per Capita (\$)	\$81,418	\$85,931	\$56,636	\$51,698	N/A
Population 2000 Census	143,543	132,078	122,067	113,776	N/A
Per Capita Income (2000 Census)	\$16,980	\$25,253	\$19,794	\$13,493	N/A

Municipal Financial Ratio Analysis - U.S. School Districts (50,000 < Population < 100,000)					
Selected Medians	Group Medians (Most Recent Available)				
	Aaa	Aa	A	Baa	Ba
General Fund Balance as % of Revenues	23.00	13.40	10.00	10.70	13.20
Unreserved, Undesignated General Fund Balance as % of Revenues	29.90	7.60	5.40	3.40	12.50
Direct Net Debt as % of Full Value	0.60	1.20	1.30	2.50	2.50
Debt Burden (Overall Net Debt as % Full Value)	2.70	2.50	2.90	4.50	5.40
Total Full Value (\$000)	\$10,271,048	\$6,150,750	\$4,058,972	\$2,382,068	\$961,905
Full Value Per Capita (\$)	\$167,113	\$86,575	\$58,818	\$30,124	\$17,883
Population 2000 Census	64,083	70,894	67,664	62,637	53,789
Per Capita Income (2000 Census)	\$52,023	\$27,453	\$19,952	\$16,697	\$11,283

Municipal Financial Ratio Analysis - U.S. School Districts (10,000 < Population < 50,000)					
Selected Medians	Group Medians (Most Recent Available)				
	Aaa	Aa	A	Baa	Ba
General Fund Balance as % of Revenues	15.90	13.80	11.60	12.30	N/A
Unreserved, Undesignated General Fund Balance as % of Revenues	3.60	3.00	5.50	7.30	N/A
Direct Net Debt as % of Full Value	1.00	1.00	1.70	2.30	N/A
Debt Burden (Overall Net Debt as % Full Value)	1.40	2.40	2.80	3.80	N/A
Total Full Value (\$000)	\$6,231,245	\$3,202,370	\$1,426,414	\$660,312	N/A
Full Value Per Capita (\$)	\$201,237	\$124,457	\$66,738	\$36,166	N/A
Population 2000 Census	28,283	25,014	21,409	15,697	N/A
Per Capita Income (2000 Census)	\$64,202	\$36,847	\$21,450	\$16,812	N/A

Municipal Financial Ratio Analysis - U.S. School Districts (Population < 10,000)					
Selected Medians	Group Medians (Most Recent Available)				
	Aaa	Aa	A	Baa	Ba
General Fund Balance as % of Revenues	N/A	15.90	16.80	17.10	32.50
Unreserved, Undesignated General Fund Balance as % of Revenues	N/A	5.90	7.30	9.20	-4.30
Direct Net Debt as % of Full Value	N/A	0.90	1.80	2.40	2.00
Debt Burden (Overall Net Debt as % Full Value)	N/A	1.80	2.80	3.70	2.40
Total Full Value (\$000)	N/A	\$1,313,953	\$539,256	\$205,333	\$50,028
Full Value Per Capita (\$)	N/A	\$220,372	\$76,529	\$39,947	\$30,920
Population 2000 Census	N/A	7,137	7,068	5,084	1,674
Per Capita Income (2000 Census)	N/A	\$48,637	\$21,470	\$16,841	\$17,189

Related Research

Special Comment

[Your General Fund Balance - One Size Does Not Fit All ! \(74269\)](#)

[2004 Regional Medians \(89079\)](#)

Rating Methodology

[The Determinants of Credit Quality \(75047\)](#)

To access any of these reports, click on the entry above. Note that these references are current as of the date of publication of this report and that more recent reports may be available. All research may not be available to all clients.



TO: Members of the Troy City Council
FROM: Lori Grigg Bluhm, City Attorney
Susan M. Lancaster, Assistant City Attorney
DATE: June 29, 2006
SUBJECT: Williams et. al v. City of Troy and Ken Freund

The City has again prevailed in the *Williams, et. al v. City of Troy and Ken Freund, d/b/a Freund & Associates* case, since the Michigan Supreme Court denied Plaintiffs' Application for Leave to Appeal the Judgment of the Court of Appeals on June 26, 2006.

The City of Troy and Ken Freund were sued by landowners in the Middlesex Country Homesites Subdivision, located east of Adams between Square Lake Road and Long Lake Road. The Plaintiffs challenged that the City of Troy improperly approved the Freund Site Condominium project, without requiring an official re-plat of the property. The Troy City Council granted preliminary approval of the site condominium plan on March 3, 2003. Plaintiffs were unsuccessful in their challenge of this approval.

Count I of the Complaint alleged a violation of the Land Division Act. Count II argued that the City of Troy did not follow its own ordinance provisions, and specifically Chapter 39, Section 34.30.00 (unplatted one-family residential development), or in the alternative that the residential zoning regulations were not applicable to a site condominium project. Count III alleged a substantive due process violation, where Plaintiffs unsuccessfully argued that the existing houses, which are on 1 acre to 3 acre sites, are incompatible with the proposed condominium units, which are on less than ½ acre sites. The Plaintiffs also unsuccessfully argued that the approval of the preliminary site condominium project interfered with the health, safety and welfare of the community. The Court dismissed their request to nullify the City Council approval of the project, and require the developer to comply with the re-plat requirements. The Court similarly denied their request for a permanent injunction. The Court of Appeals affirmed the trial court decisions.

The Court's ruling sets precedent in the State of Michigan, and resolves an issue that has been raised in many other Michigan municipalities. Specifically, the Land Division Act does not control site condominium developments, and therefore developers are not required to vacate an underlying subdivision plat before developing a site condominium project. In addition, the Court also ruled that the City is required only to evaluate a proposed development on a community wide basis. Since the proposed site condominium was "consistent and compatible with other one-family residential developments in the *community*, and not detrimental to the orderly development of the area," the development was compliant with Troy's ordinance, Section 34.30.00.

This case is now closed.

Order

Michigan Supreme Court
Lansing, Michigan

June 26, 2006

Clifford W. Taylor,
Chief Justice

130385

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,

JUN 27 2006 PM 2:11 Justices

ROBERT J. WILLIAMS, KARLA WILLIAMS,
MATTHEW GOODMAN, AMY GOODMAN,
THOMAS FOOT, JACQUELINE FOOT,
WILLIAM BIGELOW, MARGO BIGELOW,
CARL QUALMANN, MARGE QUALMANN,
CALVIN ROBERTSON, VIRGINIA
ROBERTSON, ROGER HOWARD, NANCY
HOWARD, JOHN F. MILLS, and
KATHLEEN A. MILLS,
Plaintiffs-Appellants,

v

SC: 130385
COA: 263366
Oakland CC: 2003-049527-CH

CITY OF TROY and KEN FREUND, d/b/a
FREUND & ASSOCIATES,
Defendants-Appellees.

On order of the Court, the application for leave to appeal the December 13, 2005 judgment of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court.



d0619

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

June 26, 2006

Corbin R. Davis

Clerk

June 27, 2006

TO: John M. Lamerato, Acting City Manager

FROM: Brian Murphy, Assistant City Manager/Services

SUBJECT: Summary of City Council's Comments on Blight Reduction Strategies

Staff made a presentation on the issue of blight at the June 19, 2006 regular City Council meeting. Council members were given a questionnaire about strategies that could be employed to reduce blight in Troy. At Council's direction, staff compiled the feedback we received:

VACANT PROPERTIES

	<u>Yes</u>	<u>No</u>	<u>Comments/Questions</u>
1. Do we want to increase our enforcement activities on vacant structures?	3	1	<ul style="list-style-type: none"> • What does this mean? Add to or enforce what we already have?

DANGEROUS BUILDINGS, COMMERCIAL STORAGE

2. Do we want to toughen our restrictions on outdoor storage on industrial properties?	3	2	
3. Do we want to find ways to eliminate older non-conforming industrial storage sites?	2		<ul style="list-style-type: none"> • Not sure. • Not sure. • No response.
4. Do we want to regulate the location of the parking fleet vehicles?	5		<ul style="list-style-type: none"> • [Yes] More than one fleet. • [Yes] But I would not want to entirely prohibit them. • [Yes] Behind the building.
5. Do we want to regulate the location and screening of collection boxes?	5		<ul style="list-style-type: none"> • [Yes] Through reasonable rules and maybe licensing. Would this also apply to newspaper boxes?
6. Do we want to pursue additional dumpster enclosures on older shopping centers with no or too few dumpster enclosures?	4	1	<ul style="list-style-type: none"> • [No] Pursue landlord responsibility.

RECREATIONAL VEHICLE STORAGE

	<u>Yes</u>	<u>No</u>	<u>Comments/Questions</u>
7. Do we want to change the regulations regarding outdoor storage of recreational vehicles, limiting the number, location, size or type?	4	1	<ul style="list-style-type: none">• [No] It's not blight.• [Yes] But I would prefer that regulations be sensitive to neighborhood identity and targeted at those property owners who are creating conditions detrimental to neighborhood property values.

VEHICLE STORAGE

8. Do we want to limit the number of vehicles parked outdoors on a residential site?	1	4	<ul style="list-style-type: none">• [No] It's not blight.• [No] Don't think we can enforce ownership "match".• [No] However, I would support a requirement that vehicles be parked on a driveway or appropriate surface (not on the lawn) and that they cannot block public access or endanger public safety.
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WEEDS, TREES

9. Do we want to reduce our maximum weed/grass height limit from the current 9"?	2	2	<ul style="list-style-type: none">• [Yes] Change to 6".• Maybe; if our height limit is not reasonable compared to nearby communities I would be willing to support moderate changes. I would want us to accommodate property owners who have rain gardens or ornamental grasses.
10. Do we want new regulations regarding dead tree removal, in light of the effects of Emerald Ash Borer infestation?	1	2	<ul style="list-style-type: none">• [No] It's not blight.• Maybe; I'm thinking of open space, sub-forests.• Maybe; only if the tree endangers public safety or public health, or that of adjacent property owners.

NON-CONFORMING USES

	<u>Yes</u>	<u>No</u>	<u>Comments/Questions</u>
11. Do we want to eliminate non-conforming uses by condemnation or rezoning?	1	1	<ul style="list-style-type: none">• We can now.• Not sure.• Not through condemnation, but through rezoning.

CONSTRUCTION SITES

12. Do we want to adopt regulations regarding storage, litter and protection of construction sites?	5		<ul style="list-style-type: none">• [Yes] Include cell towers, capacity of maintenance buildings.
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- In the **Comments/Questions** column, items that are preceded with [Yes] or [No] have been included in the “yes” and “no” counts.



John Lamerato, Acting City Manager
City of Troy
500 West Big Beaver
Troy, MI 48084

July 2006

Dear Mr. Lamerato,

Congratulations! We are writing this letter to notify you that the City of Troy has won the 2005 Voice of the People Award for:

- **Excellence in Overall services**
- **Excellence in Library services**
- **Excellence in Police services**
- **Excellence in Recreation services**

The Voice of the People Awards are announced each year by the International City/County Management Association (ICMA) and National Research Center, Inc. (NRC) to the jurisdictions with the highest rated services according to a representative sample of their own residents. Winners are identified among all the jurisdictions that conducted The National Citizen Survey™ in 2005. To win, the rating for service quality must be one of the top three among all eligible jurisdictions in 2005 and must reside in the top 10% among over 400 jurisdictions in the National Research Center database of citizen surveys, used to provide normative comparisons in your report.

ICMA strongly encourages local government managers to monitor their performance regularly and the performance of their community so that managers can understand resident opinion and guide staff and elected officials toward needed improvements. By conducting a citizen survey and by proving your service quality in the eyes of your constituents, you have demonstrated not only the successful process of measuring performance, *but you have provided the empirical evidence of your effectiveness*. We know that service quality can be assessed in many ways, but the underpinning of government credibility is resident opinion and the essence of government transparency is the collection and publication of that opinion. The perspectives of residents provide critical management information like no other source, so we feel strongly that it is important to acknowledge those who lead the way to listen to the voice of the people.

As a winner of the 2005 Voice of the People Award, you are invited to receive your award as part of a special ceremony at the annual ICMA conference on September 10, 2006. In addition, you will be featured in the best practice forum on the National Research Center, Inc. Web site available to you and all jurisdictions where these citizen surveys are conducted.

Best regards,

Robert O'Neill
Executive Director, ICMA

Thomas I. Miller
President, NRC

May 30, 2006

TO: John M. Lamerato, Acting City Manager

FROM: Doug Smith, Real Estate and Development Director

SUBJECT: AGENDA ITEM – Disposal/Sale of Excess Property

City Council requested a review of our policies and procedures for the disposal or sale of excess property. I will be prepared to make a short presentation at the June 5, 2006 City Council Meeting including the following:

1. A review of the sections of Chapter 12 of the Troy City Charter governing purchases, contracts and leases and the process for selling surplus property.
2. A review of the 1985 City Council Resolution and current policies governing the disposal/sale of excess right-of-way (remnant parcels); and
3. Recommendations for amendments to City Council Resolution #85-254.

This overview is intended to generate a discussion with City Council with any final modifications or amendments to existing policy to be considered at a future meeting.

Attachments:

1. Chapter 12 of City Charter
2. Bid Proposal
3. Background memo on remnant parcel sales from February 1985
4. Redline copy and clean copy of recommended changes

CITY OF TROY CHARTER – CHAPTER 12 – PURCHASES – CONTRACTS - LEASES

CHAPTER 12 - PURCHASES - CONTRACTS – LEASES

Section 12.1 - Purchase and Sale of Property:

The City Manager shall be responsible for the purchase and sale of all City property.

Comparative prices shall be obtained for the purchase or sale in amount not in excess of ten thousand dollars of all materials, supplies and public improvements except (a) in the employment of professional services and (b) when the City Manager shall determine that no advantage to the City would result.

In all sales or purchases in excess of ten thousand dollars, (a) the sales or purchases shall be approved by the Council, (b) competitive bids shall be obtained through a traditional sealed bid procedure or alternative methods, providing the method used preserves the integrity of the competitive process, except where the Council shall determine that an emergency exists or that the public interest will be best served without obtaining sealed bids, and (c) the requirements of Section 12.2 shall be complied with. No sale or purchase shall be divided for the purpose of circumventing the dollar value limitation contained in this section. The Council may authorize the making of public improvements or the performance of any other city work by any city agency without competitive bidding.

Purchases shall be made from the lowest competent bidder meeting specifications, unless the Council shall determine that the public interest will be better served by accepting a higher bid, sales shall be made to the bidder whose bid is most advantageous to the City.

The City Manager may make necessary purchases without sealed bid, prior council approval, and in excess of the limits provided in this chapter when an emergency, because of a natural disaster, civil disturbance or similar calamity, is officially declared. Any such purchases shall be affirmed at the next regularly scheduled council meeting.

All purchases and sales shall be evidenced by written contract or purchase order.

The City may not sell any park, cemetery or any part thereof except in accordance with restrictions placed thereon by statute.

The City may not purchase, sell or lease any real estate or any interest therein except by the affirmative vote of four or more members of the Council.

The purchase and sale of all city property shall be subject to the provisions of Section 6.12.

Detailed purchasing, sale and contract procedures shall be established by ordinance.

Section 12.2 - Contracts

The authority to contract on behalf of the City is vested in the Council and shall be exercised in accordance with the provisions of statute and of this Charter, provided that purchases and sales may be made by the City Manager subject to the provisions of Section 12.1

Any contract or agreement in an amount of one thousand dollars or more made with form or terms other than the standard city purchase order form shall before execution be submitted to the Attorney and his opinion obtained with respect to its form and legality. A copy of all contracts or agreements requiring such opinion shall be filed in the office of the Clerk together with a copy of the opinion.

CITY OF TROY CHARTER – CHAPTER 12 – PURCHASES – CONTRACTS - LEASES

Before any contract, agreement or purchase order obligating the City to pay an amount of one thousand dollars or more is executed the accounting officer of the City shall first have certified that an appropriation has been made for the payment thereof, or that sufficient funds will be available if it be for a purpose being financed by the issuance of bonds or by special assessments or for some other purpose not chargeable to a budget appropriation. In the case of a contract or agreement obligating the City for periodic payments in future fiscal years for the furnishing of a continuing service or the leasing of property, such certification need not cover those payments which will be due in future fiscal years, but this exception shall not apply to a contract for purchase or construction being financed by an installment contract under authority of Section 11.2. Certification by the accounting officer of the City shall be endorsed on each contract, agreement or purchase order requiring same or shall be filed as an attachment thereto.

No contract or purchase order shall be subdivided for the purpose of circumventing the dollar value limitation contained in this Section.

No contract shall be amended after the same has been made except upon the authority of the Council, provided that the City Manager may amend contracts for those purchases and sales made by him under the authority of Section 12.1

No compensation shall be paid to any contractor except in accordance with the terms of the contract. No contract shall be made with any person, firm or corporation in default to the City.

An individual agreement of employment shall not be deemed a contract requiring opinion by the Attorney or certification by the accounting officer of the City.

Section 12.3- Restriction on Powers to Lease Property:

Any agreement or contract for the renting or leasing or long term use of public property to any person for a period longer than three years shall be subject to the same referendum procedure as is provided in the case of ordinances passed by the Council, but any petition for such referendum must be filed within thirty days after publication of the proceedings of the meeting of the Council at which such agreement or contract is authorized.

The transfer or assignment of any agreement or contract for such renting or leasing or long-term agreements exceeding three years for public property may be made only upon approval of the Council, but approval of such transfer shall not be subject to referendum.

Rentals, leases, long-term use agreements exceeding three years, and renewals thereof shall be for a fair consideration, as determined by the Council.



REAL ESTATE SALE

DRAFT

BID PROPOSAL INSTRUCTIONS, TERMS, AND CONDITIONS OF SALE

DATE: _____, 2005

ITB-COT

Sealed proposals to **FOR THE SALE OF CITY OF TROY OWNED PROPERTY LOCATED AT _____** will be received by the City of Troy at the office of the City Clerk, 500 W. Big Beaver Road, Troy, MI 48084 until _____ day, _____, 2005 at 10:00 AM, after which time they will be publicly opened and read in the Troy City Offices. **The City does NOT accept bid responses via fax transmission.**

MARK ENVELOPES: **ITB-COT** ON THE LOWER LEFT-HAND CORNER.

1. CHANGES OR ALTERATIONS TO BID DOCUMENTS INCLUDING SPECIFICATIONS MAY RESULT IN A BID BEING CONSIDERED NON-RESPONSIVE. The only authorized vendor changes to a bid document will be in the areas provided for a bidder's response, including the "Exceptions" section of the bid proposal. If a change or alteration to the documents is undetected and the bidder is awarded a sale, the original terms, conditions in the Authorized Version of the bid document will be applicable during the term of the contract.

The City of Troy shall accept NO CHANGES to the bid document made by a POTENTIAL BUYER unless those changes are set out in the "Exceptions" provision of the Authorized Version of the bid document. It is the potential buyer's responsibility to acquire knowledge of any changes, modifications or additions to the Authorized Version of the bid document. Any potential buyer who submits a bid and later claims it had no knowledge of any changes, modifications or additions made by the City of Troy to the Authorized Version of the bid document, shall be bound by the bid, including any changes, modifications or additions to the Authorized Version. If a bid is awarded to a buyer who claims that it had no knowledge of any changes, modifications or additions made by the City of Troy to the Authorized Version of the bid, and that buyer fails to accept the bid award, the City of Troy may pursue costs and expenses to re-bid the item from that buyer. The Authorized Version of the bid document shall be that bid document appearing on the MITN System with any amendments and updates.

The City of Troy officially distributes bid documents from the Purchasing Department or through the Michigan Intergovernmental Trade Network (MITN). Copies of bid documents obtained from any other source are not considered official copies. Only those potential buyers who obtain bid documents from either the Purchasing Department or the MITN system are guaranteed access to receive addendum information, if such information is issued. If you obtained this document from a source other than the sources indicated, it is recommended that you register on the MITN site, www.govbids.com, and obtain an official copy.

2. **BID (SALE) SURETY:** A cashier's check, certified check, or money order in the amount of 10% of the sale price must accompany the bid document to insure the sale offer. The check shall be made payable to the City of Troy. If the successful bidder does not consummate the purchase, the sale surety check tendered by the successful bidder will become the property of the City of Troy upon acceptance of the bid (offer) by resolution of the Troy City Council. If the purchase is consummated, the check will be applied to the balance due.

The three (3) highest bidder's bid (sale) surety will be held until sale award by the Troy City Council. All other bidders will have their bid deposits returned within 72 hours after the bid has been opened.

3. The City reserves the right to reject any or all bids, to waive any informality in the proposal received, and to accept any proposal or part thereof, which it shall deem to be most favorable to the interests of the City.
4. The successful bidder will be expected to close within 60 days of the sale. Terms: cashier's check, certified check, or money order made payable to the City of Troy.
5. All improvements on any of property sold by the City of Troy become the responsibility of the purchaser.
6. Bids (offers) less than the minimum indicated or offers with terms other than those stated will not be accepted.
7. The City of Troy will retain existing platted and recorded easement rights.
8. Property and structures will be purchased in an "as is" condition.
9. The Troy City Council retains final authority to approve or disapprove the sale of the parcel.
10. **VALUE:** The value of the property is to be established by an appraisal at the direction of the officials of the City of Troy.
11. **BROKERAGE FEE:** Proposals received for the sale of the property described above must state the total sale price to be paid to the City. The buyer shall pay any brokerage fee.
12. **TITLE INSURANCE:** Title insurance will be provided by the City of Troy in the amount of the selling price together with a warranty deed to the property at closing.

13. DESIGNATED CITY REPRESENTATIVE: _____, of the City of Troy Real Estate and Development Department, is the designated City representative for this sale.
14. ADDITIONAL INFORMATION: For additional information, information concerning a site visit, or questions concerning this sale contact: _____, at (248) 524-3498
15. The City of Troy will disclose all known information that is available concerning the property, and is not responsible for any information not disclosed that is unknown at the time of sale and later becomes an issue.
16. DISCLOSURE STATEMENT: Interested parties may review a disclosure statement regarding this property in the City of Troy Real Estate and Development Department, 500 W. Big Beaver Rd., Troy, MI 48084 (Upper Level) Monday through Friday, 8:30 a.m. to 4:00 p.m.
17. AWARD: The City of Troy reserves the right to award this bid to the highest responsible bidder meeting specifications, or in whatever manner is deemed to be in the City's best interest; to reject low bids that have major deviations from specifications; to accept a higher bid that has only minor deviations.
18. BID DEPOSIT AND FORFEITURE: The bid deposit of the highest bidder shall be forfeit if, after bid opening, a change in bid price or other provision of the bid is required by the bidder that is prejudicial to the interests of the City of Troy or fair competition.

SPECIAL INSTRUCTIONS

- All potential buyers are held to offer prices for 60 days or sale award, whichever comes first.
- Final sale results will be posted on the MITN website after award. Please register to see results - www.govbids.com.



**CITY OF TROY
REAL ESTATE SALE**

ITB-COT
Page 4 of 5

The undersigned proposes to buy the property describe below in accordance with the Terms and Conditions of the Sale that are to be considered an integral part of this proposal at the following price:

BIDDER'S NAME: _____



LEGAL DESCRIPTION OF PROPERTY TO BE SOLD:

ZONING INCLUDING BUILDING AND USE RESTRICTIONS:

FRONTAGE & ACCESS:

TOPOGRAPHY & DRAINAGE:

SIZE:

UTILITIES:

ENVIRONMENTAL CONCERNS:

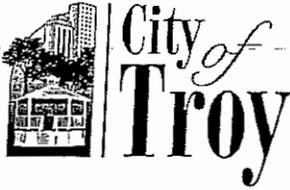
IMPROVEMENTS:

COVER:

MINIMUM BID: \$ _____

I hereby offer \$ _____ for the land described above, subject to the terms and conditions set forth in this bid proposal including all provisions of the section entitled *Instructions, Terms, and Conditions*. Enclosed with the bid proposal document is a bid surety in the form of a cashiers check, certified check, or money order, payable to the City of Troy in the amount of \$ _____, which represents ten percent (10%) of my offer. The balance of the bid will be made available within sixty (60) days of receiving written acceptance notice. I understand that if I am not the successful bidder my bid deposit will be returned to me within the timeframes indicated on page 2 of 5.





SIGNATURE PAGE

PRICES:

Prices shall remain firm for 60 days or bid award; whichever comes first.

AUTHORIZED SIGNATURE: _____

NOTE:

The undersigned has checked carefully the bid figures and understands that he/she shall be responsible for any error or omission in this bid offer and is in receipt of all addendum as issued.

BIDDER'S NAME: _____
ADDRESS: _____ CITY: _____ STATE: _____ ZIP: _____
PHONE: (____) _____ FAX NUMBER: (____) _____
AUTHORIZED SIGNATURE: _____
TERMS: **As Stated** CHECK INCLUDED: _____
Email: _____

EXCEPTIONS:

Any exceptions, substitutions, deviations, etc. from the City specifications and this proposal must be stated below. The reason(s) for the exception, substitution, deviation, etc., are an integral part of this bid proposal.

ACKNOWLEDGEMENT:

I, _____, certify that I have read the *Instructions, Terms, and Conditions* (Pages 1, 2, and 3 of 5) and that the sale documents contained herein were obtained directly from the City's Purchasing Department or MITN website, www.govbids.com and is an official copy of the Authorized Version.

AUTHORIZED SIGNATURE: _____

U.S. FUNDS:

All prices quoted are to be in U. S. Currency.

February 20, 1985

TO: The Honorable Mayor and City Council

FROM: Frank Gerstenecker, City Manager

SUBJECT: Disposal of Remnant Parcels of Property Remaining After Right-of-Taking

Inquiry has been made to this office regarding the policy of the City of Troy in disposing of remnant parcels of land which remain in City ownership as excess right-of-way or remnant parcels remaining after required right-of-way is retained in City ownership. These situations occur with properties having depths which are too shallow to permit a buildable parcel given setback requirements, etc., after the right-of-way is removed from the parcel.

The disposal or sale of these remnant parcels may provide opportunity for the City Council to encourage better land use planning and development along street frontages where remnants are available for disposal. While it may appear to be in the best interest of the City to recover the highest possible payment for the remnant parcel, it also appears to be in the best interest of the community to dispose of the parcel in a manner which will augment good land use planning, zoning and controlled growth.

At locations where we find small, shallow lots, it can also be expected that if those properties are developed singly for non-residential purposes, then one may expect frequent curb cuts and associated driveways each generating traffic turning movement demands and the associated traffic hazards. In addition, one may expect to find compromised quality of construction in smaller non-residential buildings with the attendant premature obsolescence and deterioration.

With the foregoing considerations, the following resolution of policy is submitted for your review, questions, comments and suggestions.

Resolution to Establish Policy Governing
Disposal of Excess Right-of-Way, City of Troy, Michigan

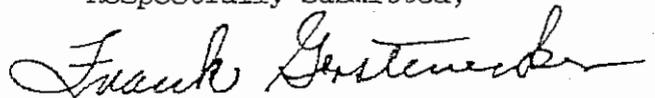
WHEREAS, the City Council of the City of Troy endeavors to attain the highest and best land use, effective growth control measures and to enhance the health, safety and welfare of the community; and

WHEREAS, Chapter 12 of the Troy City Charter requires that . . . "in all sales or purchases in excess of \$3,000, (a) the sales or purchases shall be approved by the City Council, (b) sealed bids shall be obtained, except where the City Council shall determine that an emergency exists or that the public interest will be best served without obtaining sealed bids . . .";

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Troy that it is hereby declared that the public interest will best be served without obtaining sealed bids for the sale of remnant parcels which remain after required right-of-way is taken when a purchase agreement is offered to the City of Troy by a prospective buyer which:

- (1) Has submitted evidence of ownership or control of an assembly of adjoining land of sufficient size so as to achieve what is believed to be the best possible development as determined by the City Council after review and recommendation from the City Manager,
- (2) Has submitted a site plan which has been drawn to sufficient detail to indicate any and all features which are governed by codes of the City of Troy, said site plan to be without need for variances from any code of the City of Troy.
- (3) Is accompanied by a petition for rezoning, if necessary, in compliance with the Master Land Use Plan of the City of Troy or as may be determined by the City Council of the City of Troy as being the most appropriate land use, and
- (4) Commits the prospective buyer to a purchase price at a value established by an appraiser named by the Right-of-Way Division of the City of Troy, and
- (5) Commits the buyer to construct or pay for the construction of any and all improvements to public facilities or private improvements as required by ordinances or design standards of the City of Troy, and
- (6) Is accompanied by architectural renderings of all buildings indicated on the site plan along with a description of building materials and methods to permit evaluation of building quality,
- (7) Is accompanied by a draft of proposed deed restrictions which will be imposed upon the owner of the purchaser of the City-owned property, the adjoining land included in the site plan and their assigns and successors which embodies all of the aforementioned requirements and conditions.

Respectfully submitted,



Frank Gerstenecker
City Manager

RESOLUTION TO ESTABLISH POLICY GOVERNING DISPOSAL (SALE) OF EXCESS
RIGHT-OF-WAY

Resolution #85-254
Moved by Liebrecht
Supported by Stine

WHEREAS, The City Council of the City of Troy endeavors to attain the highest and best land use, effective growth control measures and to enhance the health, safety and welfare of the community; and

WHEREAS, Chapter 12 of the Troy City Charter requires that... "in all sales or purchases in excess of \$3,000, (a) the sales or purchases shall be approved by the City Council, (b) sealed bids shall be obtained, except where the City Council shall determine that an emergency exists or that the public interest will be best served without obtaining sealed bids...";

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Troy may determine that the public interest will best be served without obtaining sealed bids for the sale of remnant parcels which remain after required right-of-way is taken when a purchase agreement is offered to the City of Troy by a prospective buyer which:

- (1) Has submitted evidence of ownership or control of an assembly of adjoining land of sufficient size so as to achieve what is believed to be the best possible development as determined by the City Council after review and recommendation from the City Manager.
- (2) Has submitted a site plan which has been drawn to sufficient detail to indicate any and all features which are governed by codes of the City of Troy, said site plan shall not include variances from any code of the City of Troy.
- (3) Is accompanied by a petition for rezoning, if necessary, in compliance with the Master Land Use Plan of the City of Troy or as may be determined by the City Council of the City of Troy as being the most appropriate land use; and
- (4) Commits the prospective buyer to a purchase price at a value established by an appraiser named by the Right-of-Way Division of the City of Troy; and
- (5) Commits the buyer to construct or pay for the construction of any and all improvements to public facilities or private improvements as required by ordinances or design standards of the City of Troy; and
- (6) Is accompanied by architectural renderings of all buildings indicated on the site plan along with a description of building materials and methods to permit evaluation of building quality;
- (7) Is accompanied by a draft of proposed deed restrictions which will be imposed upon the purchaser of the City-owned property, the adjoining land included in the site plan and their assigns and successors which embodies all of the aforementioned requirements and conditions; and

BE IT FINALLY RESOLVED, That the City Council retains discretionary authority to determine the applicability of this policy.

Yeas: All - 7

PROPOSED RESOLUTION TO ESTABLISH POLICY GOVERNING DISPOSAL (SALE) OF EXCESS
RIGHT-OF-WAY

Resolution #85-254
Moved by Liebrecht
Supported by Stine

WHEREAS, The City Council of the City of Troy endeavors to attain the highest and best land use, effective growth control measures and to enhance the health, safety and welfare of the community; and

WHEREAS, Chapter 12 of the Troy City Charter requires that... "in all sales or purchases in excess of \$3,000 \$10,000, (a) the sales or purchases shall be approved by the City Council, (b) sealed bids shall be obtained, except where the City Council shall determine that an emergency exists or that the public interest will be best served without obtaining sealed bids...";

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Troy may determine that the public interest will best be served without obtaining sealed bids for the sale of remnant parcels which remain after required right-of-way or excess property is taken when a purchase agreement is offered to the City of Troy by a prospective buyer which:

- (1) Has submitted evidence of ownership or control of an assembly of adjoining land of sufficient size so as to achieve what is believed to be the best possible development as determined by the City Council after review and recommendation from the City Manager.
- (2) Has submitted a conceptual site plan which has been drawn to sufficient detail to indicate any and all features such as setbacks, parking and access, storm water detention and building height, which are governed by codes of the City of Troy, ~~said site plan shall not include variances from any code of the City of Troy.~~
- (3) Is accompanied by a petition for rezoning, if necessary, in compliance with the Master Land Use Plan of the City of Troy or as may be determined by the City Council of the City of Troy as being the most appropriate land use; and
- (4) Commits the prospective buyer to a purchase price of at least a value established by an appraiser named by the Right of Way Division Real Estate & Development Department of the City of Troy; and
- ~~(5) Commits the buyer to construct or pay for the construction of any and all improvements to public facilities or private improvements as required by ordinances or design standards of the City of Troy; and~~
- ~~(6)~~(5) During the site plan review, site plan is accompanied by architectural renderings of all buildings indicated on the site plan along with a description of building materials and methods to permit evaluation of building quality;
- ~~(7)~~(6) Is accompanied by a draft of proposed deed restrictions prepared by the City of Troy which will be imposed upon the purchaser of the City-owned property, ~~the adjoining land included in the site plan and their assigns and successors which embodies all of the aforementioned requirements and conditions;~~ and
- (7) Nothing in this resolution relieves the Purchaser/Developer of their obligation to adhere to any and all City Ordinances; and

BE IT FINALLY RESOLVED, That the City Council retains discretionary authority to determine the applicability of this policy.

Yeas: ~~All~~ 7

PROPOSED RESOLUTION TO ESTABLISH POLICY GOVERNING DISPOSAL (SALE) OF EXCESS
RIGHT-OF-WAY

WHEREAS, The City Council of the City of Troy endeavors to attain the highest and best land use, effective growth control measures and to enhance the health, safety and welfare of the community; and

WHEREAS, Chapter 12 of the Troy City Charter requires that..."in all sales or purchases in excess of \$10,000, (a) the sales or purchases shall be approved by the City Council, (b) sealed bids shall be obtained, except where the City Council shall determine that an emergency exists or that the public interest will be best served without obtaining sealed bids...";

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Troy may determine that the public interest will best be served without obtaining sealed bids for the sale of remnant parcels which remain after required right-of-way or excess property is taken when a purchase agreement is offered to the City of Troy by a prospective buyer which:

- (1) Has submitted evidence of ownership or control of an assembly of adjoining land of sufficient size so as to achieve what is believed to be the best possible development as determined by the City Council after review and recommendation from the City Manager.
- (2) Has submitted a conceptual site plan which has been drawn to sufficient detail to indicate any and all features such as setbacks, parking and access, storm water detention and building height, which are governed by codes of the City of Troy.
- (3) Is accompanied by a petition for rezoning, if necessary, in compliance with the Master Land Use Plan of the City of Troy or as may be determined by the City Council of the City of Troy as being the most appropriate land use; and
- (4) Commits the prospective buyer to a purchase price of at least a value established by an appraiser named by the Real Estate & Development Department of the City of Troy; and
- (5) During the site plan review, site plan is accompanied by architectural renderings of all buildings along with a description of building materials to permit evaluation of building quality;
- (6) Is accompanied by a draft of proposed deed restrictions prepared by the City of Troy which will be imposed upon the purchaser of the City-owned property; and
- (7) Nothing in this resolution relieves the Purchaser/Developer of their obligation to adhere to any and all City Ordinances; and

BE IT FINALLY RESOLVED, That the City Council retains discretionary authority to determine the applicability of this policy.

STANDARD RESOLUTION

AGENDA ITEM – RESOLUTION TO APPROVE THE SALE OF CITY OWNED REMNANT PARCEL HAVING SIDWELL # _____ LOCATED IN SECTION ___, AT THE (LOCATION) - LOT ___, SUPERVISORS PLAT #__

Resolution #2006-06-

WHEREAS, The City Council may from time to time determine that the sale of certain parcels will best serve the public interest;

WHEREAS, The City Council may determine the public interest will best be served without obtaining sealed bids for the sale of a remnant parcel.

NOW THEREFORE BE IT RESOLVED, That the Troy City Council finds that the public interest will best be served without obtaining a sealed bid in accordance with Resolution 85-254 Policy Governing Disposal (Sales) of Excess City owned property and approve the sale of the remnant parcel having Sidwell #_____, described in Attachment “A” attached hereto, to_____, the appraised value as outlined in the Offer to Purchase, with conditions, plus closing costs;

BE IT FURTHER RESOLVED, That closing will take place when all conditions have been met; and

BE IT FURTHER RESOLVED, That the Mayor and City Clerk are **AUTHORIZED TO EXECUTE** the Agreement to Purchase and the Warranty Deed, on behalf of the City; and

BE IT FINALLY RESOLVED, That the City Clerk is hereby **DIRECTED TO RECORD** said documents, including all attachments, at the Oakland County Register of Deeds, a copy of which shall be **ATTACHED** to and made a part of the original Minutes of this meeting.

Yes:

No:

June 30, 2006

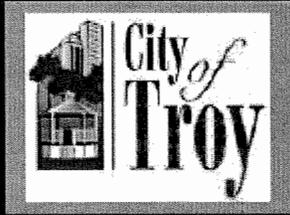
TO: John M. Lamerato, Acting City Manager

FROM: Brian Murphy, Assistant City Manager/Services
Steve Vandette, City Engineer *SV*

SUBJECT: **Agenda Item** – Troy City Code Chapter 18 (Water Utility)

This item was a referral item requested by Council Member David Lambert and discussed at the City Council meeting of June 19, 2006. After receiving some discussion and some public comments concerning the watering restrictions and their impacts, further discussion was postponed until staff could prepare a presentation and return to address this matter at the regular City Council meeting of July 10, 2006.

City staff will make a brief presentation on understanding DWSD water rates and how water conservation can reduce future rate increases. Steve Vandette, City Engineer, will make this presentation.



UNDERSTANDING DWSD WATER RATES

CAN WATER CONSERVATION LOWER WATER RATES?

NO...

BUT CONSERVING WATER IN
THE SUMMER CAN REDUCE
THE ANNUAL RATE OF
INCREASE, PROJECTED BY
DWSD TO BE AN AVERAGE OF
6% EACH YEAR

PRESENTATION INFORMATION RESOURCE:



Detroit Water and
Sewerage Department

- WWW.DWSD.ORG
- www.dwsd.org/cust/understanding_rates_101_03-06.pdf

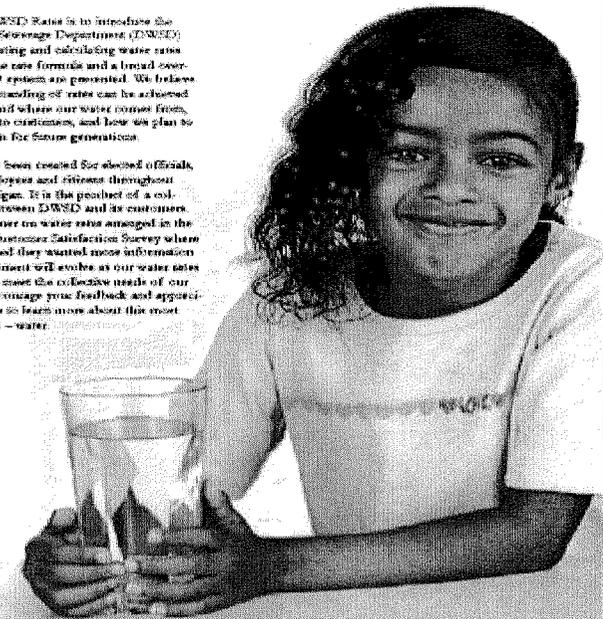
DWSD Rates



Understanding DWSD Water Rates

The purpose of DWSD Rates is to introduce the Detroit Water and Sewerage Department (DWSD) process for formulating and calculating water rates. The elements of the rate formula and a broad overview of the DWSD system are presented. We believe that a better understanding of rates can be achieved when you understand where our water comes from, how it is delivered to customers, and how we plan to maintain this system for future generations.

This document has been created for elected officials, governmental employees and citizens throughout Southeastern Michigan. It is the product of a collaborative effort between DWSD and its customers. The need for a primer on water rates emerged in the results of a 2003 Customer Satisfaction Survey where participants indicated they wanted more information on rates. This document will evolve as our water rates process changes to meet the collective needs of our community. We encourage your feedback and appreciate your willingness to learn more about this most important resource – water.



This Water Rates Seminary was published through a collaborative effort of the Detroit Water and Sewerage Department, a not-for-profit agency, and the customer community.

FREQUENTLY ASKED QUESTION ABOUT WATER RATES

3. Why do rates vary so much year to year?

Seasonal usage of water has a dramatic impact on the overall cost of service. Increases or decreases in maximum day or peak hour increments due to changes in lawn watering contribute costs to six different Units of Service: Maximum Day Increment, Peak Hour Increment, Maximum Day Distance, Peak Hour Distance, Maximum Day Distance-Elevation, and Peak Hour Distance – Elevation. In the Allen Park example, these six different Units of Service affect 46% of the total charge.

Source: DWSD

IN TROY 66% OF TOTAL CHARGE IS
AFFECTED BY MAX DAY AND MAX HOUR
FACTORS

DWSD USES MAX DAY AND MAX HOUR FACTORS TO DETERMINE:

- Max Day Cost Allocation
- Max Hour Cost Allocation
- Max Day Distance Cost Allocation
- Peak Hour Distance Cost Allocation
- Max Day Distance-Elevation Cost Allocation
- Peak Hour Distance-Elevation Cost Allocation

Items #2, 3, 5, 6, 7, 8 and 9 on next slide.

2005/2006 RATE CALCULATION

COMMUNITY: TROY

	A	B	C	D	E
SERVICE CATEGORY	Peaking Factors	Units of Service	Applied Units	Unit Cost	Allocated Costs
1 BASE (Mcf / Day) (a)		1,751.8	1,931.2	\$871.99	\$1,683,986
2 MAX DAY	2.5	4,379.5	2,627.7	474.56	1,246,990
3 PEAK HOUR	3.1	5,430.6	1,051.1	265.27	278,825
4 BASE DISTANCE		24.3	46,928.2	11.67	547,655
5 MAX DAY DISTANCE			63,853.1	9.70	619,412
6 PEAK HOUR DISTANCE			25,541.7	9.70	247,769
7 BASE DISTANCE-ELEVATION (b)		38.0	73,385.6	11.72	860,133
8 MAX DAY DISTANCE-ELEVATION			99,852.6	27.73	2,768,686
9 PEAK HOUR DISTANCE-ELEVATION			39,941.8	27.73	1,107,495
10 CUSTOMER A (COMMERCIAL)		132		9.26	1,222
11 CUSTOMER B (METERS)		2,694		36.87	99,327
12 TOTAL FY 2006 REVENUE REQUIREMENT					\$9,461,500
13 FY 2006 VOLUME					639,400 Mcf
14 FY 2006 RATE					\$9,461,500 / 639,400 \$14.80 per Mcf

(a) Calculation of Base Water Units	Annual Volume	639,400	/ 365	1,751.8	Mcf/Day
	Allocated Transmission Losses *		10.2%	179.4	Mcf/Day
	Total Base Usage			1,931.2	Mcf/Day

* Based on Distance Factor relative to all other customers

(b) Elevation Factor - $755 - 610 = 145 / 10.56 = 13.7 + 24.3 = 38.0$

WHY DOES DWSD USE THESE FACTORS?

BECAUSE THE DWSD RATE MODEL USES:

- **BASE-EXTRA CAPACITY APPROACH**
 - ◆ Provide base water service during average conditions
 - ◆ Provide extra capacity to meet customer demands during peak usage periods

WHAT DOES THAT MEAN?

- DWSD allocates charges to customers for providing base (average day) service, and THEN
- EXTRA charges are allocated to provide extra (peak demand) service.

“Because customers vary in their needs for base and peak demand services, customers can and do have different rates, even when they are neighbors”

Source: DWSD

WHAT OTHER FACTORS MAKE RATES DIFFERENT FROM OTHER CITIES?

- ◆ Distance Relative to Detroit
- ◆ Elevation Relative to Detroit
- ◆ Base (Average Day) Flow
 - ◆ Total metered flow divided by 365
- ◆ Peak (Maximum Day) Flow
 - ◆ Total metered flow on peak day divided by average day flow
- ◆ Peak (Maximum Hour) Flow
 - ◆ Total metered peak hour flow divided by average day flow

BUT WHO'S PEAK DAY IS USED
IN THE RATE CALCULATION?

ANSWER

THE ENTIRE DWSD SYSTEM

NOT THE CITY OF TROY'S

THE 2005 PEAK IS USED TO SET THE 2006-07 WATER RATE

- Peak Occurs Sometime in Summer
- Peak Day and Hour is Determined by DWSD from meter records
- Peak Day for 2005 was June 27th
- Peak Hour for 2005 was 8am to 9am
- 2006 Peak? UNKNOWN



METHODOLOGY AND RESULTS

THE FOSTER GROUP - DWSD 2005 DEMAND FACTOR STUDY

The results presented above are the best achieved since the master meter replacement program was completed by DWSD.

2005 RESULTS

Based on the demand factor methodology described in Section 2.0, the 2005 demand factor results for each wholesale community were calculated and are presented in Appendix A. The individual flysheets for each community, displaying max day and peak hour pumping information for each wholesale customer's master meters as well as corresponding wholesale customer pumping charts, are presented in Appendix B.

The overall DWSD system maximum day occurred on June 27, 2005, with approximately 1.05 billion gallons of water pumped. The system peak hour on June 27th occurred between 8:00pm and 9:00pm EDT, with approximately 56 million gallons of water pumped. Both pumping totals represent plant pumping totals adjusted for in-system reservoir storage effects. The corresponding system max day and peak hour demand factors for all verifiable meters were calculated to be 1.8 and 2.3, respectively. The pumping chart inclusive of all suburban meters is presented in Appendix C. Note that the peak hour for the wholesale customers occurred at a different hour than did the peak hour for the system in total (system peak hour is blue).

WHAT WERE THE FLOWS IN THE CITY OF TROY ON DWSD'S PEAK DAY IN 2005 ?

Best shown by the 24 hour flow
profile prepared by DWSD



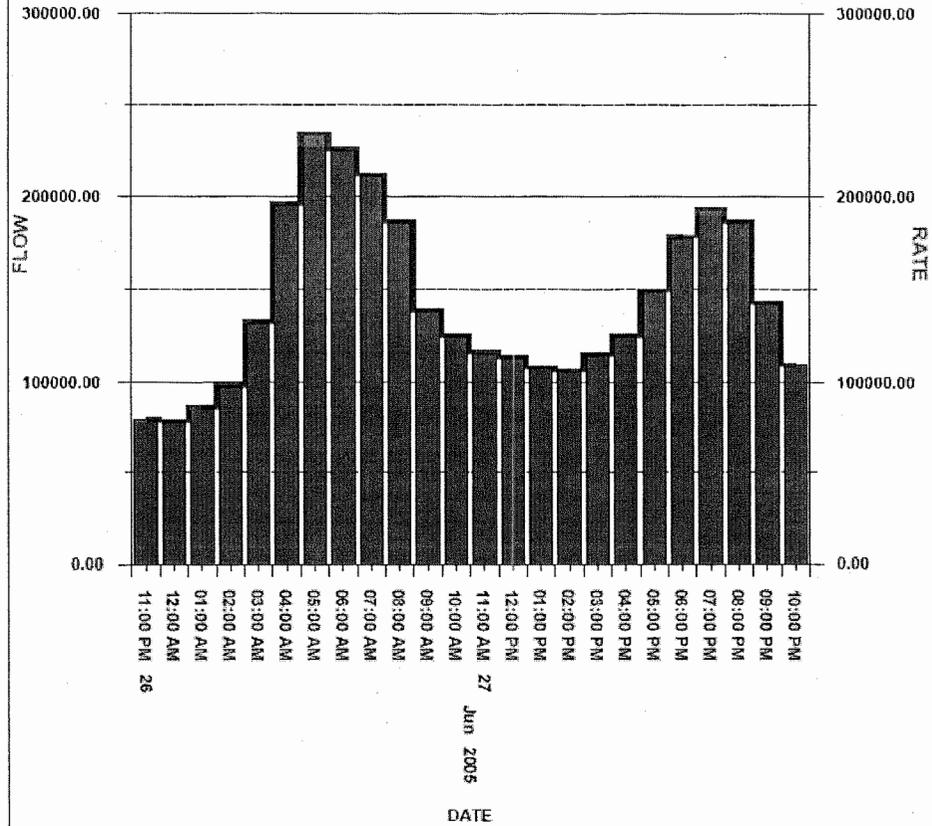
Customer Flow and Rate Per Hour

Report generated: July 21, 2005 8:09 AM

Name: Troy
Location: 4963 Rochester Rd.
Date: 06/27/2005

Total Flow: 3,436,430.15
Flow Units: Cubic Feet
Average Rate: 143,184.59
Rate Units: Cu. Feet/Hr

HOURLY CUSTOMER FLOW



WHAT IF 50% FEWER
PEOPLE WATER, (UNDER
ODD/EVEN RESTRICTIONS)
BUT THEY WATER TWICE
AS LONG?

The peak flows would still go down
and the flow would flatten and spread
out over a longer time.

FLAT STEADY FLOWS – NO
PEAKS WOULD
LOWER MAX HOUR FACTOR

EXAMPLE: SOUTHEAST
OAKLAND COUNTY WATER
AUTHORITY – PUMPS/STORES
WATER FOR REDISTRIBUTION



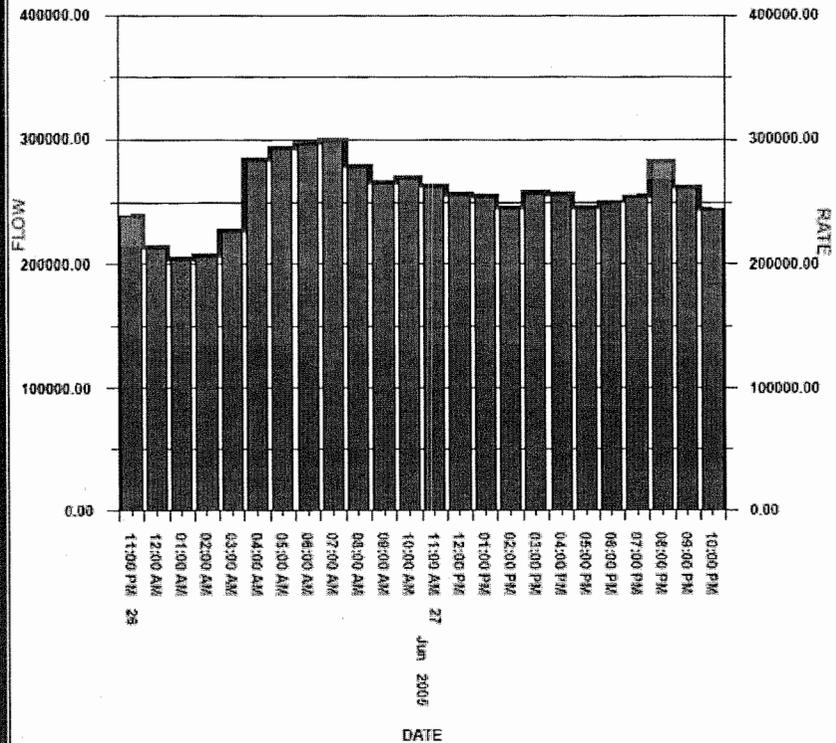
Customer Flow and Rate Per Hour

Report generated: July 21, 2005 8:04 AM

Name: Oakland County Water (SEOCWA)
Location: 3910 W. Webster Rd.
Date: 06/27/2005

Total Flow: 6,144,638.16
Flow Units: Cubic Feet
Average Rate: 256,026.59
Rate Units: Cu. Feet/Hr

HOURLY CUSTOMER FLOW



SEOCWA

Category 1
Avg. Day (cf) 3,653,533

Calculated Factor Development

Meter	Type	Max. Day (cf)	Peak Hour (cf)	Peaking Factor	
				Max. Day	Peak Hour
SE05	Inflow	1,276,025	52,195		
SE06	Inflow	885,727	46,863		
SE08	Inflow	1,830,394	64,520		
SE09	Inflow	1,958,975	80,094		
SE10	Inflow	193,517	10,446		
Total		6,144,638	254,118	1.70	1.70

BUT WOULDN'T THE MAX DAY FACTOR STAY THE SAME?

Yes, theoretically, it might if
EVERYONE watered twice as long,
but a slight reduction in the max hour
factor has far more impact on water
rates than the max day factor.

COMPARISON OF FACTOR REDUCTIONS:

EXAMPLE USING '04-05 DWSD RATE CALCULATIONS:

- 5% MAX DAY FACTOR REDUCTION (-0.125)

- ◆ REDUCES DWSD WATER RATE BY 0.66%

- 5% MAX HOUR FACTOR REDUCTION (-0.155)

- ◆ REDUCES DWSD WATER RATE BY 4%

WHAT CAN COMMUNITIES DO TO CONTROL ITS RATES?

ACCORDING TO DWSD'S UNDERSTANDING WATER RATES 101

Communities should focus on eliminating waste within their system and on educating citizens and businesses on environmentally sound watering practices. In the long run, these initiatives will reduce peak demands and will result in lower costs assigned to them.

Source: DWSD

SUMMARY

- CONSERVING WATER IN THE SUMMER CAN RESULT IN LOWER RATE INCREASES FROM DWSD
- CONSERVING WATER CAN KEEP TROY'S INCREASES AT OR BELOW DWSD'S PROJECTED AVERAGE INCREASE OF 6% A YEAR

QUESTIONS?

6-23-06

Dear City Council Members:

Please take into consideration when making your decision regarding the restrictions on watering, people who have sprinkler systems. Our system works on 7 day program, so to follow a watering system to maintain even or odd days would mean re-programming the sprinklers every week. I water 3 days a week, (Monday, Wednesday + Saturday), and do not need every other day.

I am asking you to consider other options instead of even + odd days according to addresses

Thank You
Sandy Salvia
5144 Serena
Troy, MI 48098