



# TROY CITY COUNCIL

## REGULAR MEETING

### AGENDA

**FEBRUARY 22, 2016**  
CONVENING AT 7:30 P.M.

**Submitted By**  
**The City Manager**

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***NOTICE: Persons 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@troymt.gov](mailto:clerk@troymt.gov) at least two working days in advance of the meeting. An attempt will be made to make reasonable accommodations.***

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500 W. Big Beaver  
Troy, MI 48084  
248.524.3300  
troymi.gov

The Honorable Mayor and City Council Members

City of Troy  
500 West Big Beaver  
Troy, MI 48084

Dear Mayor and City Council Members:

In this packet, you will find the agenda for the City Council meeting. To help facilitate an informed discussion, the packet provides you with agenda items and additional details. The packet also contains recommended courses of action for your consideration and seeks to aid you in adopting sound policy decisions for the City of Troy.

This comprehensive agenda has been put together through the collaborative efforts of management and staff members. We have made all attempts to obtain accurate supporting information. It is the result of many meetings and much deliberation, and I would like to thank the staff for their efforts.

If you need any further information, staff is always available to provide more information and answer questions that may arise. You can contact me at [bkischnick@troymi.gov](mailto:bkischnick@troymi.gov) or 989.233.7335 with questions.

Respectfully,

A handwritten signature in black ink that reads "B. K. L. K.", representing Brian Kischnick.

Brian Kischnick,  
City Manager

2015/2016

# TOP 10 STRATEGIES

*Adopted by City Council 3/9/2015*

**'Why'**

We believe a strong community embraces diversity, promotes innovation, and encourages collaboration. We strive to lead by example within the region. We do this because we want everyone to choose Troy as their community for life. We believe in doing government the best.

1

Improve and invest in our assets, both people and infrastructure

Define our organizational culture

2

3

Consistently tell our story

Create a sense of place

4

5

Embrace a sustainable Library

Implement a Trails and Pathways Plan and increase walkability

6

7

Maintain strong Public Safety

Improve interaction online and in-person

8

9

Modernize wayfinding opportunities

Celebrate diversity

10



# CITY COUNCIL AGENDA

February 22, 2016 – 7:30 PM  
Council Chambers  
City Hall - 500 West Big Beaver  
Troy, Michigan 48084  
(248) 524-3317

**INVOCATION:** 1

**PLEDGE OF ALLEGIANCE:** 1

**A. CALL TO ORDER:** 1

**B. ROLL CALL:** 1

**C. CERTIFICATES OF RECOGNITION AND SPECIAL PRESENTATIONS:** 1

C-1 Recognition to Rick Greenwell, Honored as the State Champ in the AWWA Meter Madness Competition at the Annual American Water Works Association and Michigan Water Environmental Association Conference in Lansing on February 2, 2016 *(Presented by: Mayor Dane Slater)* 1

C-2 2016 Breaking Bad Retreat Invitation *(Introduced by: City Manager Brian Kischnick)* 1

**D. CARRYOVER ITEMS:** 1

D-1 No Carryover Items 1

**E. PUBLIC HEARINGS:** 1

E-1 Liquor Violation Hearings 1

- a) 2Booli, Inc. (dba: 2Booli): ..... 2
- b) Maggiano's Holding Corp. (dba: Maggiano's Little Italy):..... 2
- c) TGI Friday's Inc. (dba: TGI Friday's): ..... 2
- d) H Mart Troy, LLC (dba: H Mart):..... 2
- e) American Polish Cultural Center: ..... 2
- f) Mar-Bill, Inc. (dba: Parrot Cove Yacht Club):..... 2

- g) A & S Babi, Inc. (dba: John’s Party Store):..... 2
- h) Mr. Pizza, Inc. (dba: Mr. Pizza Bootleg Party Store):..... 2

**F. PUBLIC COMMENT FOR ITEMS ON THE AGENDA FROM TROY RESIDENTS AND BUSINESSES: 2**

**G. CITY COUNCIL/CITY ADMINISTRATION RESPONSE/REPLY TO PUBLIC COMMENT: 3**

**H. POSTPONED ITEMS: 3**

- H-1 No Postponed Items 3

**I. REGULAR BUSINESS: 3**

- I-1 Board and Committee Appointments: a) Mayoral Appointments – None; b) City Council Appointments – Zoning Board of Appeals 3

- I-2 Board and Committee Nominations: a) Mayoral Nominations – None; b) City Council Nominations – Animal Control Appeal Board, Charter Revision Committee, Employees Retirement System Board of Trustees / Retiree Health Care Benefits Plan and Trust, Liquor Advisory Committee, Traffic Committee 4

- I-3 No Closed Session Requested 8

**J. CONSENT AGENDA: 8**

- J-1a Approval of “J” Items NOT Removed for Discussion 8

- J-1b Address of “J” Items Removed for Discussion by City Council 8

- J-2 Approval of City Council Minutes 8

- a) City Council Minutes-Draft – February 8, 2016..... 8

- J-3 Proposed City of Troy Proclamations: None Submitted 8

- J-4 Standard Purchasing Resolutions: 8

- a) Standard Purchasing Resolution 4: Cooperative Contract Award – Survey Equipment ..... 8

b)	Standard Purchasing Resolution 2: Award to Low Bidder Meeting Specifications – Roof Replacement for the Nature Center .....	9
c)	Standard Purchasing Resolution 1: Award to Low Bidder – Contract 16-2 – Section 4 Asphalt Resurfacing .....	9
J-5	Private Agreement – Contract for Installation of Municipal Improvements – DTE Doyle – Project No. 15.908.3	9
J-6	Request for Approval to Sell a City Owned Remnant Parcel Located in Section 22 - Sidwell #88-20-22-358-028	10
J-7	Request for Approval of Relocation Claim and Replacement Housing Determination Costs - John R Road Improvement Project, Square Lake to South Boulevard - Project No. 02.204.5 – Parcel 48 – Sidwell #88-20-02-228-011	10
J-8	Request for Acceptance of Three Permanent Easements from Emergency Egress, LLC – Sidwell #88-20-27-429-049 and 050	10
<b><u>K.</u></b>	<b><u>MEMORANDUMS AND FUTURE COUNCIL AGENDA ITEMS:</u></b>	<b>11</b>
K-1	Announcement of Public Hearings:	11
	a) March 14, 2016 – Zoning Ordinance Text Amendment (File Number: ZOTA 247) – Oil and Gas Extraction .....	11
K-2	Memorandums (Items submitted to City Council that may require consideration at some future point in time): None Submitted	11
<b><u>L.</u></b>	<b><u>PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA FROM TROY RESIDENTS AND BUSINESSES:</u></b>	<b>11</b>
<b><u>M.</u></b>	<b><u>CITY COUNCIL/CITY ADMINISTRATION RESPONSE/REPLY TO PUBLIC COMMENT:</u></b>	<b>11</b>
<b><u>N.</u></b>	<b><u>COUNCIL REFERRALS:</u></b>	<b>11</b>
N-1	Motion for Reconsideration for a Revised Woodlands Protection Ordinance as Requested by Mayor Dane Slater and Council Member Jim Campbell	11
<b><u>O.</u></b>	<b><u>COUNCIL COMMENTS:</u></b>	<b>13</b>
O-1	No Council Comments Advanced	13

**P. REPORTS:** **13**

P-1 Minutes – Boards and Committees: 13

- a) Election Commission-Final – September 25, 2015 ..... 13
- b) Building Code Board of Appeals-Final – December 2, 2015 ..... 13
- c) Building Code Board of Appeals-Final – January 20, 2016 ..... 13
- d) Planning Commission-Final – January 26, 2016 ..... 13
- e) Building Code Board of Appeals-Draft – February 3, 2016 ..... 13
- f) Election Commission-Draft – February 10, 2016..... 13

P-2 Department Reports: 13

- a) SOCRRA Quarterly Report – January, 2016 ..... 13
- b) Update: Sale of Surplus City Parcels ..... 13

P-3 Letters of Appreciation: None Submitted 13

P-4 Proposed Proclamations/Resolutions from Other Organizations: None Submitted 13

**Q. COMMENTS ON ITEMS ON OR NOT ON THE AGENDA FROM MEMBERS OF THE PUBLIC OUTSIDE OF TROY (NOT RESIDENTS OF TROY AND NOT FROM TROY BUSINESSES):** **13**

**R. CLOSED SESSION:** **13**

R-1 No Closed Session 13

**S. ADJOURNMENT:** **13**

**2016 CITY COUNCIL/STAFF RETREAT:** **14**

February 26, 2016 at 5:00 PM Kresge Foundation, 3215 W. Big Beaver..... 14

February 27, 2016 at 8:30 AM Walsh College, Barry Center, 3838 Livernois ..... 14

**2016 SCHEDULED SPECIAL CITY COUNCIL MEETINGS:** **14**

February 22, 2016 Liquor Violation Hearings ..... 14

March 14, 2016 Liquor Violation Hearings..... 14

April 18, 2016 Joint Meeting–Troy City Council/Troy Planning Commission ..... 14

April 21, 2016 Special Study Session – Budget Discussions ..... 14

April 25, 2016 Special Study Session – Budget Discussions ..... 14

July 11, 2016 Joint Meeting–Troy City Council/Troy Chamber ..... 14

August 8, 2016 Joint Meeting–Troy City Council/Troy School Board ..... 14

October 24, 2016 Joint Meeting–Troy City Council/Troy Planning Commission ... 14

**2016 SCHEDULED REGULAR CITY COUNCIL MEETINGS:**

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February 22, 2016 Regular Meeting .....	14
March 14, 2016 Regular Meeting .....	14
March 21, 2016 Regular Meeting .....	14
April 4, 2016 Regular Meeting .....	14
April 18, 2016 Regular Meeting .....	14
May 9, 2016 Regular Meeting.....	14
May 23, 2016 Regular Meeting.....	14
June 13, 2016 Regular Meeting .....	14
June 27, 2016 Regular Meeting .....	14
July 11, 2016 Regular Meeting .....	14
July 25, 2016 Regular Meeting.....	14
August 8, 2016 Regular Meeting .....	14
August 22, 2016 Regular Meeting .....	14
September 19, 2016 Regular Meeting.....	14
September 26, 2016 Regular Meeting.....	14
October 10, 2016 Regular Meeting .....	14
October 24, 2016 Regular Meeting .....	14
November 14, 2016 Regular Meeting.....	14
November 21, 2016 Regular Meeting.....	14
December 5, 2016 Regular Meeting.....	14
December 19, 2016 Regular Meeting.....	14



**INVOCATION:**

**PLEDGE OF ALLEGIANCE:**

**A. CALL TO ORDER:**

**B. ROLL CALL:**

- a) Mayor Dane Slater  
Edna Abraham  
Ethan Baker  
Jim Campbell  
Dave Henderson  
Ellen Hodorek  
Ed Pennington

- b) Excuse Absent Council Members:

Suggested Resolution

Resolution #2016-02-

Moved by

Seconded by

RESOLVED, That Troy City Council hereby **EXCUSES** the absence of \_\_\_\_\_ at the Regular City Council Liquor Violation Hearings Meeting and the Regular City Council Meeting of February 22, 2016, due to \_\_\_\_\_.

Yes:

No:

**C. CERTIFICATES OF RECOGNITION AND SPECIAL PRESENTATIONS:**

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**C-1** Recognition to Rick Greenwell, Honored as the State Champ in the AWWA Meter Madness Competition at the Annual American Water Works Association and Michigan Water Environmental Association Conference in Lansing on February 2, 2016 *(Presented by: Mayor Dane Slater)*

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**C-2** 2016 Breaking Bad Retreat Invitation *(Introduced by: City Manager Brian Kischnick)*

**D. CARRYOVER ITEMS:**

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**D-1** No Carryover Items

**E. PUBLIC HEARINGS:**

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**E-1** Liquor Violation Hearings

*The Liquor Violation Hearings will be continued from the Regular City Council Meeting on February 22, 2016, at 6:00 P.M. in the event there are time constraints.*

- a) 2Booli, Inc. (dba: 2Booli):
- b) Maggiano's Holding Corp. (dba: Maggiano's Little Italy):
- c) TGI Friday's Inc. (dba: TGI Friday's):
- d) H Mart Troy, LLC (dba: H Mart):
- e) American Polish Cultural Center:
- f) Mar-Bill, Inc. (dba: Parrot Cove Yacht Club):
- g) A & S Babi, Inc. (dba: John's Party Store):
- h) Mr. Pizza, Inc. (dba: Mr. Pizza Bootleg Party Store):

## **F. PUBLIC COMMENT FOR ITEMS ON THE AGENDA FROM TROY RESIDENTS AND BUSINESSES:**

**In accordance with the Rules of Procedure for the City Council, Article 17 – Members of the Public and Visitors:**

Any person not a member of the City Council may address the Council with recognition of the Chair, after clearly stating the nature of his/her inquiry or comment. *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.*

- Petitioners shall be given a fifteen (15) minute presentation time that may be extended with the majority consent of City Council.
- Any member of the public, not a petitioner of an item, shall be allowed to speak for up to three (3) minutes to address any Public Hearing item.
- Any Troy resident or Troy business representative, not a petitioner of an item, shall be allowed to speak for up to three (3) minutes total to address Postponed, Regular Business, Consent Agenda or Study items or any other item on the Agenda as permitted under the Open Meetings Act during the *Public Comment for Items On the Agenda from Troy Residents and Businesses* portion of the Agenda.
- Any Troy resident or Troy business representative, not a petitioner of an item, shall be allowed to speak for up to three (3) minutes to address any topic not on the Agenda as permitted under the Open Meetings Act during the *Public Comment for Items Not on the Agenda from Troy Residents and Businesses* portion of the Agenda.
- Any member of the public who is not a Troy resident or Troy business representative shall be allowed to speak for up to three (3) minutes to address any topic on or not on the Agenda as permitted under the Open Meetings Act during the *Comments for Items On or Not On the Agenda from Members of the Public Outside of Troy (Not Residents of Troy and Not From Troy Businesses)* portion of the Agenda.
- All members of the public who wish to address the Council at a meeting shall be allowed to speak only if they have signed up to speak within thirty minutes before or within fifteen minutes after the meeting's start time. Signing up to speak requires each speaker provide his or her name and residency status (Troy resident, non-resident, or Troy business owner). If the speaker is addressing an Item (or Items) that appear on the pre-printed agenda, then the speaker shall also identify each such agenda item number(s) to be addressed.
- City Council may waive the requirements of this section by a majority vote of the City Council

members.

- Agenda items that are related to topics where there is significant public input anticipated should initiate the scheduling of a Special meeting for that specific purpose.

The following has been approved by Troy City Council as a statement of the rules of decorum for City Council meetings. The Mayor will also provide a verbal notification of these rules prior to Public Comment:

*The audience should be aware that all comments are to be directed to the Council rather than to City Administration or the audience. Anyone who wishes to address the Council is required to sign up to speak within thirty minutes before or within fifteen minutes of the start of the meeting. There are three Public Comment portions of the Agenda. For Items On the Agenda, Troy Residents and Business Owners can sign up to address Postponed, Regular Business, Consent Agenda, or Study items or any other item on the Agenda. Troy Residents and Business Owners can sign up to address all other topics under Items Not on the Agenda. All Speakers who do not live in Troy or own a Troy business may sign up to speak during the Comments on Items On and Not On the Agenda from Members of the Public Outside of Troy. Also, there is a timer on the City Council table in front of the Mayor that turns yellow when there is one minute of speaker time remaining, and turns red when the speaker's time is up. In order to make the meeting more orderly and out of respect, please do not clap during the meeting, and please do not use expletives or make derogatory or disparaging comments about any one person or group. If you do so, then there may be immediate consequences, including having the microphone turned off, being asked to leave the meeting, and/or the deletion of speaker comments for any re-broadcast of the meeting. Speakers should also be careful to avoid saying anything that would subject them to civil liability, such as slander and defamation.*

*Please avoid these consequences and voluntarily assist us in maintaining the decorum befitting this great City.*

**G. CITY COUNCIL/CITY ADMINISTRATION RESPONSE/REPLY TO PUBLIC COMMENT:**

**H. POSTPONED ITEMS:**

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**H-1 No Postponed Items**

**I. REGULAR BUSINESS:**

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**I-1 Board and Committee Appointments: a) Mayoral Appointments – None; b) City Council Appointments – Zoning Board of Appeals**

**a) Mayoral Appointments: None**

**b) City Council Appointments:**

Suggested Resolution

Resolution #2016-02-

Moved by

Seconded by

RESOLVED, That Troy City Council hereby **APPOINTS** the following nominated person(s) to serve on the Boards and Committees as indicated:

**Zoning Board of Appeals**

Appointed by Council  
7 Regular Members  
3 Year Term

**Term Expires: 12/31/2016**

**Philip Sanzica (PC Rep on ZBA)**

*Nomination by  
Planning Commission*

Term currently held by: Philip Sanzica

Yes:

No:

**I-2 Board and Committee Nominations: a) Mayoral Nominations – None; b) City Council Nominations – Animal Control Appeal Board, Charter Revision Committee, Employees Retirement System Board of Trustees / Retiree Health Care Benefits Plan and Trust, Liquor Advisory Committee, Traffic Committee**

**a) Mayoral Nominations: None**

**b) City Council Nominations:**

Suggested Resolution

Resolution #2016-02-

Moved by

Seconded by

RESOLVED, That Troy City Council hereby **FORWARDS** the following nominated person(s) to serve on the Boards and Committees as indicated to the next Regular City Council Meeting for action:

**Animal Control Appeal Board**

Appointed by Council  
5 Regular Members  
3 Year Term

**Current Members:**

Last Name	First Name	App Res Expire	Appointment Expire	Notes 2
Carolan	Patrick	6/17/2015	9/30/2016	
Floch	Patrick	11/18/2016	9/30/2018	
Petrulis	Al	6/16/2017	9/30/2018	Traffic Comm exp 1/31/2017
Saeger	Jayne	10/15/2016	9/30/2017	
Vacancy			9/30/2017	P. Terry Knight's Term

**Nominations to the Animal Control Appeal Board:**

**Unexpired Term Expires: 9/30/2017**

Term currently held by: Vacancy-P. Terry Knight term

**Interested Applicants:**

Last Name	First Name	App Resume Expire	Notes 1
Waters	Gretchen	1/4/2018	

**Charter Revision Committee**

Appointed by Council  
 7 Regular Members  
 3 Year Term

**Current Members:**

Last Name	First Name	App Res Expire	Appointment Expire	Notes 3
Bartnik	Mark		04/30/2018	
Berk	Robert	2/27/2015	4/30/2016	
Bliss	Daniel	11/16/2013	4/30/2015	NO Reappointment
Howrylak	Frank	2/1/2014	4/30/2017	
Kanoza	Shirley	2/21/2015	4/30/2016	
Weisgerber	William	5/7/2017	4/30/2015	NO Reappointment
Wilsher	Cynthia	2/27/2016	4/30/2017	

**Nominations to the Charter Revision Committee:**

**Term Expires: 4/30/2018**

Term currently held by: Daniel Bliss

**Term Expires: 4/30/2018**

Term currently held by: William Weisgerber

**Interested Applicants:**

No applications on file.

**Employees Retirement System Board of Trustees / Retiree Health Care Benefits Plan and Trust**

Appointed by Council  
 7 Regular Members and 2 Ordinance Member  
 3 Year Term

**Current Members:**

Last Name	First Name	App Res Expire	Appointment Expire	Notes 1	Notes 3
Calice	Mark	10/8/2017	12/31/2018	Council Appointed Citizen	Requests Reappointment
Darling	Thomas			Chapter 10	
Gordon II	Thomas	9/17/2015	12/31/2016	DB-Employee Rep.-Elected	
Henderson	Dave		4/15/2018		Requests Reappointment
Kischnick	Brian			Chapter 10	
Pallotta	Steven		12/31/2017	DC Employee Rep.-Elected	
Stansbury	Milt	11/2/2017	12/31/2018	DC Employee Rep.-Elected	
Vacancy			12/31/2016	Wm. Need resigned 9/9/2015	

**Nominations to the Employees Retirement System Board of Trustees / Retiree Health Care Benefits Plan and Trust:****Unexpired Term Expires: 12/31/2016**

Term currently held by: Vacancy–W. Need resigned

**Interested Applicants:**

No applications on file.

**Liquor Advisory Committee**

Appointed by Council  
7 Regular Members  
3 Year Term

**Current Members:**

Last Name	First Name	App Res Expire	Appointment Expire	Notes 3
Comiskey	Ann	3/18/2016	1/31/2018	
Ehlert	Max	11/5/2016	1/31/2018	
Godlewski	W. Stan	12/14/2012	1/31/2017	
Gorcyca	David	12/6/2015	1/31/2017	
Hall	Patrick	11/24/2017	1/31/2016	NO Reappointment
Kaltsounis	Andrew	11/24/2017	1/31/2019	
Oberski	Jeff			
Payne	Timothy	2/8/2014	1/31/2018	

**Nominations to the Liquor Advisory Committee:**

**Term Expires: 1/31/2019**

Term currently held by: Patrick Hall

**Interested Applicants:**

No applications on file.

**Traffic Committee**

Appointed by Council  
7 Regular Members  
3 Year Term

**Current Members:**

Last Name	First Name	App Res Expire	Appointment Expire	Notes 1	Notes 3
Brandstetter	Tim	10/17/2016	1/31/2018		
Easterbrook	David	11/24/2017	1/31/2016		NO Reappointment
Huber	R. Mitch	6/10/2017	1/31/2016		
Huotari	William			Ex-Officio Member	
Kilmer	Richard	12/12/2015	1/31/2017		
Mayer	Gary			Ex-Officio Member	
Nelson	William			Ex-Officio Member	
Petrulis	Al	1/8/2016	1/31/2017	ACAB exp 9/30/2018	
Regan	Kathleen	3/26/2017	7/31/2016	STUDENT	
Wilsher	Cynthia	10/9/2016	1/31/2018		
Ziegenfelder	Peter	12/9/2015	1/31/2017		

**Nominations to the Traffic Committee:**

**Term Expires: 1/31/2019**

Term currently held by: David Easterbrook

**Term Expires: 1/31/2019**

Term currently held by: R. Mitch Huber

**Interested Applicants:**

No applications or resumes on file.

Yes:

No:

**I-3 No Closed Session Requested****J. CONSENT AGENDA:**

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**J-1a Approval of "J" Items NOT Removed for Discussion**Suggested Resolution

Resolution #2016-02-

Moved by

Seconded by

RESOLVED, That Troy City Council hereby **APPROVES** all items on the Consent Agenda as presented with the exception of Item(s) \_\_\_\_\_, which shall be **CONSIDERED** after Consent Agenda (J) items, as printed.

Yes:

No:

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**J-1b Address of "J" Items Removed for Discussion by City Council**

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**J-2 Approval of City Council Minutes**Suggested Resolution

Resolution #2016-02-

RESOLVED, That Troy City Council hereby **APPROVES** the following Minutes as submitted:

- a) City Council Minutes-Draft – February 8, 2016
- 

**J-3 Proposed City of Troy Proclamations: None Submitted**

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**J-4 Standard Purchasing Resolutions:**

- a) **Standard Purchasing Resolution 4: Cooperative Contract Award – Survey Equipment**

Suggested Resolution

Resolution #2016-02-

RESOLVED, That Troy City Council hereby **APPROVES** a contract to purchase survey equipment through the MiDeal Cooperative Bid Contract ID number (Bid #071B7200014) from *Leica Geosystems of Fenton, MI*, for an estimated total cost of \$20,110.45, not to exceed budgetary limitations and not to exceed the allowable equipment expenditure through the details of the SAW Grant, and at unit prices contained in the quote received February 3, 2016; a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

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BE IT FURTHER RESOLVED, That the award is **CONTINGENT** upon contractor's submission of properly executed contract documents, including insurance certificates and all other specified requirements.

**b) Standard Purchasing Resolution 2: Award to Low Bidder Meeting Specifications – Roof Replacement for the Nature Center**

Suggested Resolution  
Resolution #2016-02-

RESOLVED, That Troy City Council hereby **AWARDS** a contract to re-roof the Troy Nature Center to the low bidder meeting specifications, *Great Lakes Roofing, Inc., of Troy, MI*, for an estimated total amount of \$32,800.00 at unit prices contained in the bid tabulation opened January 28, 2016; a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

BE IT FURTHER RESOLVED, That the award is **CONTINGENT** upon the contractor's submission of properly executed bid and contract documents, including Insurance Certificates, Performance, Labor and Material Bonds, Maintenance Bonds and all other specified requirements.

**c) Standard Purchasing Resolution 1: Award to Low Bidder – Contract 16-2 – Section 4 Asphalt Resurfacing**

Suggested Resolution  
Resolution #2016-02-

RESOLVED, That Troy City Council hereby **AWARDS** Contract No. 16-2, Section 4 Pavement Rehabilitation (Asphalt Resurfacing), to *Cadillac Asphalt LLC, 4751 White Lake Road, Clarkston, MI 48346*, for their low total bid amount of \$1,113,987.34.

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 25% of the total project cost.

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**J-5 Private Agreement – Contract for Installation of Municipal Improvements – DTE Doyle – Project No. 15.908.3**

Suggested Resolution  
Resolution #2016-02-

RESOLVED, That Troy City Council hereby **APPROVES** the Contract for the Installation of Municipal Improvements (Private Agreement) between the City of Troy and *DTE Electric Company* for the installation of water main, paving, sidewalks, soil erosion and landscaping, 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.

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**J-6 Request for Approval to Sell a City Owned Remnant Parcel Located in Section 22 - Sidwell #88-20-22-358-028**Suggested Resolution

Resolution #2016-02-

RESOLVED, That Troy City Council hereby **ACCEPTS** the Offer to Purchase from Kevin Baird to purchase the vacant parcel owned by the City of Troy identified with Sidwell #88-20-22-358-028 in the amount of \$36,000.

BE IT FURTHER RESOLVED, That Troy City Council hereby **WAIVES** the requirement as set by the Remnant Parcel Policy as found in City Council Resolution #2007-01-028 that the purchaser provide a conceptual site plan submission prior to the purchase of the property.

BE IT FURTHER RESOLVED, That the Engineering Department may **EXPEND** the necessary funds for title insurance and recording fees, to be taken from the proceeds of said sale.

BE IT FURTHER RESOLVED, That the Mayor and City Clerk are **AUTHORIZED** to sign the Offer to Purchase and **EXECUTE** a Warranty Deed on behalf of the City of Troy to be delivered at closing.

BE IT FINALLY RESOLVED, That the City Administration is hereby **DIRECTED** to record said Warranty Deed, including all attachments, at the Oakland County Register of Deeds, a copy of which shall be **ATTACHED** to and made part of the original Minutes of this meeting.

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**J-7 Request for Approval of Relocation Claim and Replacement Housing Determination Costs - John R Road Improvement Project, Square Lake to South Boulevard - Project No. 02.204.5 – Parcel 48 – Sidwell #88-20-02-228-011**Suggested Resolution

Resolution #2016-02-

RESOLVED, That Troy City Council **APPROVES** the relocation benefit payments for resident owners relocated from property required for the John R Road Improvement project, from Square Lake Road to South Boulevard.

BE IT FURTHER RESOLVED, That City Council **APPROVES** a Relocation Claim in the amount of \$6,054.56 and a Replacement Housing Determination payment in the amount of \$8,000.

BE IT FINALLY RESOLVED, That Troy City Council hereby **AGREES** to pay relocation benefits in the total amount of \$14,054.56 to Awni and Fadi Abu-Joudeh, the resident owners displaced from 6769 John R.

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**J-8 Request for Acceptance of Three Permanent Easements from Emergency Egress, LLC – Sidwell #88-20-27-429-049 and 050**Suggested Resolution

Resolution #2016-02-

RESOLVED, That City Council hereby **ACCEPTS** three permanent easements for sidewalk, storm sewers and surface drainage from *Emergency Egress, LLC*, owner of the properties having Sidwell #88-20-27-429-049 & 050.

BE IT FURTHER RESOLVED, That the City Clerk is hereby **DIRECTED** to record the permanent easements with Oakland County Register of Deeds, and copies of which shall be **ATTACHED** to the original Minutes of this meeting.

**K. MEMORANDUMS AND FUTURE COUNCIL AGENDA ITEMS:**

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**K-1 Announcement of Public Hearings:**

a) March 14, 2016 – Zoning Ordinance Text Amendment (File Number: ZOTA 247) – Oil and Gas Extraction

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**K-2 Memorandums (Items submitted to City Council that may require consideration at some future point in time): None Submitted**

**L. PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA FROM TROY RESIDENTS AND BUSINESSES:**

**M. CITY COUNCIL/CITY ADMINISTRATION RESPONSE/REPLY TO PUBLIC COMMENT:**

**N. COUNCIL REFERRALS:**

Items Advanced to the City Manager by Individual City Council Members for Placement on the Agenda

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**N-1 Motion for Reconsideration for a Revised Woodlands Protection Ordinance as Requested by Mayor Dane Slater and Council Member Jim Campbell**

**A. Motion for Reconsideration:**

Suggested Resolution

Resolution #2016-02-

Moved by

Seconded by

BE IT RESOLVED, That upon the request of Mayor Slater and Councilmember Campbell and the Troy Planning Commission, and as allowed by the City Council Rules of Procedure #11, the Troy City Council **AGREES** to **RECONSIDER** its vote on Resolution #2016-02-013, based on a revised proposal. The resolution for reconsideration is as follows:

*Resolution #2016-02-013*

*Moved by Slater*

*Seconded by Abraham*

*RESOLVED, That Articles 8 and 13 of Chapter 39 of the Code of the City of Troy, which includes miscellaneous provisions related to woodland protection, be **AMENDED** to read as written in the proposed Zoning Ordinance Text Amendment (ZOTA 248), City Council Public Hearing Draft, as recommended by the Planning Commission.*

Yes: Abraham, Hodorek, Slater

No: Baker, Campbell, Henderson, Pennington

**MOTION FAILED**

Yes:

No:

**B. Motion for Approval of Amended Proposed Woodlands Protection Ordinance Provisions:**

Suggested Resolution

Resolution #2016-02-

Moved by

Seconded by

NOW, THEREFORE, BE IT RESOLVED, That Articles 8 and 13 of Chapter 39 of the Code of the City of Troy, which includes miscellaneous provisions related to woodland protection, be **AMENDED** to read as written in the attached proposed Zoning Ordinance Text Amendment (ZOTA 248), City Council Red Lined Public Hearing Draft, which is an amendment from the draft recommended by the Planning Commission, since this proposed amendment deletes Chapter 39, Sections 13.07.F.2.c and 13.07.F.3, which was the option to allow cash deposits in lieu of woodland preservation, mitigation or replacement.

Yes:

No:

**C. Motion Referring Cluster Option Review to Planning Commission:**

Suggested Resolution

Resolution #2016-02-

Moved by

Seconded by

NOW, THEREFORE, BE IT RESOLVED, That the Troy City Council **REFERS** the zoning ordinance provisions concerning cluster developments to the Troy Planning Commission, and **REQUESTS** that a proposed enhanced cluster option zoning text amendment be presented to the Troy City Council at the earliest possible date.

Yes:

No:

**O. COUNCIL COMMENTS:**

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**O-1 No Council Comments Advanced**

**P. REPORTS:**

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**P-1 Minutes – Boards and Committees:**

- a) Election Commission-Final – September 25, 2015
  - b) Building Code Board of Appeals-Final – December 2, 2015
  - c) Building Code Board of Appeals-Final – January 20, 2016
  - d) Planning Commission-Final – January 26, 2016
  - e) Building Code Board of Appeals-Draft – February 3, 2016
  - f) Election Commission-Draft – February 10, 2016
- 

**P-2 Department Reports:**

- a) SOCRRA Quarterly Report – January, 2016
  - b) Update: Sale of Surplus City Parcels
- 

**P-3 Letters of Appreciation: None Submitted**

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**P-4 Proposed Proclamations/Resolutions from Other Organizations: None Submitted**

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**Q. COMMENTS ON ITEMS ON OR NOT ON THE AGENDA FROM MEMBERS OF THE PUBLIC OUTSIDE OF TROY (NOT RESIDENTS OF TROY AND NOT FROM TROY BUSINESSES):**

**R. CLOSED SESSION:**

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**R-1 No Closed Session**

**S. ADJOURNMENT:**

Respectfully submitted,



Brian Kischnick, City Manager

**2016 CITY COUNCIL/STAFF RETREAT:**

February 26, 2016 at 5:00 PM..... Kresge Foundation, 3215 W. Big Beaver  
 February 27, 2016 at 8:30 AM..... Walsh College, Barry Center, 3838 Livernois

**2016 SCHEDULED SPECIAL CITY COUNCIL MEETINGS:**

February 22, 2016 ..... Liquor Violation Hearings  
 March 14, 2016 ..... Liquor Violation Hearings  
 April 18, 2016 ..... Joint Meeting–Troy City Council/Troy Planning Commission  
 April 21, 2016 ..... Special Study Session – Budget Discussions  
 April 25, 2016 ..... Special Study Session – Budget Discussions  
 July 11, 2016 ..... Joint Meeting–Troy City Council/Troy Chamber  
 August 8, 2016 ..... Joint Meeting–Troy City Council/Troy School Board  
 October 24, 2016..... Joint Meeting–Troy City Council/Troy Planning Commission

**2016 SCHEDULED REGULAR CITY COUNCIL MEETINGS:**

February 22, 2016 ..... Regular Meeting  
 March 14, 2016 ..... Regular Meeting  
 March 21, 2016 ..... Regular Meeting  
 April 4, 2016 ..... Regular Meeting  
 April 18, 2016 ..... Regular Meeting  
 May 9, 2016..... Regular Meeting  
 May 23, 2016..... Regular Meeting  
 June 13, 2016 ..... Regular Meeting  
 June 27, 2016 ..... Regular Meeting  
 July 11, 2016 ..... Regular Meeting  
 July 25, 2016 ..... Regular Meeting  
 August 8, 2016 ..... Regular Meeting  
 August 22, 2016 ..... Regular Meeting  
 September 19, 2016..... Regular Meeting  
 September 26, 2016..... Regular Meeting  
 October 10, 2016..... Regular Meeting  
 October 24, 2016..... Regular Meeting  
 November 14, 2016..... Regular Meeting  
 November 21, 2016..... Regular Meeting  
 December 5, 2016..... Regular Meeting  
 December 19, 2016..... Regular Meeting

Council Member Henderson performed the Invocation. The Pledge of Allegiance to the Flag was lead by Webelos Den from Cub Scout Pack 1706 at Martell Elementary School.

#### **A. CALL TO ORDER:**

A Regular Meeting of the Troy City Council was held on Monday, February 8, 2016, at City Hall, 500 W. Big Beaver Rd. Mayor Slater called the meeting to order at 7:34 PM.

#### **B. ROLL CALL:**

- a) Mayor Dane Slater
- Edna Abraham
- Ethan Baker
- Jim Campbell
- Dave Henderson
- Ellen Hodorek
- Ed Pennington

#### **C. CERTIFICATES OF RECOGNITION AND SPECIAL PRESENTATIONS:**

- 
- C-1** Recognition to the City of Troy Men's and Women's Water Tapping Teams, Honored as the 2016 State Champs at the AWWA Tapping Competition; and Recognition to Rick Greenwell, Honored as the State Champ in the AWWA Meter Madness Competition at the Annual American Water Works Association and Michigan Water Environment Association Conference in Lansing on February 2, 2016 *(Introduced by: Mike Schlegelmann, Water Division Supervisor) (Presented by: Mayor Dane Slater)*
- 
- C-2** Barnes & Noble Representative Donald Kendall Will Present a Check for \$1450 Raised from their Bookfair to the Troy Public Library. The Money will be used to Purchase New Items in Youth Services, the Special Needs Collection and the Teen Programs *(Introduced by: Mayor Dane Slater and Cathy Russ, Library Director) (Presented by: Donald Kendall, Barnes & Noble Representative)*
- 
- C-3** On Behalf of the City of Troy Employees' Casual for a Cause Program for the Months of September and October 2015, Community Affairs Director Cindy Stewart Will Present a Check in the Amount of \$620 to the Troy Community Lions President, Ken Pomeroy *(Presented by: Cindy Stewart, Community Affairs Director)*
- 
- C-4** City of Troy – Troy Chamber Partnership Activities *(Introduced by: Brian Kischnick, City Manager) (Presented by: Glenn Lapin, Economic Development Specialist, and Ara Topouzian, Troy Chamber President)*
-

**D. CARRYOVER ITEMS:****D-1 No Carryover Items****E. PUBLIC HEARINGS:****E-1 Zoning Ordinance Text Amendment (File Number ZOTA 248) – Woodland Protection (Introduced by: Brent Savidant, Planning Director, and Ben Carlisle, Planning Consultant)**

The Mayor opened the Public Hearing for public comment.  
The Mayor closed the Public Hearing after receiving public comment from Daniel MacLeish, Kamal Shoyhayib and a Troy Resident.

**Resolution to Suspend City Council Rule #17 Members of the Public and Visitors to Allow More Time for Public Comment for Mr. MacLeish**

Resolution #2016-02-012  
Moved by Slater  
Seconded by Pennington

RESOLVED, That Troy City Council hereby **SUSPENDS** Council Rule #17, *Members of the Public & Visitors*, to allow one additional minute of Public Comment for Mr. MacLeish at the request of the Chair and by majority vote of City Council members elect.

Yes: All-7  
No: None

**MOTION CARRIED**

Resolution #2016-02-013  
Moved by Slater  
Seconded by Abraham

RESOLVED, That Articles 8 and 13 of Chapter 39 of the Code of the City of Troy, which includes miscellaneous provisions related to woodland protection, be **AMENDED** to read as written in the proposed Zoning Ordinance Text Amendment (ZOTA 248), City Council Public Hearing Draft, as recommended by the Planning Commission.

Yes: Abraham, Hodorek, Slater  
No: Baker, Campbell, Henderson, Pennington

**MOTION FAILED****Resolution to Postpone Item E-1 Zoning Ordinance Text Amendment (File Number ZOTA 248) – Woodland Protection to After a City Council Study Session on the Topic**

Resolution #2016-02-014  
Moved by Pennington  
Seconded by Henderson

RESOLVED, That Troy City Council hereby **POSTPONES** Item *E-1 Zoning Ordinance Text Amendment (File Number ZOTA 248) – Woodland Protection* to after a City Council Study Session on the topic.

Yes: Baker, Henderson, Pennington  
No: Campbell, Hodorek, Slater, Abraham

### MOTION FAILED

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**E-2 Street Vacation Request (SV 191) – Alley East of John R Between Gabriel and Vermont, Abutting Parcel 2020 Gabriel on the East and Vacant Parcel 88-20-25-309-002 on the West, Section 25, Currently Zoned R-1E (One Family Residential) District (Abutting Properties) (Introduced by: Brent Savidant, Planning Director, and Ben Carlisle, Planning Consultant)**

The Mayor opened the Public Hearing for public comment.  
The Mayor closed the Public Hearing after receiving public comment from a Troy Resident.

Resolution #2016-02-015  
Moved by Henderson  
Seconded by Abraham

WHEREAS, A request has been received for the vacation of a section of a platted alley, approximately 10 feet wide by 40 feet in length, located east of John R Road, between Gabriel and Vermont, and abutting vacant parcel 88-20-25-309-002 on the west, in Section 25; and,

WHEREAS, The Planning Commission recommended that this alley vacation be granted with the retention of underground and overhead utility easements;

NOW, THEREFORE, BE IT RESOLVED, That the property which shall **BENEFIT** from this requested vacation is Lots 45 and 46 (City of Troy Tax Parcel 88-20-25-309-002) of Sussex Park Subdivision, Section 25; and,

BE IT FURTHER RESOLVED, That the City Council hereby **VACATES** the portion of the alley, approximately 10 feet in width and 40 feet in length, located east of John R, between Gabriel and Vermont, abutting vacant Parcel 88-20-25-309-002 on the west, and,

BE IT FINALLY RESOLVED, That the City hereby **RETAINS** an easement for underground and overhead utility purposes.

Yes: All-7  
No: None

### MOTION CARRIED

**E-3 Adoption of Property Assessed Clean Energy (PACE) Program (Introduced by: Glenn Lapin, Economic Development Specialist)**

The Mayor opened the Public Hearing for public comment.

The Mayor closed the Public Hearing after receiving no public comment.

Resolution #2016-02-016

Moved by Pennington

Seconded by Campbell

WHEREAS, On January 25, 2016, the City Council of City of Troy, Michigan adopted a Resolution of Intent to authorize the establishment of a Property Assessed Clean Energy Program ("PACE Program") and create a PACE district pursuant to Act No. 270, Public Acts of Michigan, 2010 ("Act 270"), MCL 460.935 et. seq., for the purpose of promoting the use of renewable energy systems and energy efficiency improvements by owners of certain real property; and,

WHEREAS, The City Council finds that financing energy projects is a valid public purpose because it stimulates economic development, improves property values, reduces energy costs, reduces greenhouse gas emissions, and increases employment in the City; and,

WHEREAS, The types of energy projects, either energy efficiency improvements or renewable energy systems, that may be financed under the PACE Program include, but are not limited to: insulation in walls, roofs, floors, foundations, or heating and cooling distribution systems; storm windows and doors; multi-glazed windows and doors; heat-absorbing or heat-reflective glazed and coated window and door systems; and additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption; automated energy control systems; heating, ventilating, or air-conditioning and distribution system modifications or replacements; caulking, weather-stripping, and air sealing; replacement or modification of lighting fixtures to reduce the energy use of the lighting system; energy recovery systems; day lighting systems; installation or upgrade of electrical wiring or outlets to charge a motor vehicle that is fully or partially powered by electricity; measures to reduce the usage of water or increase the efficiency of water usage; any other installation or modification of equipment, devices, or materials approved as a utility cost-savings measure by the City Council; a fixture, product, device, or interacting group of fixtures, products, or devices on the customer's side of the meter that use one or more renewable energy resources to generate electricity. Renewable energy resources include, but are not limited to: biomass (includes a biomass stove but does not include an incinerator or digester); solar and solar thermal energy; wind energy; geothermal energy and methane gas captured from a landfill; and,

WHEREAS, The City Council conducted a public hearing on February 8, 2016, to receive comments on the proposed PACE Program, including the Report referenced in Section 9(1) of Act 270 (the "PACE Report"); and,

WHEREAS, The City Council intends to establish a PACE Program as described in the PACE Report, so as to provide a property owner based method of financing and funds for energy projects, including owner-arranged financing from a commercial lender, which funds and financing shall be secured and repaid by assessments on the property benefited, with the agreement of the record owners, such that no City money, general City taxes or City credit of

any kind whatsoever shall be pledged, committed or used in connection with any project as required by, and subject to Act 270;

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The PACE Program for the City is **ESTABLISHED** and **APPROVED**.
2. The PACE district, having the same boundaries as the City's jurisdictional boundaries, is **ESTABLISHED**.
3. The PACE Program **CONSTITUTES** a valid public purpose because it stimulates economic development, improves property values, reduces energy costs, reduces greenhouse gas emissions, and increases employment in the City.
4. The PACE Report is incorporated herein in full by reference, and is **APPROVED** and **ADOPTED**.
5. The City formally joins Lean & Green Michigan™ and Levin Energy Partners, LLC is **DESIGNATED** as PACE administrator to administer the PACE Program.
6. In accordance with the PACE Report, amendments to the PACE Program **SHALL NOT REQUIRE** a public hearing.
7. In accordance with Act 270, an assessment imposed under the PACE Program, including any interest on the assessment and any penalty, **SHALL CONSTITUTE** a lien against the property on which the assessment is imposed until the assessment, including any interest or penalty, is paid in full. The lien runs with the property and has the same priority and status as other property tax and assessment liens. The City has all rights in the case of delinquency in the payment of an assessment as it does with respect to delinquent property taxes. When the assessment, including any interest and penalty, is paid, the lien shall be removed from the property. The City Manager or his/her designee is **AUTHORIZED** and **DIRECTED** to execute and deliver any special assessment agreement, document or certificate necessary or appropriate to create, establish and record an assessment under the PACE Program.
8. In accordance with Act 270, installments of assessments due under the PACE Program may be included in each summer and winter tax bill issued under the General Property Tax Act, 1893 PA 206, MCL 211.1 to 211.155 ("Act 206"), and may be collected at the same time and in the same manner as taxes collected under Act 206. Under owner-arranged financing, the City may impose an assessment and forward payments to the commercial lender or the record owner may pay the commercial lender directly. In all projects where the property owner will pay the installments of assessments through periodic payments to the City, the PACE special assessment agreement will provide for the City to be reimbursed for the actual costs of administering the billing and payment process.
9. The City may join with any other local unit of government, or with any person, or with any number or combination thereof, by contract or otherwise as may be permitted by law, for the implementation of the City's PACE Program, in whole or in part, and the City

Manager or his/her designee is **AUTHORIZED** to execute and deliver such documents, agreements or certificates as may be necessary or advisable to permit the cooperative implementation of the PACE Program as provided by Act 270 or other applicable law.

- 10. The City Manager or his/her designee is **AUTHORIZED** to sign necessary documents, agreements or certificates, and to take all other actions necessary or convenient to implement a PACE Program consistent with the PACE Report.

Yes: All-7  
No: None

**MOTION CARRIED**

**F. PUBLIC COMMENT FOR ITEMS ON THE AGENDA FROM TROY RESIDENTS AND BUSINESSES:**

**G. CITY COUNCIL/CITY ADMINISTRATION RESPONSE/REPLY TO PUBLIC COMMENT:**

The meeting **RECESSED** at 9:24 PM.  
The meeting **RECONVENED** at 9:30 PM.

**H. POSTPONED ITEMS:**

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**H-1 No Postponed Items**

**I. REGULAR BUSINESS:**

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**I-1 Board and Committee Appointments: a) Mayoral Appointments – Board of Review, Local Development Finance Authority; b) City Council Appointments – None**

**a) Mayoral Appointments:**

Resolution #2016-02-017  
Moved by Slater  
Seconded by Pennington

RESOLVED, That the Mayor of the City of Troy hereby **APPOINTS** the following nominated person(s) to serve on the Boards and Committees as indicated:

**Board of Review**  
Appointed by Mayor  
3 Regular Members  
3 Year Term

**Term Expires: 1/31/2019**

**James Hatch**

Term currently held by: James Hatch

**Local Development Finance Authority (LDFA)**

Appointed by Mayor  
5 Regular Members  
Staggered 4 Year Term

**Term Expires: 11/11/2019**

**Dane Slater**

Term currently held by: Dane Slater

Yes: All-7  
No: None

**MOTION CARRIED**

b) **City Council Appointments:** None

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**I-2 Board and Committee Nominations: a) Mayoral Nominations – None; b) City Council Nominations – Animal Control Appeal Board, Charter Revision Committee, Employees Retirement System Board of Trustees / Retiree Health Care Benefits Plan and Trust, Liquor Advisory Committee, Traffic Committee, Zoning Board of Appeals**

a) **Mayoral Nominations:** None

b) **City Council Nominations:**

Resolution #2016-02-018  
Moved by Pennington  
Seconded by

RESOLVED, That Troy City Council hereby **FORWARDS** the following nominated person(s) to serve on the Boards and Committees as indicated to the next Regular City Council Meeting for action:

**Zoning Board of Appeals**

Appointed by Council  
7 Regular Members  
3 Year Term

**Current Members:**

Last Name	First Name	App Res Expire	Appointment Expire	Notes 1	Notes 2
Clark	Glenn	4/27/2017	4/30/2018		
Courtney	Kenneth	2/25/2015	4/30/2016		
Desmond	Thomas	5/7/2017	4/30/2018		
Eisenbacher	David	11/14/2013	4/30/2016		
Kaltsounis	Orestis Rusty	10/8/2017	1/31/2018	Alternate	P&R Bd exp 9/30/2018
Kneale	A. Allen	3/9/2013	4/30/2017		ZBA exp 4/30/2017
Lambert	Dave	3/10/2016	4/30/2017		
McCown	Paul	7/10/2015	1/31/2018	Alternate	
Sanzica	Philip	9/24/2014	12/31/2015	PC Rep on ZBA	

**Nominations for Zoning Board of Appeals:**

**Term Expires: 12/31/2016**

**Philip Sanzica (PC Rep on ZBA)**

*Nomination by  
Planning Commission*

Term currently held by: Philip Sanzica

Yes: All-7  
No: None

**MOTION CARRIED**

**I-3 No Closed Session Requested**

**I-4 Master Plan Update – Distribution of Draft Master Plan (Introduced by: Brent Savidant, Planning Director, and Ben Carlisle, Planning Consultant)**

Resolution #2016-02-019  
Moved by Slater  
Seconded by Pennington

RESOLVED, That Troy City Council hereby **APPROVES** the distribution of the Draft Master Plan, as per the requirements of the Michigan Planning Enabling Act, PA 33 of 2008, as amended.

BE IT FURTHER RESOLVED, That Troy City Council hereby **SCHEDULES** a Study Session to be held prior to the adoption of the Master Plan.

Yes: All-7  
No: None

**MOTION CARRIED**

**I-5 Standard Purchasing Resolution #4 and Budget Amendment – Youth Story and Craft Room Renovation – Troy Public Library (Presented by: Cathy Russ, Library Director)**

Resolution #2016-02-020  
 Moved by Henderson  
 Seconded by Abraham

WHEREAS, In May, 2015, the estate of Lucille Makarov made a donation of \$50,000 to the Troy Public Library, which is to be used, in part, for the renovation of the Youth Story and Craft room in the Library; and,

WHEREAS, On December 7, 2015, after a public bidding process, a contract was awarded by City Council to *Library Design Associates of Plymouth, MI* for an estimated total cost of \$20,237.00, for the first phase of the Youth Story and Craft room renovation. The work is scheduled to begin in February, 2016; and,

WHEREAS, The corresponding appropriation for the renovation of the Youth Story and Craft room will require a budget amendment for fiscal year 2016 due to the donation being received subsequent to the adoption of the 2016-2018 three year budget. The required transfer and appropriation is as follows:

**Library Fund:**

Transfer out to Capital Project Fund	\$50,000
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**Capital Project Fund:**

Transfer in from Library Fund	\$50,000
Building Improvements, Furniture and Equipment	\$50,000

THEREFORE, BE IT RESOLVED, That the Troy City Council hereby **APPROVES** a budget amendment to both the Library and Capital Project Funds for the renovation and upgrade of the Library Youth Story and Craft Room, using funds as graciously gifted by the estate of Lucille Makarov.

Yes: All-7  
 No: None

**MOTION CARRIED**

**I-6 Standard Purchasing Resolution #4 and Budget Amendment – New Meeting Room Furniture for the Troy Public Library Purchased by Friends of the Troy Public Library (Presented by: Cathy Russ, Library Director)**

Resolution #2016-02-021  
 Moved by Abraham  
 Seconded by Campbell

WHEREAS, The Friends of the Troy Public Library have graciously offered to purchase new furniture for Troy Public Library's large meeting room at a cost not to exceed \$47,000, to replace existing tables and chairs that are breaking, uncomfortable, and difficult to move; and,

WHEREAS, A budget amendment amending the Library's budget to reflect both the revenue and expenditure, as well as an appropriation from the Capital Project Fund, are necessary for this contribution. The required budget amendment is as follows:

Library Fund:	
Contribution Revenue	\$47,000
Transfer to Capital Project Fund	\$47,000

Capital Project Fund:	
Transfer from Library Fund	\$47,000
Furniture and Equipment	\$47,000;

THEREFORE, BE IT RESOLVED, That the Troy City Council hereby **APPROVES** a budget amendment to both the Library and Capital Project Funds for Meeting Room furniture for the Troy Public Library, as graciously gifted by the Friends of the Troy Public Library.

Yes: All-7  
No: None

#### **MOTION CARRIED**

### **J. CONSENT AGENDA:**

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#### **J-1a Approval of "J" Items NOT Removed for Discussion**

Resolution #2016-02-022  
Moved by Henderson  
Seconded by Baker

RESOLVED, That Troy City Council hereby **APPROVES** all items on the Consent Agenda as presented.

Yes: All-7  
No: None

#### **MOTION CARRIED**

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#### **J-1b Address of "J" Items Removed for Discussion by City Council**

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#### **J-2 Approval of City Council Minutes**

Resolution #2016-02-022-J-2

RESOLVED, That Troy City Council hereby **APPROVES** the following Minutes as submitted:

- a) Joint City Council Special Study with Downtown Development Authority Minutes-Draft – January 25, 2016
- b) City Council Minutes-Draft – January 25, 2016

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**J-3 Proposed City of Troy Proclamations: None Submitted**

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**J-4 Standard Purchasing Resolutions:**

- a) **Standard Purchasing Resolution #1: Award to Low Bidder – Contract 16-1 – Section 19 Pavement Rehabilitation - South**

Resolution #2016-02-022-J-4a

RESOLVED, That Troy City Council hereby **AWARDS** Contract No. 16-1, Section 19 Pavement Rehabilitation - South, to *Florence Cement Company, 12585 23 Mile Road, Shelby Twp., MI 48315*, for their low total bid amount of \$803,622.80.

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 25% of the total project cost.

- b) **Standard Purchasing Resolution #4 and Budget Amendment – New Lighting Control System – Troy Public Library**

Resolution #2016-02-022-J-4b

WHEREAS, The Library installed a new Lighting Control System, completed in August, 2015, in order to increase the efficiency of the building and to greater protect the safety and health of the public and staff; and,

WHEREAS, Funding for the project will require a budget appropriation and/or re-appropriation from the previous fiscal year;

THEREFORE, BE IT RESOLVED, That Troy City Council hereby **APPROVES** a budget amendment to the Library Fund for the transfer out to the Capital Project Fund and associated purchase and installation of a new Lighting Control System in the Troy Public Library from *Mechanical Controls and Maintenance, Inc. (MCMI) of Sterling Heights, MI*, for a total amount of \$10,000.

- c) **Standard Purchasing Resolution #4: Cooperative Contract Awards – WMWare Host Server Replacements**

Resolution #2016-02-022-J-4c

RESOLVED, That Troy City Council hereby **APPROVES** the purchase of two (2) Hewlett Packard DL380 servers, including hardware and five (5) years of maintenance, from *CDW-G of*

Chicago, IL through the REMC Association of Michigan Program for an estimated total cost of \$ 43,036.86 as per the quote contained in Appendix A; copies of which shall be **ATTACHED** to the original Minutes of this meeting.

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### **J-5 Traffic Committee Recommendations and Minutes – January 20, 2016**

Resolution #2016-02-022-J-5

#### **3. Request for DO NOT BLOCK INTERSECTION – Rochester Road at Alameda**

RESOLVED, That a DO NOT BLOCK INTERSECTION sign be **APPROVED** for installation on northbound Rochester Road at Alameda Boulevard.

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### **J-6 Suggested Resolution to Change the Date of the Joint Meeting with the Troy City Council and the Troy Chamber of Commerce from Monday, July 11, 2016 to Monday, September 19, 2016**

Resolution #2016-02-022-J-6

RESOLVED, That Troy City Council hereby **AMENDS** the 2016 City Council Meeting Schedule to change the Special Joint Meeting with the Troy Chamber of Commerce from Monday, July 11, 2016 to Monday, September 19, 2016.

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### **J-7 Bid Waiver – City Hall Gate Replacement – Gates 2 and 3**

Resolution #2016-02-022-J-7

WHEREAS, The Police Department upgraded its video security camera system to the Pelco Endura enterprise camera system, anticipating a city wide expansion and has been utilizing the maintenance services of *SimplexGrinell of Farmington Hills, MI*, since 2005 (CC# 2005-12-557-F10) with the original access control system being installed during the Police and Fire building renovation and addition project; and,

WHEREAS, Due to the complexity of the system and the knowledge that is required and necessary for the total ongoing integration of the integrated security management system an ongoing proprietary service agreement with *SimplexGrinell of Farmington Hills, MI* to provide materials and labor to maintain the Integrated Security Management System was approved by City Council February 16, 2009 (CC# 2009-02-047-F-04d);

THEREFORE, BE IT RESOLVED, That Troy City Council hereby **WAIVES** the formal bidding process and **AUTHORIZES** the City of Troy to utilize the ongoing contract with *SimplexGrinell of Farmington Hills, MI*, an authorized licensed installer in Michigan, to purchase, install and replace the existing barrier gate operator and card reader stanchions at the parking lot entrances to the Police Department at an estimated cost of \$33,222.00, as detailed in the quotations which shall be **ATTACHED** to the original Minutes of this meeting.

**K. MEMORANDUMS AND FUTURE COUNCIL AGENDA ITEMS:****K-1 Announcement of Public Hearings: None Submitted****K-2 Memorandums (Items submitted to City Council that may require consideration at some future point in time): None Submitted****L. PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA FROM TROY RESIDENTS AND BUSINESSES:**

James Savage	Spoke about the upcoming City Council/Staff Retreat and the Civic Center Task Force
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**M. CITY COUNCIL/CITY ADMINISTRATION RESPONSE/REPLY TO PUBLIC COMMENT:**

City Manager Kischnick replied that City Council and Staff will look at the previous study of the Civic Center campus during upcoming discussions. Mayor Slater commented that he thinks now is a good time to start discussing the possibilities for the Civic Center campus.

**N. COUNCIL REFERRALS:**

Items Advanced to the City Manager by Individual City Council Members for Placement on the Agenda

**N-1 No Council Referrals****O. COUNCIL COMMENTS:****O-1 No Council Comments Advanced****P. REPORTS:****P-1 Minutes – Boards and Committees:**

- a) Downtown Development Authority-Final – October 21, 2015
- b) Traffic Committee-Final – November 18, 2015
- c) Downtown Development Authority-Final – December 2, 2015
- d) Civil Service Commission (Act 78)-Final – December 3, 2015
- e) Planning Commission-Final – January 12, 2016
- f) Building Code Board of Appeals Special Meeting-Draft – January 20, 2016
- g) Planning Commission-Draft – January 26, 2016
- h) Civil Service Commission (Act 78)-Draft – January 27, 2016

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**P-2 Department Reports:**

- a) I-75 Phase I Reconstruction – North of Coolidge to North of South Boulevard Special Work Permit – Sunup to Sundown and Sundays, as Needed in 2016 and 2017
- b) 2015 Local Millage Rate Comparison
- c) Building Department Activity Report – January, 2016
- d) 2015/2016 Fiscal Year Interim Financial Statements Six Months Ended December 31, 2015

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**P-3 Letters of Appreciation:**

- a) To Chief Mayer from Lisa Danhoff Regarding Officer Jasak Teaching Health Classes at Troy High School

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**P-4 Proposed Proclamations/Resolutions from Other Organizations: None Submitted**

**Q. COMMENTS ON ITEMS ON OR NOT ON THE AGENDA FROM MEMBERS OF THE PUBLIC OUTSIDE OF TROY (NOT RESIDENTS OF TROY AND NOT FROM TROY BUSINESSES):**

**R. CLOSED SESSION:**

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**R-1 No Closed Session**

**S. ADJOURNMENT:**

The Meeting **ADJOURNED** at 9:51 PM.

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Mayor Dane Slater

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M. Aileen Dickson, MMC  
City Clerk



## CITY COUNCIL AGENDA ITEM

Date: February 4, 2016

To: Brian Kischnick, City Manager

From: Tom Darling, Finance Director  
 MaryBeth Murz, Purchasing Manager  
 Timothy L. Richnak, Public Works Director  
 Kurt Bovensiep, Public Works Manager  
 Steven Vandette, City Engineer

Subject: Standard Purchasing Resolution 4: Cooperative Contract Award – Survey Equipment

### History

City Council authorized staff to apply for a Stormwater Asset Management and Wastewater (SAW) Grant on November 25, 2013, which the City of Troy was a successful recipient of. On December 1, 2014, City Council authorized city staff to use the current consulting contract with Hubbell, Roth, and Clark, Inc. (HRC) to administer the grant tasks. These tasks include a comprehensive field inventory and inspection of the city's drains infrastructure. This data will be integrated into the city's Geographic Information System (GIS) and create a Stormwater Asset Management Plan.

The SAW Grant provides the city with an opportunity to use eligible funds to purchase new survey equipment to complete the comprehensive field inventory. The equipment will be stored at the City of Troy's Engineering Department and HRC will use the equipment only while working on City of Troy tasks. The City of Troy's Engineering Department will retain the equipment after to be used as part of our normal operations, which include continuing to survey storm and sanitary infrastructure. The new equipment will allow us to collect more accurate data, which provides the City of Troy Engineering Department to trade in obsolete equipment.

### Purchasing

Leica Geosystems is a participant and low bidder in the MiDeal Cooperative Bid. The MiDeal Contract ID number is 071B7200014. Leica provides a 20% discount off the list price of all survey products through MiDeal the Contract.

### Financial

Funds for the purchase of the equipment are budgeted and available in the following capital account. The Project# is 20160045.

Account #	Account Name	Current Available Funds
401.447.516.7989.143026	Public Works SAW Grant- Storm Sewer	\$72,894

### Recommendation

City management requests authorization to purchase survey equipment detailed in the attached quote as per the MiDeal Cooperative Bid from Leica Geosystems of Fenton, MI for an estimated total of \$20,110.45 not to exceed budgetary limitations and not to exceed the allowable equipment expenditure through the details of the SAW Grant.



# CITY COUNCIL AGENDA ITEM

## Equipment Proposal

City of Troy  
 500 West Big Beaver Road  
 Troy, Michigan 48084  
 Telephone: (248) 524-3315  
 Facsimile: (248) 524-1838  
 Contact: George Ballard, P.S.

**Leica Geosystems, Inc.**  
 10880 Ridge View Trail  
 Fenton, Michigan 48430  
 Telephone: (800) 956-9941  
 Facsimile: (810) 714-3180  
 Cell: (313) 670-3395  
[Rick.Sauve@Leicaus.com](mailto:Rick.Sauve@Leicaus.com)

(Mi Deal Contract Number: 071B7200014

3-Feb-16

### Leica TS15 Robotic Instrument

Product #	Description	Qty.	Price	Extension
780862	TS15P , 5" R400 Total Station with Powersearch Automatic Target Recognition Total Station, 1 Keyboard, Laser Plummet, Standard Applications, User Manual & Carrying Case, Color Touch Screen	1	24,230.00	24,230.00
779481	GTS34, 2nd Keyboard for TS15	1	850.00	850.00
781305	TS SmartWorx Viva Liscense Key	1	750.00	750.00
777509	GDF322 Pro Tribraich with optical plummet, pale green	1	495.00	495.00
733270	GEB221, Li-ion battery, 4Ah, rechargeable -	3	180.00	540.00
	<b>Robotic Equipment</b>			
788853	RH16 Radio Handle with integrated Radio	1	1,650.00	1,650.00
788855	CTR16 Radio Cap	1	950.00	950.00
639985	GRZ4 360 deg. Prism	1	990.00	990.00
754389	GLS12F, 2m, Telescopic Pole (feet graduation) locking	1	300.00	300.00
667217	Screw To Stub Adaptor	1	140.00	140.00
	<b>Firmware Upgrades:</b>			
6004901	One year Firmware Upgrade on TS15	1	525.00	525.00
	<b>Leica Geo Office - TPS Processing</b>			
778077	TPS Data Processing Option for Leica Geo Office Entitlement ID:	1	250.00	250.00
	<b>Price of Robotic Total Station</b>			31,670.00
	Less 20% MiDeal Discount (Mi Deal Contract Number: 071B7200014 )			(6,334.00)
	Less Trade in of Existing Trimble Instrument and Accessories			(5,225.55)
<b>Purchase Price with Trade In Equipment</b>				<b>20,110.45</b>

**Note:** Price includes one day of training.  
 One year warranty on hardware - As New

<b>Signature &amp; PO Number if Required :</b> The above is the equipment I would like shipped:  <b>Sign , Date &amp; Fax or Email to Dr. Richard R.Sauve II @ (810) 714-3180</b>
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**Note:** Offer Valid while supply lasts.



## CITY COUNCIL AGENDA ITEM

Date: February 2, 2016

To: Brian Kischnick, City Manager

From: MaryBeth Murz, Purchasing Manager  
 Steve Pallotta, Building Operations Director  
 Tom Darling, Director of Financial Services  
 Mark Miller, Director of Economic & Community Development

Subject: Standard Purchasing Resolution 2: Award To Low Bidder meeting Specifications – Roof replacement for the Nature Center

### **History**

The Lloyd A. Stage Nature Center, located at 6685 Coolidge Troy, Michigan was built in 2001. Degenhardt & Sons, Inc., of Troy Michigan, was the general construction manager for this project. The original roof installation was awarded to the lowest priced subcontractor; Semik/Wright Inc. of Warren, Michigan. The roof was completed and accepted by the City of Troy on April 15, 2002. The two year labor warranty expired on April 15, 2004.

In the fall of 2006, the Building Operations Department was notified that high winds had caused damage to the shingles on the west elevation of the Nature Center. Further inspection of the roof by the Building Operations Department personnel determined that a large area of shingles had torn loose and the nails used in this area were no longer holding the shingles in place. The Building Operations Department replaced the damaged shingles with surplus shingles from the original roof installation. Subsequent to the repair, December 28, 2008 the Building Operations Department received notice from Lloyd A. Nature Center staff that high winds, once again, caused damage to the shingles on the west elevation and that the damage now extended to the shingles on the south elevation. Building Operations Department personnel assessed the damage and replaced the shingles on the west and south roof elevations.

Over the past several years, the Building Operations Department routinely receives reports from Lloyd A. Nature Center personnel about finding loose shingles on the ground.

The Building Operations Department thoroughly inspected the Nature Center's roof and concluded that because the nails used in the original installation no longer secure the fiberglass tab shingles to the roof, the shingles become loose when high wind conditions exist causing a safety issue when the shingles fall to the ground. Consequently, it is recommended that all shingles be removed and replaced. Any delay in proceeding with this project could cause significant damage to the building's infrastructure and its contents due to water penetration.

### **Purchasing**

The bid was posted on the Michigan Inter-governmental Trade Network (MITN) website; [www.mitn.info](http://www.mitn.info). On Tuesday, January 12, 2016 a Mandatory Onsite Pre-Bid Meeting was held at 2:00 p.m. at the Nature Center. On January 28, 2016, a bid opening was conducted as required by City Charter and Code for Nature Center Roof Replacement. Seven (7) bid responses were received. Below is a detailed summary of potential vendors:



# CITY COUNCIL AGENDA ITEM

## Purchasing (continued)

<b>Companies notified via MITN</b>	801
Troy Companies notified via MITN	17
Troy Companies notified Active email Notification	16
Troy Companies - Active Free	1
<b>Companies that viewed the bid</b>	34
Troy Companies that viewed the bid	1

**MITN** provides a resourceful online platform to streamline the procurement process, reduce costs, and make it easier and more transparent for vendors to do business with the City of Troy.

**Active MITN** members with a current membership and paying annual dues receive automatic electronic notification which allows instant access to Bids, RFPS and Quote opportunities with the City.

**Active MITN non-paying members** are responsible to monitor and check the MITN website for opportunities to do business with the City.

**Inactive MITN member** status can occur when a company does not renew their account upon expiration. Inactive members cannot be notified of solicitations or access any bid information.

- The bid summary was analyzed and reviewed in conjunction with the Building Operations Department.
- It is recommended to award the Nature Center roofing project to the low bidder meeting all bid specifications; *Great Lakes Roofing, Inc. of Troy, MI*.
- Great Lakes Roofing, Inc. successfully re-roofed the Salt Dome.
- The alternate shingle replacement; which is an architectural shingle is being recommended. Architectural shingles are more aesthetically pleasing than a standard shingle, are a better grade of asphalt and offer a 40 year warranty.
- The roof replacement with the alternate architectural shingle low bid amount of \$29,844.00 was from Great Lakes Roofing, Inc.
- Included in this roofing project is the replacement of all gutters and downspouts. Great Lakes Roofing was also low bid as specified for the replacement of all gutters and downspouts in the amount \$2,956.00.

## Financial

Funds are available in the Capital Funds - Nature Center Account in the amount of \$50,000.00. The Project# is 20160077.

## Recommendation

City management recommends awarding a contract for a roof replacement including gutters/downspouts for the City of Troy Nature Center; as per bid specifications to the low bidder, *Great Lakes Roofing, Inc. of Troy, MI* for an estimated total cost of \$32,800.00 at unit prices contained in the bid tabulation opened January 28, 2016.

Vendor  
City, State  
Check #  
Check Amount:

<b>Great Lakes Roofing, Inc.</b>	Optimum Contracting Solutions	RHI, Inc., DBA Rapid Roofing
<b>Troy, MI</b>	Bloomfield Hills, MI	Canton, MI
1000203686	9484508490	9469614794
\$2,500.00	\$2,500.00	\$2,500.00

**PROPOSAL: Removal and Replacement of the City of Troy Nature Center Roof as specified**

<b>1. TOTAL BID PRICE WITH STANDARD SHINGLE:</b>	<b>\$31,199.00</b>	\$31,875.00	\$38,659.00
Color Chart included: Yes/No	Yes	Yes	
<b>2. GUTTERS/DOWNSPOUT PRICING (incl. labor to install):</b>	<b>\$2,956.00</b>	\$3,100.00	\$3,931.75
<b>TOTAL BID PRICE STANDARD SHINGLE &amp; GUTTERS/DOWNSPOUTS:</b>	<b>\$34,155.00</b>	<b>\$34,975.00</b>	<b>\$42,590.75</b>
<b>3. NUMBER OF SQUARES REQUIRED TO SHINGLE ROOF:</b>	132	130	130
<b>4. SHINGLE WARRANTY:</b>	GAF 30 Year	30 Year	30 Years
<b>5. METAL FLASHING COLOR OPTIONS:</b>	Quality Aluminum	Multiple (samples enclosed)	White, black, brown
Color Chart included: Yes/No	Yes	Yes	Yes

**ALTERNATES: Certainteed Architectural shingles, dual layer, high performance, 250 lbs., per sq., max def color Palette and 40 year warranty:**

<b>6. TOTAL BID PRICE FOR ARCHITECTURAL SHINGLE :</b>	<b>\$29,844.00</b>	\$35,375.00	\$37,519.00
Sample included: Yes/No	Yes	Yes	Yes
<b>2. GUTTERS/DOWNSPOUT PRICING (incl. labor to install):</b>	<b>\$2,956.00</b>	\$3,100.00	\$3,931.75
<b>TOTAL BID PRICE ARCHITECTURAL SHINGLE &amp; GUTTERS/DOWNSPOUTS:</b>	<b>\$32,800.00</b>	<b>\$38,475.00</b>	<b>\$41,450.75</b>
<b>7. PRICE FOR WOOD REPLACEMENT:</b> (4X8 SHEET PLYWOOD)	\$44.00	\$40.00	\$30.00
<b>8. PRICE FOR BOARD REPLACEMENT:</b> (PRICE/LINEAR FOOT)	\$2.00	\$3.00	\$2.00
<b>ATTENDED MANDATORY PRE-BID MTG.</b>			
Yes/No	Yes	Yes	Yes
<b>CONTACT INFORMATION:</b>			
Hours of Operation:	M-F 7:00AM-4:00PM	8-5pm	M-F 9-5
24 Hr. Contact Phone #:	586-668-0836	248-991-7110	734-323-8260
<b>PROGRESS PAYMENTS:</b>	Net 30 days after completion.	Upon completion	Full payment upon completion
<b>REFERENCES:</b>	Yes/No	Yes	Yes
<b>INSURANCE:</b>	Yes/No	Yes	Yes
<b>SIGNATURE PAGE:</b>	Yes/No	Yes	Yes
<b>EXCEPTIONS:</b>	Yes/No	None	None
<b>FORMS:</b>	Yes/No	Yes	Yes

Vendor	Armstrong Enterprises, Inc.	Howell Construction Services LLC	Mando Construction Inc.
City, State	Pinckney, MI	Howell, MI	Mount Clemens, MI
Check #	1000208310	200441611	4461200015
Check Amount:	\$2,500.00	\$2,500.00	\$2,500.00

**PROPOSAL: Removal and Replacement of the City of Troy Nature Center Roof as specified**

<b>1. TOTAL BID PRICE WITH STANDARD SHINGLE:</b>	\$42,000.00	\$47,400.00	\$51,891.00
Color Chart included: Yes/No	Yes	No	Yes
<b>2. GUTTERS/DOWNSPOUT PRICING (incl. labor to install):</b>	\$5,200.00	\$6,062.00	\$5,940.00
<b>TOTAL BID PRICE STANDARD SHINGLE &amp; GUTTERS/DOWNSPOUTS:</b>	<b>\$47,200.00</b>	<b>\$53,462.00</b>	<b>\$57,831.00</b>
<b>3. NUMBER OF SQUARES REQUIRED TO SHINGLE ROOF:</b>	136	130	130
<b>4. SHINGLE WARRANTY:</b>	30 Years	30 Years	30
<b>5. METAL FLASHING COLOR OPTIONS:</b>	Quality edge standard/premium	Any	Grecian green
Color Chart included: Yes/No	Yes	No	Yes

**ALTERNATES: Certainteed Architectural shingles, dual layer, high performance, 250 lbs., per sq., max def color Palette and 40 year warranty:**

<b>6. TOTAL BID PRICE FOR ARCHITECTURAL SHINGLE :</b>	\$43,000.00	\$47,400.00	\$54,744.00
Sample included: Yes/No	Yes	No	Yes
<b>TOTAL BID PRICE ARCHITECTURAL SHINGLE &amp; GUTTERS/DOWNSPOUTS:</b>	<b>\$48,200.00</b>	<b>\$53,462.00</b>	<b>\$60,684.00</b>
<b>7. PRICE FOR WOOD REPLACEMENT:</b> (4X8 SHEET PLYWOOD)	\$48.00	\$48.00	\$55.00
<b>8. PRICE FOR BOARD REPLACEMENT:</b> (PRICE/LINEAR FOOT)	\$3.75	\$3.00	\$5.00
<b>ATTENDED MANDATORY PRE-BID MTG.</b> Yes/No	Yes	Yes	Yes
<b>CONTACT INFORMATION:</b>	8a-5p M-F	7:00AM - 5:00PM	8am - 6pm
Hours of Operation:	810-599-7982	248-877-8273	586-531-4740
24 Hr. Contact Phone #:			
<b>PROGRESS PAYMENTS:</b>	1/2 down when material are on site and work has started balance due upon completion	8 working days on roofing & 2 working days on gutters - 1 day final clean up	Net 30 upon completion
<b>REFERENCES:</b> Yes/No	Yes	Yes	Yes
<b>INSURANCE:</b> Yes/No	Yes	Yes	Yes
<b>SIGNATURE PAGE:</b> Yes/No	Yes	Yes	Yes
<b>EXCEPTIONS:</b> Yes/No	None	None	No siding or break metal of fascia boards, or soffit coverage is included in pricing - only roofing as specified & gutters.
<b>FORMS:</b> Yes/No	Yes	Yes	Yes

Vendor	Weatherseal Home Improvements Inc.		
City, State	Shelby Township, MI		
Check #	10057644		
Check Amount:	\$2,500.00		

**PROPOSAL: Removal and Replacement of the City of Troy Nature Center Roof as specified**

<b>1. TOTAL BID PRICE WITH STANDARD SHINGLE:</b>	\$88,740.00		
Color Chart included: Yes/No	Yes		
<b>2. GUTTERS/DOWNSPOUT PRICING (incl. labor to install):</b>	\$7,239.00		
<b>TOTAL BID PRICE STANDARD SHINGLE &amp; GUTTERS/DOWNSPOUTS:</b>	<b>\$95,979.00</b>		
<b>3. NUMBER OF SQUARES REQUIRED TO SHINGLE ROOF:</b>	136		
<b>4. SHINGLE WARRANTY:</b>	30 Years/Lifetime		
<b>5. METAL FLASHING COLOR OPTIONS:</b>	Black/Brown		
Color Chart included: Yes/No	No		

**ALTERNATES: Certainteed Architectural shingles, dual layer, high performance, 250 lbs., per sq., max def color Palette and 40 year warranty:**

<b>6. TOTAL BID PRICE FOR ARCHITECTURAL SHINGLE :</b>	\$94,860.00		
Sample included: Yes/No	Yes		
<b>TOTAL BID PRICE ARCHITECTURAL SHINGLE &amp; GUTTERS/DOWNSPOUTS:</b>	<b>\$102,099.00</b>		
<b>7. PRICE FOR WOOD REPLACEMENT:</b> (4X8 SHEET PLYWOOD)	\$38.00		
<b>8. PRICE FOR BOARD REPLACEMENT:</b> (PRICE/LINEAR FOOT)	\$2.00		
<b>ATTENDED MANDATORY PRE-BID MTG.</b>			
Yes/No	Yes		
<b>CONTACT INFORMATION:</b>			
Hours of Operation:	7am - 7pm		
24 Hr. Contact Phone #:	810-459-9590		
<b>PROGRESS PAYMENTS:</b>	30 days from completion		
<b>REFERENCES:</b>			
Yes/No	Yes		
<b>INSURANCE:</b>			
Yes/No	Yes		
<b>SIGNATURE PAGE:</b>			
Yes/No	Yes		
<b>EXCEPTIONS:</b>			
Yes/No	None		
<b>FORMS:</b>			
Yes/No	Yes		

ATTEST:  
 Sara Teets  
 Steven Pallotta  
 Susan Riesterer  
 Enna Bachelor

\_\_\_\_\_  
 MaryBeth Murz,  
 Purchasing Manager



## CITY COUNCIL AGENDA ITEM

Date: February 12, 2016

To: Brian Kischnick, City Manager

From: Mark F. Miller, Director of Economic and Community Development  
Steven J. Vandette, City Engineer

Subject: Standard Purchasing Resolution #1: Award to Low Bidder  
Contract 16-2 – Section 4 Asphalt Resurfacing

### **History**

The water mains in Glen-Moor estates and adjacent subdivisions in Section 4, northwest of Square Lake and Livernois, were replaced in 2014 and 2015. The existing asphalt streets: Fredmoor, Vernmoor, Houghten, Scone, W. Lovell, Hurst, Troyvally, Aspinwall, Canmoor, Herbmooor, Elmoor, Blackwall, and Niles Streets will receive pavement rehabilitation in the form of milling (grinding off) of the existing pavement and then placing a new asphalt pavement surface. Also included is complete removal and replacement of failed pavement areas and miscellaneous manhole repairs. A pavement repair and resurfacing project is typically scheduled the following construction season to repair the existing streets due to damage caused by the water main construction. Work is anticipated to start in April and all work including restoration is to be completed by June 30<sup>th</sup>, 2016.

### **Purchasing**

Bids were received and publicly read on February 10, 2016. The low bid of \$1,113,987.34 was submitted by Cadillac Asphalt LLC, 4751 White Lake Road, Clarkston, MI 48346 as shown on the attached tabulation summary. The Engineer's estimate at the time of bidding was \$1,183,853. The low bid is \$69,865.66 or 5.9% below the Engineer's estimate.

Work was competitively bid and publicly opened with six (6) bidders responding. The award is contingent upon submission of proper contract and bid documents, including bonds, insurance certificates and all specified requirements

### **Financial**

Funds for this work are included in the Water Fund. The budgeted amount includes funds for construction, inspection and contingencies.

### **Recommendation**

It is recommended that City Council award the Section 4 Pavement Rehabilitation (Asphalt Resurfacing) contract to Cadillac Asphalt LLC, 4751 White Lake Road, Clarkston, MI 48346, for their low bid of \$1,113,987.34. In addition, we are requesting authorization to approve additional work, if needed, not to exceed 25% of the original project cost due to unknown quantities of repair work that may be needed after milling the asphalt surface



BID TABULATION  
CONTRACT 16-2  
Section 4 Pavement Rehabilitation  
City of Troy  
Oakland County, Michigan

Bids Due: February 10, 2016  
Project Nos. 12.501.5 & 14.501.5

**Total Bid Amount**

Cadillac Asphalt LLC	\$	1,113,987.34
James P Contracting, Inc.	\$	1,125,067.15
AJAX Paving Industries, Inc.	\$	1,156,240.34
Pro-Line Asphalt Paving Corp.	\$	1,166,910.00
Florence Cement Company	\$	1,168,407.50
Spartan Paving Company	\$	1,232,011.08



## CITY COUNCIL AGENDA ITEM

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Date: February 10, 2016

To: Brian Kischnick, City Manager

From: Mark F. Miller, Director of Economic and Community Development  
Steven J. Vandette, City Engineer  
Brent Savidant, Planning Director

Subject: Private Agreement – Contract for Installation of Municipal Improvements  
DTE Doyle - Project No. 15.908.3

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### **History**

DTE Electric Company proposes to develop a new substation located on the west side of Doyle Drive, north of the Transit Center. The purpose of the substation is to redistribute electricity from the overhead transmission lines to Troy and Birmingham. The site will include various poles and ground equipment screened with a 12-foot wall and landscaping.

Troy Planning Commission granted preliminary site plan approval on December 8, 2015.

Site grading and utility plans for this development were reviewed and recently approved by the Engineering Department. The plans include municipal improvements which will be constructed by DTE Electric Company on behalf of the City of Troy: including water main, paving, sidewalks, soil erosion and landscaping. The required fees and refundable escrow deposits in the form of a Performance Bond and 10% Cash, that will assure completion of the municipal improvements, have been provided by DTE Electric Company (see attached Private Agreement).

### **Financial**

See attached summary of required deposits and fees for this Private Agreement.

### **Recommendation**

Approval of the Contract for Installation of Municipal Improvements (Private Agreement) is recommended.

# City Of Troy

## Contract for Installation of Municipal Improvements (Private Agreement)

Project No.: **15.908.3**

Project Location: **NE 1/4 Section 31**

Resolution No: \_\_\_\_\_

Date of Council Approval: \_\_\_\_\_

This Contract, made and entered into this **11th** day of **January, 2016** by and between the City of Troy, a Michigan Municipal Corporation of the County of Oakland, Michigan, hereinafter referred to as "City" and **DTE Electric Company** whose address is **One Energy Plaza, Detroit, MI 48226** and whose telephone number is **313-460-8442** hereinafter referred to as "Owners", provides as follows:

**FIRST:** That the City agrees to permit the installation of water main, paving, sidewalks, soil erosion and landscaping in accordance with plans prepared by **DTE Energy** whose address is **One Energy Plaza, Detroit, MI 48226** and whose telephone number is **313-235-6784** and approved prior to construction by the City in accordance with City of Troy specifications.

**SECOND:** That the Owners agree to provide the following securities to the City prior to the start of construction, in accordance with the Detailed Summary of Required Deposits & Fees (attached hereto and incorporated herein):

Refundable escrow deposit equal to the estimated construction cost of \$ **47,000.00**. This amount will be deposited with the City in the form of (check one):

Cash/Check	<input type="checkbox"/>	}	10% Cash	<u>\$4,700.00</u> ✓
Certificate of Deposit & 10% Cash	<input type="checkbox"/>			
Irrevocable Bank Letter of Credit & 10% Cash	<input type="checkbox"/>			
Performance Bond & 10% Cash	<input checked="" type="checkbox"/>			

Refundable cash deposit in the amount of \$ **55,700.00**. This amount will be deposited with the City in the form of (check one):

Cash  Check

Non-refundable cash fees in the amount of \$ **4,579.00**. This amount will be paid to the City in the form of (check one):

Cash  Check

Said refundable escrow deposits shall be disbursed to the Owners after approval by the City. The City reserves the right to retain a minimum of ten (10) percent for each escrowed item until the entire site/development has received final inspection and final approval by all City departments. Refundable cash deposits shall be held until final approval has been issued. Disbursements shall be made by the City within a reasonable time, after request for refund of deposits is made by the Owners.

**City Of Troy**

Contract for Installation of Municipal Improvements  
(Private Agreement)

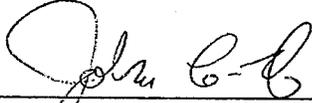
IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed in duplicate on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

OWNERS

CITY OF TROY

By:

By:



John C. Erb, Manager Corporate Real Estate  
Please Print or Type

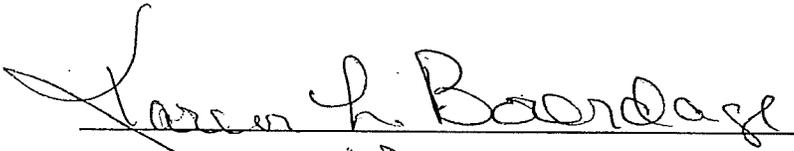
\_\_\_\_\_  
Dane M. Slater, Mayor

\_\_\_\_\_  
Please Print or Type

\_\_\_\_\_  
M. Aileen Dickson, City Clerk

STATE OF MICHIGAN, COUNTY OF ~~OAKLAND~~ <sup>Wayne</sup>

On this 4th day of February A.D. 2016, before me personally appeared John C. Erb 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.



NOTARY PUBLIC, <sup>Wayne</sup> ~~Oakland~~ County, Michigan

**KAREN L. BOURDAGE**  
**NOTARY PUBLIC, STATE OF MI**  
**COUNTY OF WAYNE**  
**MY COMMISSION EXPIRES MARCH 19, 2019**  
**ACTING IN THE COUNTY OF Wayne**

My commission expires: 3.19.19

**Detailed Summary of Required Deposits & Fees**  
**DTE Doyle**  
**15.908.3**

**ESCROW DEPOSITS (PUBLIC):**

Sanitary Sewers	\$0
Water Mains	\$36,000
Paving	\$11,000
Sidewalks	\$0
Deceleration and/or Passing Lane - MAJOR ROAD	\$0
Major Road Improvements (other than decel or passing lanes)	\$0
Underground Detention System/Restricted Outlet/Sewer Tap/Oil & Gas Trap	\$0
<b>TOTAL ESCROW DEPOSITS (Refundable):</b>	<b><u>\$47,000</u></b>

**CASH FEES (Non-Refundable):**

Engineering Review Fee (Private Improvements)(PA1)	\$1,420
Water Main Testing and Chlorination (PA 2)	\$650
Plan Review and Construction Inspection Fee (Public Improvements) (PA1)	\$3,807
Soil Erosion/Sedimentation Control Commercial Permit Fee (SUB 10)	\$0
Soil Erosion/Sedimentation Control Commercial Inspection Fee (SUB 10)	\$0
Less Initial Engineering Review Fee (Public & Private)(1.1%)	-\$1,298
<b>TOTAL CASH FEES (Non-Refundable):</b>	<b><u>\$4,579</u></b>

**CASH DEPOSITS (Refundable):**

Street Cleaning/Road Maintenance	\$50,000
Soil Erosion/Sedimentation Control Repair, Replace, or Maintenance	\$1,000
Punchlist & Restoration	\$4,700
<b>TOTAL CASH DEPOSITS (Refundable):</b>	<b><u>\$55,700</u></b>

Total Escrow & Cash Deposits (Refundable):	<b><u>\$102,700</u></b>
Total Cash Fees (Non-Refundable):	<b><u>\$4,579</u></b>
<b>Total Amount:</b>	<b><u>\$107,279</u></b>

**PAID**

FEB 05 2016

CITY OF TROY  
TREASURER'S OFFICE



PERFORMANCE BOND

Bond 285040565

KNOW ALL BY THESE PRESENTS, That we, DTE Electric Company

(hereinafter called the Principal), as Principal, and Liberty Mutual Insurance Company

, a corporation duly organized under the laws of the State of Massachusetts (hereinafter called the Surety), as Surety, are held and firmly bound unto

City of Troy, 500 W. Big Beaver Rd., Troy, MI 48084

, (hereinafter called the Obligee), in the sum of Forty-seven Thousand Dollars And Zero Cents (\$47,000.00) Dollars

for the payment of which sum well and truly to be made, we, the said Principal and the said Surety; bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

Sealed with our seals and dated this 28th day of December, 2015

WHEREAS, said Principal has entered into a Contract with said Obligee, dated \_\_\_\_\_, for work performed for the Ariel Project

in accordance with the terms and conditions of said Contract, which is hereby referred to and made a part hereof as if fully set forth herein;

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, That if the above bounden Principal shall well and truly keep, do and perform each and every, all and singular, the matters and things in said contract set forth and specified to be by said Principal kept, done and performed, at the times and in the manner in said contract specified, or shall pay over, make good and reimburse to the above named Obligee, all loss and damage which said Obligee may sustain by reason of failure or default on the part of said Principal so to do, then this obligation shall be null and void; otherwise shall remain in full force and effect.

*RDC*

DTE Electric Company Principal

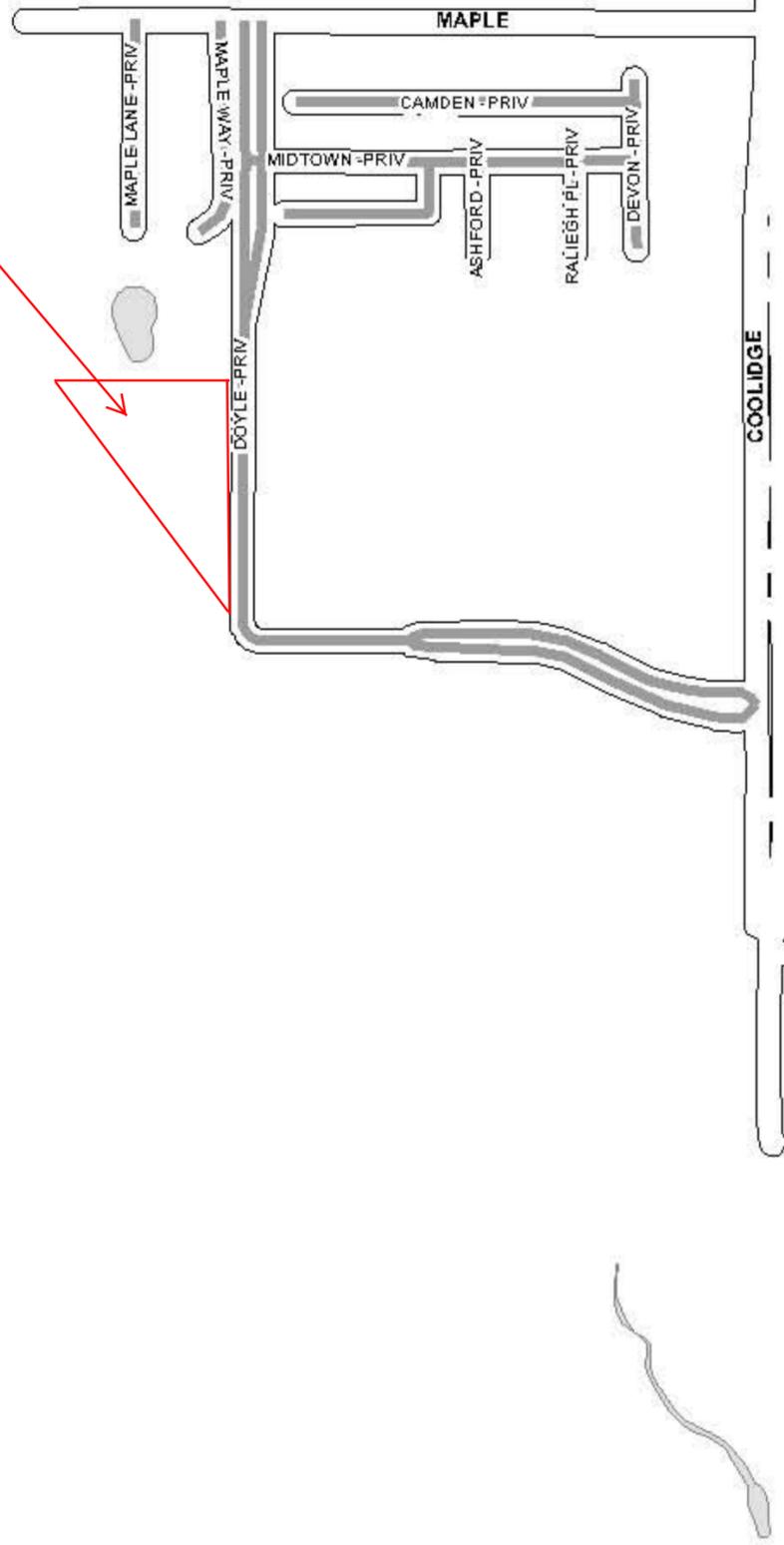
By *[Signature]*  
DAVID MURPHY  
ASST. TREASURER



Liberty Mutual Insurance Company

By *[Signature]*  
Cynthia McCaffrey Attorney-in-Fact

Project Location



**Legend**

- Private
- Do Not Salt

# Street Map

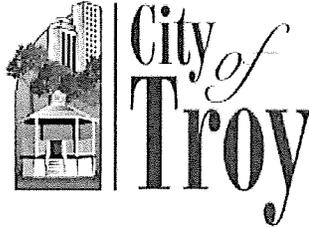
## Section 31



Date: 10/28/2015

## ZONING BOARD OF APPEALS APPLICATION

CITY OF TROY PLANNING DEPARTMENT  
500 W. BIG BEAVER ROAD  
TROY, MICHIGAN 48084  
PHONE: 248- 524-3364  
E-MAIL: [evanspm@troymi.gov](mailto:evanspm@troymi.gov)



**FEE \$150.00**  
<http://troymi.gov/Government/Departments/CodeEnforcement.aspx>

THE ZONING BOARD OF APPEALS MEETS THE **THIRD TUESDAY OF EACH MONTH AT 7:30 P.M. AT CITY HALL.** PLEASE FILE A COMPLETE APPLICATION AND FEE, AT LEAST **27 DAYS BEFORE** THE MEETING DATE.

1. ADDRESS OF THE SUBJECT PROPERTY: \_\_\_\_\_
2. PROPERTY TAX IDENTIFICATION NUMBER(S): \_\_\_\_\_
3. ZONING ORDINANCE SECTIONS RELATED TO THE REQUEST: \_\_\_\_\_
4. HAVE THERE BEEN ANY PREVIOUS APPEALS INVOLVING THIS PROPERTY? If yes, provide date(s) and particulars: \_\_\_\_\_
5. APPLICANT:  
NAME \_\_\_\_\_  
COMPANY \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_  
PHONE \_\_\_\_\_  
E-MAIL \_\_\_\_\_  
AFFILIATION TO THE PROPERTY OWNER: \_\_\_\_\_

6. PROPERTY OWNER:

NAME \_\_\_\_\_  
COMPANY \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_  
TELEPHONE \_\_\_\_\_  
E-MAIL \_\_\_\_\_

The undersigned hereby declares under penalty of perjury that the contents of this application are true to the best of my (our) knowledge, information and belief.

The applicant accepts all responsibility for all of the measurements and dimensions contained within this application, attachments and/or plans, and the applicant releases the City of Troy and its employees, officers, and consultants from any responsibility or liability with respect thereto.

I, \_\_\_\_\_ (APPLICANT) HEREBY DEPOSE AND SAY THAT ALL THE ABOVE STATEMENTS CONTAINED IN THE INFORMATION SUBMITTED ARE TRUE AND CORRECT AND GIVE PERMISSION FOR THE BOARD MEMBERS AND CITY STAFF TO ENTER THE PROPERTY TO ASCERTAIN PRESENT CONDITIONS.

APPLICANT SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

PROPERTY OWNER SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

Failure of the applicant or their authorized representative to appear before the Board as scheduled shall be cause for denial or dismissal of the case with no refund of fees. If the person appearing before the Board is not the applicant or property owner, signed permission must be presented to the Board.

The applicant will be notified of the time and date of the hearing by first class mail.

## STATEMENT OF PRACTICAL DIFFICULTY

In order for a variance to be granted, a practical difficulty, as determined by the Board, must be present. On a separate sheet, please clearly identify and explain the practical difficulty justifying the variance request. The practical difficulty must be clearly related to as many of the 5 standards below as possible:

- a) Exceptional characteristics of property for which the variance is sought make compliance with dimensional requirements substantially more difficult than would be the case for the great majority of properties in the same zoning district. Characteristics of property which shall be considered include exceptional narrowness, shallowness, smallness, irregular shape, topography, vegetation and other similar characteristics.
- b) The characteristics which make compliance with dimensional requirements difficult must be related to the premises for which the variance is sought, not some other location.
- c) The characteristics which make compliance with the dimensional requirements shall not be of a personal nature.
- d) The characteristics which make compliance with dimensional requirements difficult must not have been created by the current or a previous owner.
- e) The proposed variance will not be harmful or alter the essential character of the area in which the property is located, will not impair an adequate supply of light and air to adjacent property, or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property value within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the City.

## **ZONING BOARD OF APPEALS APPLICATION CHECKLIST**

### **Please provide the following**

- ✓ Completed application
- ✓ Statement of practical difficulty see page 3.
- ✓ Plot plan or survey showing property lines, existing and proposed buildings, their dimensions and locations (height, length, width, as applicable).
- ✓ Setbacks from property lines
- ✓ Elevation drawings
- ✓ Photos as necessary to accurately describe the request including existing and proposed property conditions
- ✓ Any other information that explains the request.
- ✓ Minimum size of all documents 8.5" x 11".

**Please provide a digital version of all application pages and documents. You may e-mail them or submit them on medial such as a jump drive.**

**Please also provide 2 paper application packages containing the documents. Each package should be identical.**

**Payment should accompany the paper application packages.**



## CITY COUNCIL AGENDA ITEM

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Date: February 12, 2016

To: Brian Kischnick, City Manager

From: Mark F. Miller, Director of Economic and Community Development  
Steven J. Vandette, City Engineer  
Larysa Figol, Sr. Right-of-Way Representative

Subject: Request for Approval to Sell a City Owned Remnant Parcel Located in  
Section 22, Sidwell # 88-20-22-358-028

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### **History**

City staff received the attached Offer to Purchase for a City owned remnant parcel fronting on Big Beaver at Frankton, east of Livernois Road from Kevin Baird. Mr. Baird is the owner of a residential parcel immediately to the north.

The City owned parcel was acquired as a part of the 2001 Big Beaver Road widening project. The remaining remnant parcel has 122 feet fronting on Big Beaver, a depth of 74 feet along Frankton and is an undesirable parcel for Big Beaver development. The property is zoned BB-Big Beaver Form Based District.

Staff had the parcel appraised as a part of the remnant parcels sales initiative previously approved by City Council (CC Resolution #2014-04-045). The suggested value of \$36,000 is the same amount Mr. Baird has offered.

Mr. Baird first approached the City to purchase this remnant in late 2014, however another party claimed an interest in the property Mr. Baird now owns. Since the issue of legal title was not resolved, we would not accept an offer to purchase for the City owned parcel until such time as the matter between the parties was resolved. Mr. Baird has now provided Staff with a copy of an order entered by the 6<sup>th</sup> Judicial Circuit Court of Oakland County vesting title to Kevin Baird for the parcel immediately to the north of the City owned remnant parcel. A title commitment confirms Mr. Baird as the owner in fee of this property.

As part of the remnant sale process all adjoining property owners are notified and encouraged to submit an offer to purchase a City owned property abutting their own. A letter was sent to the property owner to the east informing them of their right to submit an offer to purchase as allowed under the Remnant Sale Policy adopted by City Council (Resolution #2007-01-028). We received no communication back from this owner.

As City Council retains the discretionary authority to determine the applicability of the sale of excess City property, staff encourages City Council to waive the requirement in the remnant parcel policy for a conceptual site plan submission at this time. Mr. Baird will not be developing the property until such time as: 1) a rezoning application is submitted and approved for either one, both or more parcels; 2) all parcels are combined; and 3) the potential of the ultimate building site is maximized in consultation with various City departments and with his own engineering consultants. The submission of a conceptual plan at this time would be premature.

Mr. Baird's property is currently zoned *R-1E - One Family Residential District* and the City owned parcel is zoned *BB-Big Beaver Form District*. An application to rezone one, both or more parcels will be submitted to the Planning Department after fully reviewing the best potential of any future building site, how to maximize the potential of the property and what the City will ultimately approve in its site plan review.

Past practice by City Council has allowed for the sale of City owned surplus parcels without a conceptual site plan when no immediate and specific plans are in place for the development of a property due to divergent zoning of parcels and when there are no specific plans in place for a parcel's development.

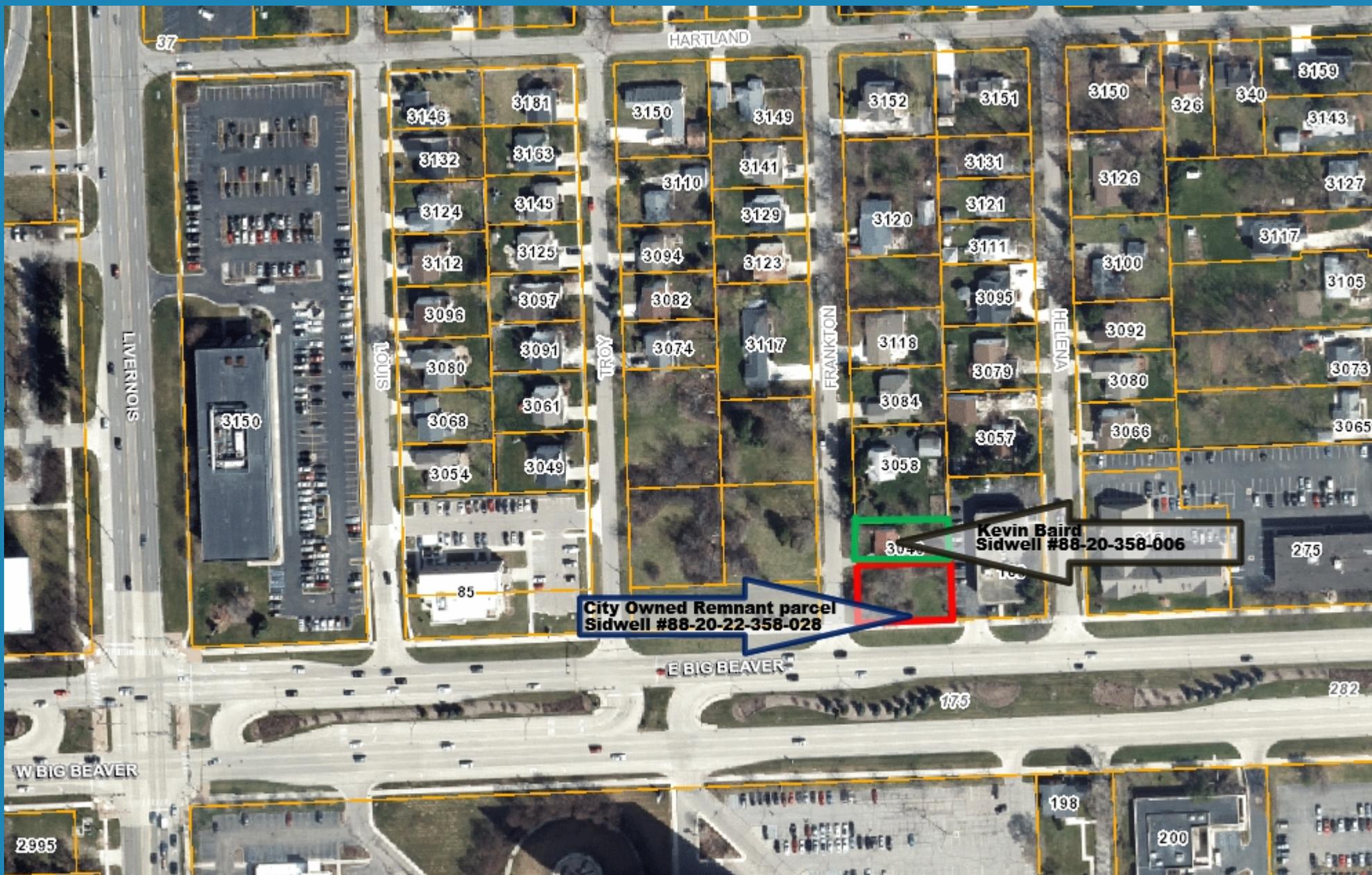
Staff believes it would be in the City's best interest that this unbuildable surplus remnant parcel be assembled to create a larger parcel for future development in the Big Beaver corridor.

Management recommends that City Council approve the sale of this remnant parcel to Kevin Baird in the amount of \$36,000, subject to terms and conditions of the purchase agreement. We also request that the Mayor and City Clerk be authorized to sign the purchase agreement and a warranty deed to complete the transaction.

#### City Attorney's Review as to Form and Legality

\_\_\_\_\_  
Lori Grigg Bluhm, City Attorney

\_\_\_\_\_  
Date

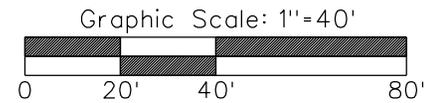
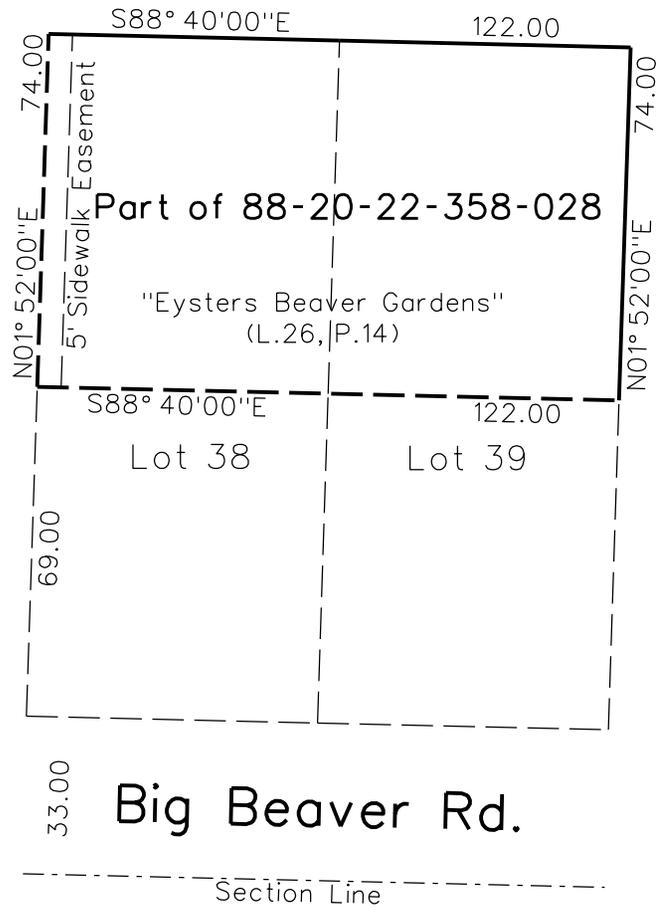


467 0 233 467 Feet



Note: The information provided by this application has been compiled from recorded deeds, plats, tax maps, surveys, and other public records and data. It is not a legally recorded map survey. Users of this data are hereby notified that the source information represented should be consulted for verification.

Frankton Ave.  
(50' Wide)



<b>CITY OF TROY</b> OAKLAND COUNTY, MICHIGAN			
Exhibit of Remnant Parcel F Part of 88-20-22-358-028			
FILE: 88-20-22-358-028_Parcel F.DGN			
SCALE	DRAWN BY	NAME	GJBIII
HOR. 1"=40'	CHECKED BY	NAME	DATE 07-30-14
VER. 1"=X'		SHEET NO.	JOB NO.
	STEVEN J. VANDETTE, P.E.	10F2	N/A
	CITY ENGINEER		

Document Prepared By  
George J. Ballard III, P.S.  
Land Surveyor

DATE      REV.  
**CONTRACT NO.**

N/A

**Vote on Resolution to Amend Disposal/Sale of Excess Property as Amended**

Resolution #2007-01-028

Moved by Stine

Seconded by Lambert

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...";

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 as being the most appropriate land use.
4. Commits the prospective buyer to a purchase price of at least a value established by an appraiser named by the Real Estate and Development Department of the City of Troy.
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 by 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.
7. Nothing in this resolution relieves the Purchaser/Developer of their obligation to adhere to any and all City Ordinances and development standards.

BE IT FURTHER RESOLVED, That staff will **PROVIDE** an analysis of the zoning and **PRESENT** the remnant parcel(s) to the Parks and Recreation Advisory Committee to review for possible use as parks prior to Council action on the offer to purchase; and

BE IT FURTHER RESOLVED, That if it is most probable that a rezoning will be requested, that an appraisal based on that subsequent rezoning also be submitted; and

BE IT FINALLY RESOLVED, That the City Council **RETAINS** discretionary authority to determine the applicability of this policy.

Yes: All-7

OFFER TO PURCHASE  
CITY OF TROY  
REAL ESTATE

1. THE UNDERSIGNED, Kevin G. Baird, whose address is 720 Kimberly Dr Troy, MI 48098, hereby offers and agrees to purchase from the City of Troy the following land situated in the City of Troy, Oakland County, Michigan, described as follows:

Lot 38 and 39 except the South 69 feet taken for road, Eysters Beaver Gardens, as recorded in Liber 26 of Plats, Page 14, Oakland County Records.

**The City of Troy retains an easement for Sidewalk described as:**

The West 5.00 feet of the North 74.00 feet of Lot 38, of Eysters Beaver Gardens, as recorded in Liber 26 of Plats, Page 14, Oakland County Records, being part of the Southwest 1/4 of Section 122, Town 2 North, Range 11 East, City of Troy, Michigan. Containing 0.01 Acres, more or less and being subject to all easements and matters of record.

Parcel Number: 20-22-358-028  
vacant Big Beaver Road & Frankton, Troy, MI

and to pay therefore the sum of Thirty Six Thousand Dollars (\$ 36,000.00) subject to the existing building and use restrictions, easements, zoning ordinances, and other deed restrictions and conditions as specified herein.

THE SALE TO BE CONSUMMATED BY:

- Delivery of the usual warranty deed conveying a marketable title. Payment of purchase money is to be made in cash or certified check made payable to the City of Troy.
2. As evidence of title, Seller agrees to furnish Purchaser as soon as possible a Commitment for Title Insurance for information purposes. Purchase of Title Insurance shall be the option of the Purchaser at Purchaser's expense.
3. If this offer is accepted by the Seller and if title can be conveyed in the condition required hereunder, the Purchaser agrees to complete the sale within 30 days after delivery of the commitment of title insurance.
4. If objection to the title is made in the Commitment for Title Insurance or based upon a written opinion of Purchaser's attorney after examination of the Abstract that the title is not in the condition required for performance hereunder, the Seller shall have 30 days from the date he is notified in writing of the

for performance hereunder, the Seller shall have 30 days from the date he is notified in writing of the particular defects claimed either (1) to fulfill the requirements in said commitment or to remedy the title defects set forth in said attorney's opinion or (2) to refund the deposit in full termination of this agreement or if unable to furnish satisfactory title. If the Seller is able to comply with such requirements or remedy such defects within the time specified as evidenced by written notification, revised commitment or endorsement to commitment, the Purchaser agrees to complete the sale within 10 days of receipt thereof. If the Seller is unable to furnish satisfactory title within the time specified, the deposit shall be refunded forthwith in full termination of this agreement.

5. The grantee, for himself, his heirs, personal representative, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land to comply with all requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation- Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and any amendments.

That in the event of breach of any of the above nondiscrimination covenants, the City of Troy shall have all right afforded under law, including the right to re-enter and repossess said land.

6. Purchaser understands and agrees that although the property being conveyed may at the time of conveyance be tax exempt, that upon acceptance of this offer to purchase the property will be placed on the tax assessor's roll.
7. The covenants herein shall bind and inure to the benefit of the heirs, executors, administrators, successors and assigns of the respective parties.
8. By the execution of this instrument the Purchaser acknowledges THAT HE HAS EXAMINED THE ABOVE DESCRIBED PREMISES and is satisfied with the physical condition of structures and/or land thereon.
9. The closing of this sale shall take place at the offices of the City of Troy unless otherwise agreed.
10. Purchaser agrees to comply with Troy City Council Resolution #2007-01-028, a copy of which is attached, and understands that this sale is contingent upon City Council approval.
11. Deed Restrictions, if any, and Subsequent Conditions:
  - A. Construction shall take place only as indicated on any site plan submitted to and approved by the Building Department and Planning Department of the City of Troy and all construction shall conform to all codes of the City of Troy.
  - B. The property being conveyed herein is currently zoned BB – Big Beaver Form Based District and will be used only as it is defined in the Troy Zoning Ordinance.
  - C. The purchaser shall 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.

**D.** The covenants herein shall bind and inure to the benefit of the heirs, executors, administrators, successors and assigns of the respective parties.

12. Additional Conditions:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

IN THE PRESENCE OF:

Tara Baird  
Tara Baird

Purchaser

Kevin G. Baird L.S.  
Kevin G. Baird

Date February 2nd, 2016

Phone 248.709.2792

Address 720 Kimberly Dr Troy, MI 48098

IN THE PRESENCE OF:

\_\_\_\_\_  
\_\_\_\_\_

Seller- City of Troy

\_\_\_\_\_  
L.S.

Date \_\_\_\_\_

PURCHASER'S RECEIPT OF ACCEPTED OFFER

The Purchaser hereby acknowledges the receipt of the Seller's signed acceptance of the foregoing offer to purchase.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Purchaser

L.S.

WARRANTY DEED

Sidwell: Parts of 88-20-22-358-028  
Resolution # 2016-02-

The Grantor(s), **CITY OF TROY**, a Michigan municipal corporation, whose address is 500 West Big Beaver Road, Troy, MI 48084 convey(s) and warrant(s) to **KEVIN BAIRD**, a married man, Grantee, whose address is 720 Kimberly, Troy, MI 48098, the following described premises situated in the City of Troy, County of Oakland and State of Michigan:

Lot 38 and 39 except the South 69 feet taken for road, Eysters Beaver Gardens, as recorded in Liber 26 of Plats, Page 14, Oakland County Records.

**The City of Troy retains an easement for Sidewalk described as:**

The West 5.00 feet of the North 74.00 feet of Lot 38, of Eysters Beaver Gardens, as recorded in Liber 26 of Plats, Page 14, Oakland County Records, being part of the Southwest 1/4 of Section 122, Town 2 North, Range 11 East, City of Troy, Michigan. Containing 0.01 Acres, more or less and being subject to all easements and matters of record.

Parcel Number: 20-22-358-028  
Commonly known as vacant Big Beaver Road & Frankton, Troy, MI

For the sum of Thirty Six Thousand and 00/100 Dollars (\$36,000.00)  
Exempt under MCL.207.505(h)(i) and MCL 207.526 (h)(i)

subject to building and use restrictions and easements of record.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2016

CITY OF TROY  
a Michigan municipal corporation

\_\_\_\_\_  
\*Dane M. Slater, Mayor

\_\_\_\_\_  
\*M. Aileen Dickson, City Clerk

STATE OF MICHIGAN )  
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2016,  
by Dane M. Slater, Mayor, and M. Aileen Dickson, City Clerk, of the City of Troy, a Michigan Municipal corporation,  
on behalf of the corporation.

\_\_\_\_\_  
\*  
Notary Public, \_\_\_\_\_ County, MI  
My commission expires: \_\_\_\_\_  
Acting in \_\_\_\_\_ County, MI

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: Larysa Figol, SRWA City of Troy 500 West Big Beaver Troy, MI 48084	

Exempt under MCL 207.505(h)(i) & MCL 207.526 (h)(i)

Tax Parcel # 88-20-22-358-028 Recording Fee \_\_\_\_\_ Transfer Tax \_\_\_\_\_



## CITY COUNCIL AGENDA ITEM

Date: February 12, 2016

To: Brian Kischnick, City Manager

From: Mark F. Miller, Director of Economic and Community Development  
Steven J. Vandette, City Engineer  
Larysa Figol, Sr. Right of Way Representative

Subject: Request for Approval of Relocation Claim and Replacement Housing Determination Costs  
John R Road Improvement Project, Square Lake to South Boulevard  
Project No. 02.204.5 – Parcel 48 – Sidwell #88-20-02-228-011

### Background

As part of the proposed John R Road Improvement Project – Square Lake to South Boulevard, City Council previously authorized the purchase of the property at 6769 John R from Awni A. and Fadia Abu-Joudeh. This parcel is located on the west side of John R Road, between Chancery Avenue and South Boulevard in the northeast ¼ of Section 2. Mr. and Mrs. Abu-Joudeh and their three children have found another home in Macomb County.

In accordance with Michigan Laws and Federal Regulations, the Abu-Joudeh's are eligible for reimbursement of some expenses associated with the acquisition of their new home including some closing costs, moving costs and certain expenditures needed to make repairs to the home to comply with decent, safe and sanitary standards as required by Federal Regulations

Staff has reviewed all receipts and quotes and determined that the Abu-Joudeh's are eligible for reimbursement of closing and moving costs in the amount of \$6,054.56 and Replacement Housing Determination costs in the amount of \$8,000 to meet decent, safe and sanitary requirements as required and allowed by Federal Regulations (49 CFR 24.404 (c)(ii)).

### Recommendation

Staff requests that City Council approve the attached Relocation Claim and Replacement Housing Determination payments for a total reimbursement amount of \$14,054.56.

### Fund Availability

Eighty percent of these costs will be reimbursed from Federal funds. Funds for the City of Troy's share are available in the Major Roads Fund.



**Abu-Joudeh / 6769 John R**

648 0 324 648 Feet



Note: The information provided by this application has been compiled from recorded deeds, plats, tax maps, surveys, and other public records and data. It is not a legally recorded map survey. Users of this data are hereby notified that the source information represented should be consulted for verification.

# RELOCATION CLAIM

## RESIDENTIAL

Information required by Act 31, P.A. 1970 as amended, and Act 277  
P.A. of 1972, to process payment.

DISPLACEE'S NAME Patrick Abu-Joudeh, Pierre Abu-Joudeh, Awni Abu-Joudeh and Fadia Abu-Joudeh	
ACQUIRED PROPERTY ADDRESS AND PHONE 6769 John R Troy, MI 48085	REPLACEMENT PROPERTY ADDRESS AND PHONE 16577 Howard Macomb, MI 48042

### CONTROLLING DATES

DATE OF MOVE 8-17-2015	DATE OF FINAL PAYMENT	DATE OF ESTIMATED JUST COMPENSATION DEPOSIT
---------------------------	-----------------------	---------------------------------------------

### MUST OCCUPY REPLACEMENT PROPERTY BY:

If Tenant, 12 months after date of move	DATE
If Secured Owner, 12 months after date of final payment	DATE 8/27/15
If Unsecured Owner, 12 months after date of estimated just compensation deposit	DATE

### MUST FILE CLAIM FOR PAYMENT BY:

If Tenant, 18 months after date of move	DATE
If Owner, 18 months after date of move or final payment, whichever is later	DATE 2/17/17

### RELOCATION PAYMENTS

Replacement Housing Supplement	\$	0.00
Incidental Closing Costs	\$	913.56
Increased Interest Differential	\$	
Replacement Rental Supplement/Purchase Down Payment	\$	
Moving Expenses	\$	5,141.00
<b>AMOUNT DUE:</b>	<b>\$</b>	<b>6,054.56</b>

MOVE VERIFIED BY MDOT

I/WE AGREE PAYMENT WILL BE SENT TO

16557 Howard Dr Macomb, MI 48042

I/WE CERTIFY THAT:

- All information submitted is true and correct.
- I/We have purchased or rented and occupied, or will purchase or rent and occupy, a replacement dwelling which is decent, safe, and sanitary within the standards prescribed by the Michigan Department of Transportation.
- I/We have vacated or will vacate the state acquired property.
- I/We have not submitted any other claim, or received reimbursement from any other source, for expenses itemized on this claim.
- I/We agree if the amount of compensation is increased in an administrative settlement or condemnation action, the Housing Supplement shall be recalculated based upon the increased compensation award, and any overpayment in the Housing Supplement shall be deducted by the department from the final payment.
- I/We are a legal resident of the United States.

DISPLACEE'S SIGNATURE	DATE	DISPLACEE'S SIGNATURE	DATE
	2/16/16		

I/We certify that I/we have examined this claim and the substantiating documentation and have found it to conform to the applicable State and Federal laws and the operating procedures of the Michigan Department of Transportation.

RECOMMENDED BY:	DATE	APPROVED BY:	DATE
			1-12-16

CONTROL SECTION EDCF63544	JOB NO. 56247B	PARCEL #48 - 20-02-228-031	NAME Abu-Joudeh
------------------------------	-------------------	-------------------------------	--------------------

**REPLACEMENT HOUSING SUPPLEMENT**

a) Listing price of comparable dwelling		c) Acquisition price of state acquired dwelling	
b) Sale price of replacement dwelling		d) Lower of "a" or "b" minus "c"	
			<b>AMOUNT DUE:</b>

**INCIDENTAL CLOSING COSTS**

Administrative fee		Mortgage Application fee	
Appraisal fee		Mortgage Insurance*	
Assumption fee		Notary fee	
Certification fee		Overnight fee	
Closing and/or Escrow fee	200.00	Permits	
Credit Report		Processing fee	
Discount Points*		Recording fee	18.50
Document Preparation fee		Survey fee	
Inspections	375.00	Tax Service fee	
Legal fee		Title Insurance fee**	
Loan Origination fee*		Underwriting fee	
Mobile Home Title Transfer fee**		Other compliance fee to 1st realtor	295.00
Mobile Home Sales Tax **		Other Waste Management	24.76
* Limited to balance of existing mortgage    ** limited to listing price of highest comparable			
			<b>AMOUNT DUE: \$913.56</b>

**INCREASED INTEREST DIFFERENTIAL**

Current Mortgage Balance		New Mortgage Balance	
Current Mortgage Interest Rate		New Interest Rate	
Current Mortgage Payment		New Mortgage Term	
		Mortgage Points	
			<b>AMOUNT DUE:</b>

**REPLACEMENT RENTAL SUPPLEMENT/PURCHASE DOWN PAYMENT**

	PER MONTH	X 42 MONTHS	
a) Comparable rent + utilities			d) Rental Supplement (lower of "a" or "b" minus "c")
b) Replacement rent + utilities			e) Purchase Down Payment (greater of "d" or \$7,200)
c) Actual/Economic rent + utilities OR 30% of monthly income			<b>AMOUNT DUE:</b>

**SELF MOVE - FIXED COST**

# OF ROOMS	PAYMENT	# OF ROOMS OF PERSONAL PROPERTY	
1	\$700.00	Living Room	Pole Barn
2	\$950.00	Dining Room	Shed
3	\$1,150.00	Family Room	Attic
4	\$1,300.00	Bedrooms	Basement
5	\$1,450.00	Kitchen	Porch
6	\$1,600.00	Laundry	Garage
7	\$1,750.00	Den or Office	Other
8	\$1,900.00		<b>TOTAL</b>
Each Add. Room	\$300.00		<b>AMOUNT DUE:</b>

**SELF MOVE - ACTUAL COST (supported by receipts)**

Equipment cost		Hourly labor rate (capped at industry labor rate)	
Supply cost		<b>AMOUNT DUE:</b>	

**COMMERCIAL MOVE**

Moving company invoice	<b>AMOUNT DUE:</b>	<b>\$5,141.00</b>
------------------------	--------------------	-------------------

**STORAGE COSTS**

Monthly storage rate		X number of months (limited 12)	<b>AMOUNT DUE:</b>
----------------------	--	---------------------------------	--------------------

## REPLACEMENT HOUSING DETERMINATION

DISPLACEE Awni and Fadia Abu-Joudeh	ADDRESS OF ACQUIRED DWELLING 6769 John R	OCCUPIED SINCE (M/Y) 01/1999
----------------------------------------	---------------------------------------------	---------------------------------

### OCCUPANT INFORMATION

# OF PARENTS 2	TOTAL # OF CHILDREN 3	# OF MALE CHILDREN 2	AGES 36 & 33	# OF FEMALE CHILDREN 1	AGES 20
# OF OTHER MALES IN HOUSEHOLD (Not included above)			# OF OTHER FEMALES IN HOUSEHOLD (Not included above)		

### ACQUIRED DWELLING INFORMATION

FAIR MARKET VALUE \$275,000	SQUARE FEET	BEDROOMS 4
--------------------------------	-------------	---------------

### COMPARABLE HOUSING

	ADDRESS	SQUARE FEET	BEDROOMS	LISTING PRICE
1*	n/a			\$
2				\$
3				\$

LISTING PRICE OF COMPARABLE #1	\$
LESS ACQUISITION PRICE OF ACQUIRED DWELLING (125% of fair market value)	\$
<b>DISPLACEE IS ELIGIBLE FOR MAXIMUM HOUSING SUPPLEMENT OF:</b>	<b>\$ 8,000.00</b>

**REMARKS**

New relocation housing purchased in Macomb County. Necessary repairs required to bring house up to DS&S (decent, safe & sanitary) standards. Mr. Abu-Joudeh has medical/breathing issues (medical certificate provided)  
Replacement home has air quality issues. Requires repairs, painting, replacement of flooring and some drywall.

**LAST RESORT (Check if any apply):**

- Housing supplement exceeds \$31,000
- Displacee has resided in the acquired dwelling for less than 90 days prior to the initiation of negotiations.

### CERTIFICATION

I hereby certify that this determination of supplemental payment is to be used in connection with a Federal Aid Highway Project. I have no direct or indirect present or planned future personal interest in this property, nor in any way benefit as a result of the acquisition of the property involved in this transaction. I have verified that the named displacee has been in occupancy as noted. I have reviewed all listings and, in my opinion, the listings meet the standards prescribed for decent, safe, and sanitary housing. The basis for the determination of the supplemental payment is as shown above.

PREPARED BY (Signature) 	NAME/TITLE Sr. Right-of-Way Representative	DATE 01/12/2016
REVIEWED BY (Signature) 	NAME/TITLE	DATE
CONTROL SECTION EDCF63544	PARCEL #88-20-02-228-031 (parcel 48)	NAME Abu-Joudeh
JOB NO. 56247B	FED. ITEM NO. RR 4528	FED. PROJ. NO. MG0563(032)

\*Most expensive decent, safe and sanitary comparable



## CITY COUNCIL AGENDA ITEM

---

Date: February 12, 2016

To: Brian Kischnick, City Manager

From: Mark F. Miller, Director of Economic and Community Development  
Steven J. Vandette, City Engineer  
Larysa Figol, Sr. Right-of-Way Representative

Subject: Request for Acceptance of Three Permanent Easements from Emergency Egress, LLC  
Sidwell #88-20-27-429-049 & 050

---

### **History**

As part of the redevelopment of two residential parcels located in the southeast  $\frac{1}{4}$  of Section 27, on Rochester Road, the Engineering department received three permanent easements for sidewalk, storm sewer and surface drainage from Emergency Egress, LLC, owner of the properties having Sidwell #88-20-27-429-049 & 050.

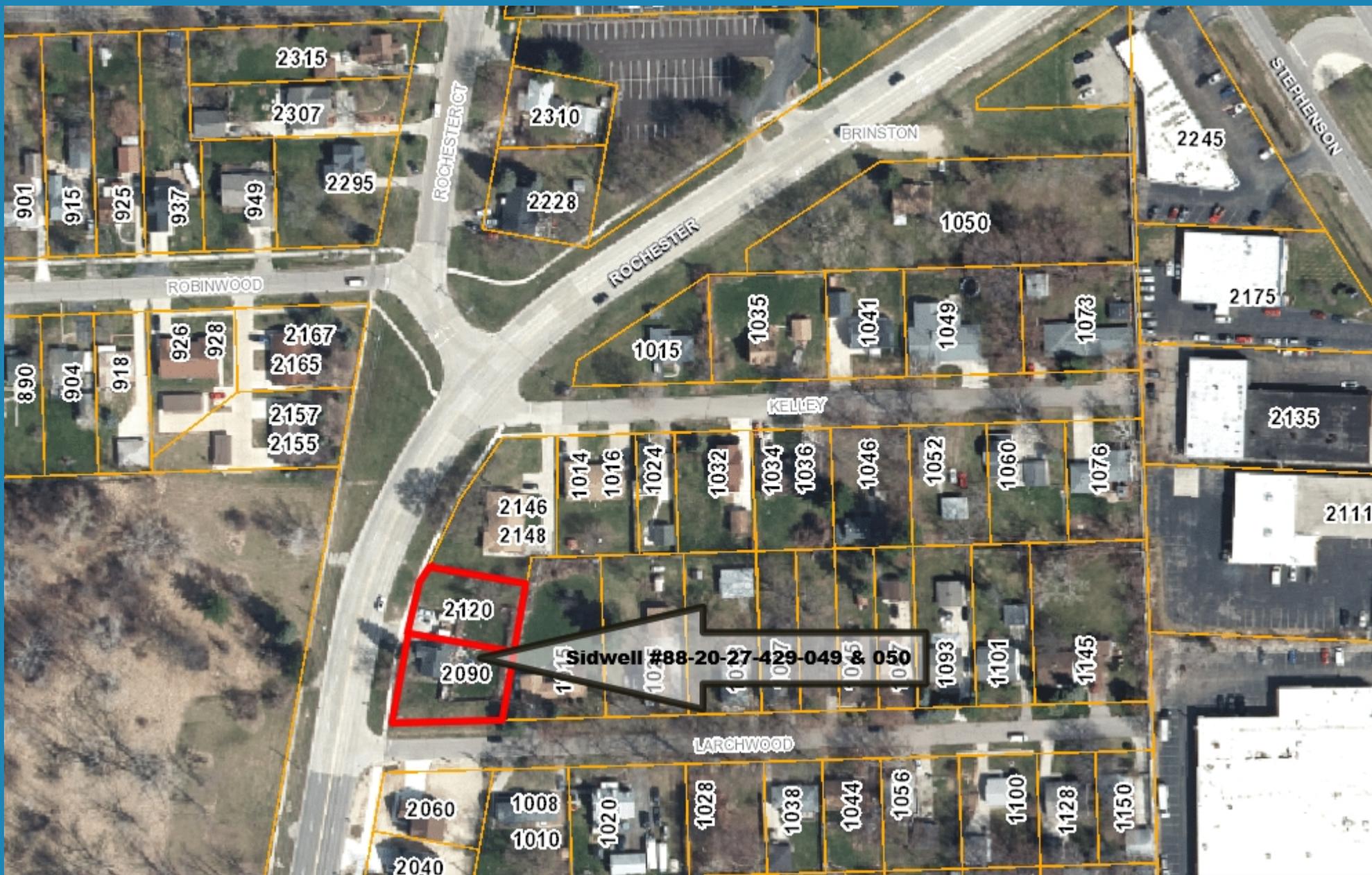
The format and content of these easements is consistent with conveyance documents previously accepted by City Council.

### **Financial**

The consideration amount on each document is \$1.00.

### **Recommendation**

City Management recommends that City Council accept the attached permanent easements consistent with our policy of accepting easements for development and improvement purposes.



368 0 184 368Feet



Note: The information provided by this application has been compiled from recorded deeds, plats, tax maps, surveys, and other public records and data. It is not a legally recorded map survey. Users of this data are hereby notified that the source information represented should be consulted for verification.

**PERMANENT EASEMENT**

Sidwell #88-20-27-429-050  
Resolution #

EMERGENCY EGRESS, LLC, a Michigan limited liability company, Grantor(s), whose address is 450 East Square Lake Road, Troy, MI 48085, for and in consideration of the sum of: One and no/100 Dollar (\$1.00) paid by the CITY OF TROY, a Michigan municipal corporation, Grantee, whose address is 500 West Big Beaver Road, Troy, Michigan, 48084 grants to the Grantee the right to construct, operate, maintain, repair and/or replace sidewalk, 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 OF

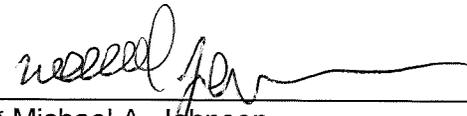
and to enter upon sufficient land adjacent to said improvement(s) for the purpose of the construction, operation, maintenance, repair and/or replacement thereof.

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 1 signature(s) this 4<sup>th</sup> day of February A.D. 2016.

EMERGENCY EGRESS, LLC, a Michigan limited liability company

By  (L.S.)  
\* Michael A. Johnson  
Its Member

STATE OF MICHIGAN)  
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this 4<sup>th</sup> day of February, 2016, by Michael A. Johnson, Member of EMERGENCY EGRESS, LLC, a Michigan limited liability company on behalf of the company.

**LARYSA FIGOL**  
**Notary Public, Oakland County, Michigan**  
**Acting in Oakland County, Michigan**  
**My Commission Expires 03/02/2018**

  
\* \_\_\_\_\_ County, \_\_\_\_\_  
My Commission Expires \_\_\_\_\_  
Acting in \_\_\_\_\_ County, \_\_\_\_\_

Prepared by: Larysa Figol  
City of Troy  
500 W. Big Beaver Road  
Troy, MI 48084

Return to: City Clerk  
City of Troy  
500 W. Big Beaver Road  
Troy, MI 48084

**PLEASE SIGN IN BLUE INK AND PRINT OR TYPE NAMES IN BLACK INK UNDER SIGNATURES**

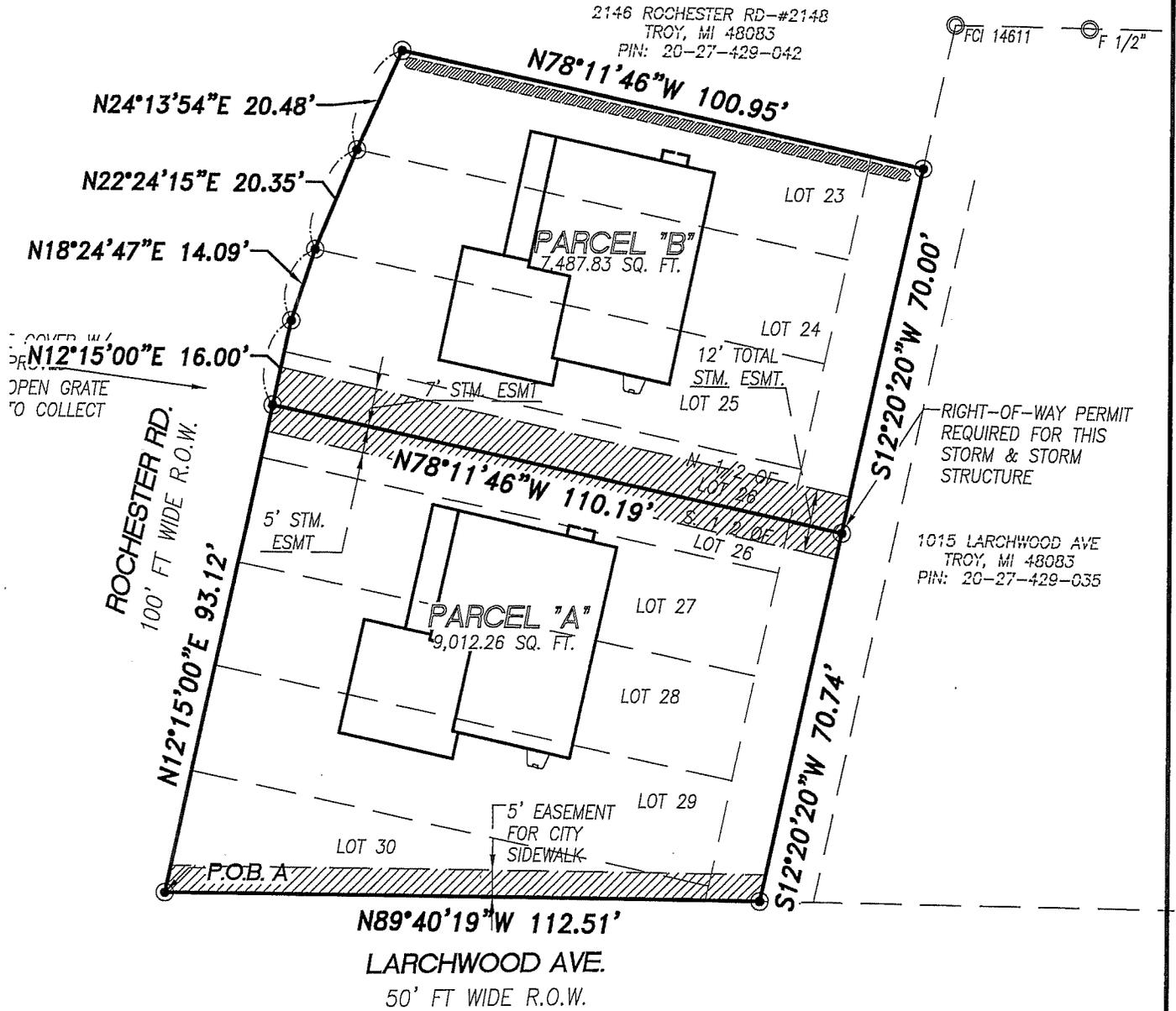
# SKETCH OF EASEMENT

**LEGAL DESCRIPTIONS:**

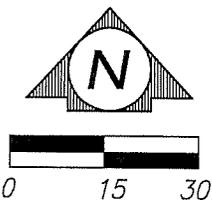
**PARCEL "A"**

THE SOUTH 1/2 OF LOT 26 AND LOTS 27-30 AND 1/2 OF VACATED ALLEY ADJACENT TO THE SAME OF "STUMPF'S BEECH GROVE SUBDIVISION" BEING A PART OF THE S.E. 1/4 OF SECTION 27, T.2N., R.11E., CITY OF TROY, OAKLAND COUNTY, MICHIGAN AS RECORDED IN LIBER 32 OF PLATS, PAGES 11 & 12, OAKLAND COUNTY RECORDS. CONTAINING 9,012.26 SQ. FT.

**5 FT. SIDEWALK EASEMENT** OVER THE SOUTHERLY 5 FT. OF THE SOUTH 1/2 OF LOT 26 AND LOTS 27-30 AND 1/2 OF VACATED ALLEY ADJACENT TO THE SAME OF "STUMPF'S BEECH GROVE SUBDIVISION" BEING A PART OF THE S.E. 1/4 OF SECTION 27, T.2N., R.11E., CITY OF TROY, OAKLAND COUNTY, MICHIGAN AS RECORDED IN LIBER 32 OF PLATS, PAGES 11 & 12, OAKLAND COUNTY RECORDS.



PREPARED FOR:  
EMERGENCY EGRESS LLC  
450 E. SQUARE LAKE RD.  
TROY, MI 48085  
(248) 866-0080



SCALE: 1" EQ. 30'  
SHEET: 1 OF 1



*Bradley G. Reichert*  
BRADLEY G. REICHERT P.S. #55923

Scale: 1"=30'  
Date: 1/26/16  
Job No. 15-145  
Drawn: B.G.R.



P 248.651.0592 F 248.656.7099  
Mail@ReichertSurveying.com  
140 Flumerfelt Lane - Rochester, MI 48306

Date:	Rev. By:

**PERMANENT EASEMENT**

Sidwell #88-20-27-429-050  
Resolution #

EMERGENCY EGRESS, LLC, a Michigan limited liability company, Grantor(s), whose address is 450 East Square Lake Road, Troy, MI 48085, for and in consideration of the sum of: One and no/100 Dollar (\$1.00) paid by the CITY OF TROY, a Michigan municipal corporation, Grantee, whose address is 500 West Big Beaver Road, Troy, Michigan, 48084 grants to the Grantee the right to construct, operate, maintain, repair and/or replace **storm sewers and surface drainage**, 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 OF

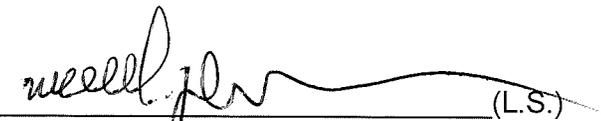
and to enter upon sufficient land adjacent to said improvement(s) for the purpose of the construction, operation, maintenance, repair and/or replacement thereof.

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 1 signature(s) this 4<sup>th</sup> day of February A.D. 2016.

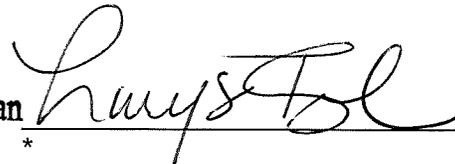
EMERGENCY EGRESS, LLC, a Michigan limited liability company

By  (L.S.)  
\* Michael A. Johnson  
Its Member

STATE OF MICHIGAN)  
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this 4<sup>th</sup> day of February, 2016, by Michael A. Johnson, Member of EMERGENCY EGRESS, LLC, a Michigan limited liability company on behalf of the company.

**LARYSA FIGOL**  
Notary Public, Oakland County, Michigan  
Acting in Oakland County, Michigan \*  
My Commission Expires 09/02/2018

  
\_\_\_\_\_  
My Commission Expires \_\_\_\_\_  
Acting in \_\_\_\_\_ County, \_\_\_\_\_

Prepared by: Larysta Figol  
City of Troy  
500 W. Big Beaver Road  
Troy, MI 48084

Return to: City Clerk  
City of Troy  
500 W. Big Beaver Road  
Troy, MI 48084

**PLEASE SIGN IN BLUE INK AND PRINT OR TYPE NAMES IN BLACK INK UNDER SIGNATURES**

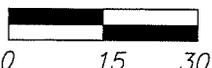
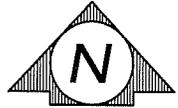
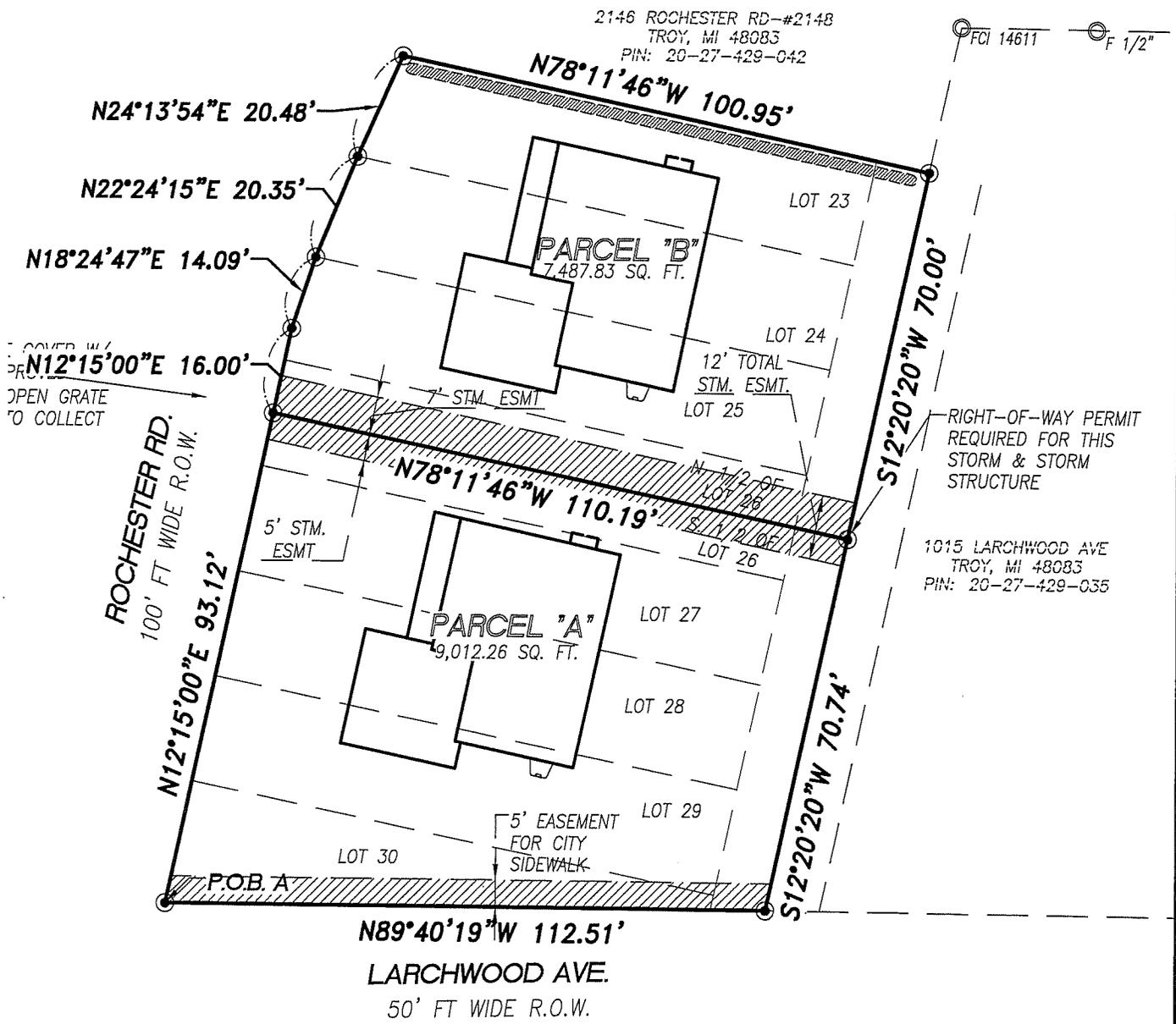
# SKETCH OF EASEMENT

**LEGAL DESCRIPTIONS:**

**PARCEL "A"**

THE SOUTH 1/2 OF LOT 26 AND LOTS 27-30 AND 1/2 OF VACATED ALLEY ADJACENT TO THE SAME OF "STUMPF'S BEECH GROVE SUBDIVISION" BEING A PART OF THE S.E. 1/4 OF SECTION 27, T.2N., R.11E., CITY OF TROY, OAKLAND COUNTY, MICHIGAN AS RECORDED IN LIBER 32 OF PLATS, PAGES 11 & 12, OAKLAND COUNTY RECORDS. CONTAINING 9,012.26 SQ. FT.

**5 FT. STORM SEWER EASEMENT** OVER THE NORTHERLY 5 FT. OF THE SOUTH 1/2 OF LOT 26 AND LOTS 27-30 AND 1/2 OF VACATED ALLEY ADJACENT TO THE SAME OF "STUMPF'S BEECH GROVE SUBDIVISION" BEING A PART OF THE S.E. 1/4 OF SECTION 27, T.2N., R.11E., CITY OF TROY, OAKLAND COUNTY, MICHIGAN AS RECORDED IN LIBER 32 OF PLATS, PAGES 11 & 12, OAKLAND COUNTY RECORDS.



SCALE: 1" EQ. 30'

SHEET: 1 OF 1



*Bradley G. Reichert*  
BRADLEY G. REICHERT P.S. #55923

PREPARED FOR:  
EMERGENCY EGRESS LLC  
450 E. SQUARE LAKE RD.  
TROY, MI 48085  
(248) 866-0080

Scale: 1"=30'  
Date: 1/26/16  
Job No. 15-145  
Drawn: B.G.R.



P 248.651.0592 F 248.656.7099  
Mail@ReichertSurveying.com  
140 Flumerfelt Lane - Rochester, MI 48306

Date:	Rev. By:

**PERMANENT EASEMENT**

Sidwell #88-20-27-429-049  
Resolution #

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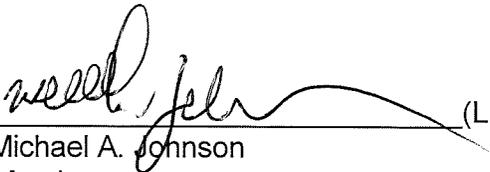
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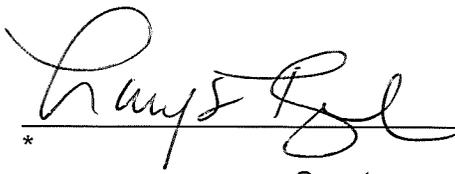
EMERGENCY EGRESS, LLC, a Michigan limited liability company

By  (L.S.)  
\* Michael A. Johnson  
Its Member

STATE OF MICHIGAN)  
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this 4<sup>th</sup> day of February, 2016, by Michael A. Johnson, Member of EMERGENCY EGRESS, LLC, a Michigan limited liability company on behalf of the company.

**LARYSA FIGOL**  
Notary Public, Oakland County, Michigan  
Acting in Oakland County, Michigan  
My Commission Expires 03/02/2018

  
\* \_\_\_\_\_  
Notary Public, \_\_\_\_\_ County, \_\_\_\_\_  
My Commission Expires \_\_\_\_\_  
Acting in \_\_\_\_\_ County, \_\_\_\_\_

Prepared by: Larysta Figol  
City of Troy  
500 W. Big Beaver Road  
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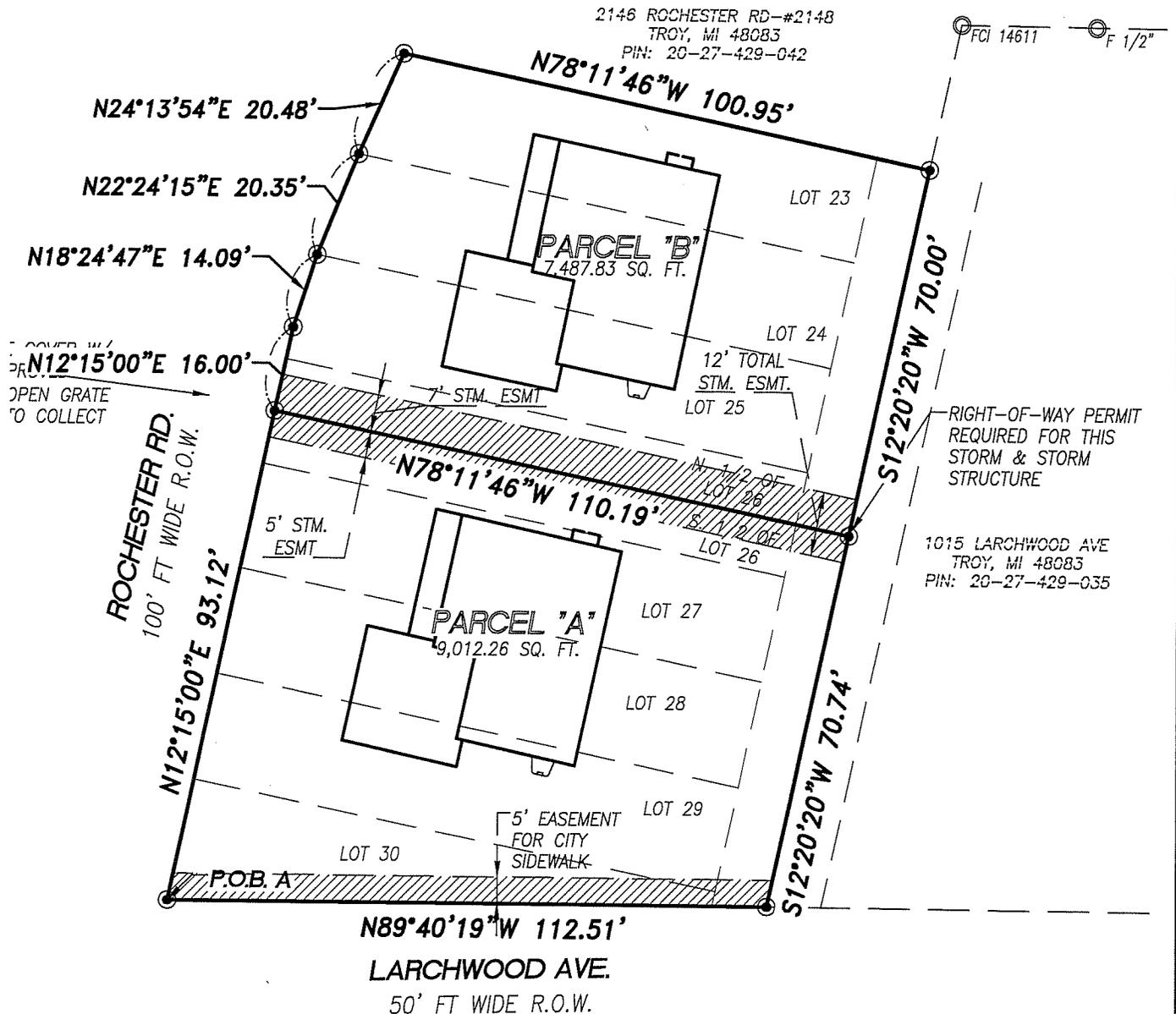
# SKETCH OF EASEMENT

**LEGAL DESCRIPTIONS:**

**PARCEL "B"**

LOTS 23-25 & NORTH 1/2 OF LOT 26 AND 1/2 OF VACATED ALLEY ADJACENT TO THE SAME, EXCEPT THAT PART TAKEN FOR HWY I-75, OF "STUMPF'S BEECH GROVE SUBDIVISION" BEING A PART OF THE S.E. 1/4 OF SECTION 27, T.2N., R.11E., CITY OF TROY, OAKLAND COUNTY, MICHIGAN AS RECORDED IN LIBER 32 OF PLATS, PAGES 11 & 12, OAKLAND COUNTY RECORDS. CONTAINING 7,487.83 SQ. FT.

**7 FT. STORM SEWER EASEMENT** OVER THE SOUTHERLY 7 FT. OF LOTS 23-25 & NORTH 1/2 OF LOT 26 AND 1/2 OF VACATED ALLEY ADJACENT TO THE SAME, EXCEPT THAT PART TAKEN FOR HWY I-75, OF "STUMPF'S BEECH GROVE SUBDIVISION" BEING A PART OF THE S.E. 1/4 OF SECTION 27, T.2N., R.11E., CITY OF TROY, OAKLAND COUNTY, MICHIGAN AS RECORDED IN LIBER 32 OF PLATS, PAGES 11 & 12, OAKLAND COUNTY RECORDS.



SCALE: 1" EQ. 30'

SHEET: 1 OF 1



*Bradley G. Reichert*

BRADLEY G. REICHERT P.S. #55923

PREPARED FOR:  
EMERGENCY EGRESS LLC  
450 E. SQUARE LAKE RD.  
TROY, MI 48085  
(248) 866-0080

Scale: 1"=30'  
Date: 1/26/15  
Job No. 15-145  
Drawn: B.G.R.



**REICHERT**  
SURVEYING INC.

P 248.651.0592 F 248.656.7099  
Mail@ReichertSurveying.com  
140 Flumerfelt Lane - Rochester, MI 48306

Date:	Rev. By:



## CITY COUNCIL AGENDA ITEM

---

Date: February 17, 2016

To: Brian Kischnick, City Manager

From: Mark F. Miller, Director of Economic & Community Development  
R. Brent Savidant, Planning Director

Subject: ANNOUNCEMENT OF PUBLIC HEARING (MARCH 14, 2016) – ZONING ORDINANCE TEXT AMENDMENT (File Number: ZOTA 247) – Oil and Gas Extraction

This item was initiated by the Planning Commission, who recognized that the Zoning Ordinance is presently silent on the issue of oil and gas extraction. This effort is intended to protect Troy residents and property owners against the negative secondary effects of these facilities while at the same time creating reasonable standards for oil and gas extraction facilities.

The provisions were discussed by the Planning Commission at previous meetings. The proposed provisions would regulate oil and gas extraction in Troy, including fracking.

Draft amendments include the following:

- Oil and gas facilities are permitted in IB District as a Special Use
- Requires a minimum lot size of 5 acres
- Requires increased setbacks based on adjacent use/zoning
- Requires extensive fencing, landscaping, and limited lighting
- Requires adherence to strict nuisance and performance standard requirements
- Requires submittal of a detailed Operations Plan

The Planning Commission held a public hearing on this item on June 23, 2015, and recommended approval of the text amendment with a 9-0 vote. The City Council held a public hearing on this item on July 20, 2015 and scheduled a joint meeting with Planning Commission to discuss further. Three experts attended the joint meeting on September 14, 2015 to share their expertise with the boards. At the end of the joint meeting the consensus was that the item needed to go back to the Planning Commission for further discussion and review. The experts were provided time to respond in writing to all questions raised during the meeting. The Planning Commission considered the item at the January 26, 2016 Regular meeting, including the responses provided by the experts, and voted 7-0 to make no changes to the text amendment.

At the January 26, 2016 meeting the Planning Commission discussed a drilling permit that was recently applied for in Southfield (see attached article).

A public hearing for this item is scheduled for the March 14, 2016 City Council Regular meeting.

Approved as to form and legality:

---

Lori Grigg Bluhm, City Attorney



## CITY COUNCIL AGENDA ITEM

---

### Attachments:

1. Zoning Ordinance Text Amendment Public Hearing Draft
2. Map of properties zoned IB and minimum 5 acres in area
3. Minutes from June 23, 2015 Planning Commission Regular meeting (excerpt)
4. Minutes from July 20, 2015 City Council Regular meeting (excerpt)
5. Minutes from September 14, 2015 Joint City Council/Planning Commission meeting (excerpt)
6. Written responses from experts attending joint meeting
7. Minutes from January 26, 2016 Planning Commission meeting (excerpt)
8. Article from Crain's Detroit Business, originally published January 17, 2016

G:\ZOTAs\ZOTA 247 Oil and Gas Extraction\CC Memo\_Announce Public Hearing 2016 02 22.doc

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, Zoning Ordinance, of the Code of the City of Troy.

Section 2. Amendment

Chapter 39 of the Code of the City of Troy is amended as follows:

**Add the following definitions in Section 2.02 to read as follows:**

DERRICK – Any portable framework, tower mast and/or structure which is required or used in connection with drilling or re-working a well for the production of oil or gas.

DRILLING PAD-- The area of surface operations surrounding the surface location of a well or wells. Such area shall not include an access road to the drilling pad.

HYDRAULIC FRACTURING OR FRACKING-- The process of injecting water, customized fluids, sand, steam, or gas into a gas well under pressure to improve gas recovery.

HORIZONTAL DRILLING- The drilling of an oil or natural gas well at an angle so that the well runs parallel to the formation containing the oil or gas.

OIL AND GAS -- Crude oil, natural gas, methane gas, coal bed methane gas, propane, butane and/or any other products or similar substances that are produced by drilling an oil or gas well.

OIL AND GAS DEVELOPMENT -- The well site preparation, construction, drilling, redrilling, hydraulic fracturing, and/or site restoration associated with an oil or gas well of any depth; water and other fluid storage, impoundment and transportation used for such activities; and the installation and use of all associated equipment, including tanks, meters, and other equipment and structures whether permanent or temporary; and the site preparation, construction, installation, maintenance and repair of oil and gas pipelines and associated equipment and other equipment and activities associated with the exploration for, production and transportation of oil and gas. The definition does not include natural gas compressor stations and natural gas processing plants or facilities performing the equivalent functions.

OIL OR GAS WELL--A pierced or bored hole drilled or being drilled in the ground for the purpose of, or to be used for, producing, extracting or injecting gas, oil, petroleum or another liquid related to oil or gas production or storage, including brine disposal.

OIL OR GAS WELL SITE -- The location of facilities, structures, materials and equipment (whether temporary or permanent), that are necessary for or incidental to the preparation, construction, drilling, production or operation of an oil or gas well. This definition also includes exploratory wells.

NATURAL GAS COMPRESSOR STATION -- A facility designed and constructed to compress natural gas that originates from a gas well or collection of such wells operating as a midstream facility for delivery of gas to a transmission pipeline, distribution pipeline, natural gas processing plant or underground storage field, including one or more natural gas compressors, associated buildings, pipes, valves, tanks and other equipment.

NATURAL GAS PROCESSING PLANT -- A facility designed and constructed to remove materials such as ethane, propane, butane, and other constituents or similar substances from natural gas to allow such natural gas to be of such quality as is required or appropriate for transmission or distribution to commercial markets but not including facilities or equipment that is designed and constructed primarily to remove water, water vapor, oil or naturally occurring liquids from the natural gas.

STORAGE WELL-- A well used for and in connection with the underground storage of natural gas, including injection into or withdrawal from an underground storage reservoir for monitoring or observation of reservoir pressure.

**Revise the following table in Section 4.21 to read as follows:**

	R1A-R1E	RT	MF	UR	MHP	CF	EP	CB	GB	IB	O	OM	RC	PV	P
Oil and Gas Well or Development	NP	NP	NP	NP	NP	NP	NP	NP	NP	S	NP	NP	NP	NP	NP

**Add Section 6.33 to read as follows:**

Section 6.33: Oil and Gas Well/Development Standards for Special Use Approval:

The purpose of this section is to provide for the reasonable development of land for oil and gas drilling while providing adequate health, safety and general welfare protections of the residents of Troy. It is necessary and appropriate to adopt reasonable requirements for oil and gas resource development so that these resources can be obtained in a manner that protects the environment, protects residential properties and residential property values, and mitigates negative impacts.

The following requirements shall apply to the location, installation, drilling and operation of any well for the commercial extraction of oil, gas or other hydrocarbons in the City:

- A. Spacing and Well Setbacks. In addition to the spacing and setback requirements of the State of Michigan and the regulations of its Supervisor of Wells, the drilling, completion, or operation of oil or gas wells or well site shall not be located within 300 feet from any road right-of-way, 500 feet of a residentially zoned or used property or any property used for a religious facility, public or private school, or hospital, and 100 feet from any other property line. The setbacks in this section also apply to the area underground, and

preclude any horizontal drilling within the setback unless the applicant demonstrates to the City's satisfaction a legal entitlement to drill on adjacent properties through mineral rights acquisition or other means.

The measurement of the setback shall be made from the edge of the well site (in a straight line, without regard to intervening structures or objects), to the closest exterior point of the adjacent parcel.

- B. Height. The completed wellhead structure shall not exceed twenty-two (22) feet in height. The temporary drilling derrick/rig shall not exceed one-hundred and ten (110) feet in height.
- C. Minimum Lot Size. The minimum lot size shall be 5 acres.
- D. Fencing, Landscaping, and Lighting.
  - 1. An oil or gas well site shall be completely enclosed within a 6-foot high fence.
  - 2. Staggered ten (10) foot tall evergreen trees shall be placed around the perimeter of the fence with a minimum landscape greenbelt buffer of twenty-five (25) feet in depth. This landscaping buffer shall be in place within thirty (30) days of the removal of the temporary drilling derrick/rig. The landscape buffer and trees shall be regularly irrigated and maintained.
  - 3. Exterior lighting shall comply with Section 13.05 of the Zoning Ordinance.
- E. Nuisance Mitigation. The drilling, completion, or operation of oil or gas wells or other wells drilled for oil or gas exploration purposes shall comply with Section 12.06, Environmental Performance Standards. Those standards address potential nuisances such as noise, smoke, dust, open storage, fire and explosive hazards, odors, wastes, and vibration. Due to the unique nature of this type of operation, additional information and standards may be required.
- F. Dust, Noise, Vibration, and Odors. All operations shall be conducted in such a manner as to minimize, so far as practicable, dust, noise, vibration, or noxious odors, and shall be in accordance with the best accepted practices defined by the Michigan Department of Environmental Quality (MDEQ) for the production of oil, gas and other hydrocarbon substances in urban areas. All equipment used shall be constructed and operated so that vibrations, dust, odor or other harmful or annoying substances or effects will be minimized by the operations carried on at any drilling or production site or from anything incidental thereto, and to minimize the annoyance of persons living or working in the vicinity. Additionally, the site or structures on the property shall not be permitted to become dilapidated, unsightly, or unsafe. The City may impose additional reasonable restrictions upon such operations to reduce adverse impacts upon adjacent properties.
- G. Oil and Gas Processing Facilities. Associated processing facilities that separate oil, gas, and brine and hold said products for transport off-site for further refinement and processing are not permitted.
- H. Compliance with Laws and Permit Issuance. The drilling, completion, or operation of oil or gas wells or other wells drilled for the purpose of oil or gas exploration shall be done in conformity with all State and Federal laws, statutes, rules, and regulations pertaining thereto and particularly with the State of Michigan and the regulations of its Supervisor of Wells. This shall include obtaining the required permit from the Supervisor of Wells.

which permit shall be provided to the City before the City can grant special use approval under this section. This requirement also applies to, but is not limited to the plugging of wells, the exploring for, producing, marketing, and transporting of petroleum products, and the disposition and removal of any byproducts utilized and associated with said activities.

- I. Associated Permits and Approvals. Special use approval for the drilling, completion, or operation of oil or gas wells or other wells drilled for oil or gas exploration purposes is in addition to and are not in lieu of any permit or plan which may be required by any other provision of the City of Troy Zoning Ordinance, Building and Fire Codes, or by any other governmental agency, unless expressly outlined.
- J. Operations
  1. Permitted Construction Activity Hours. Site preparation and construction of well sites are limited to the hours of 7 am to 8 pm. Construction activities associated with establishing of the well sites may be eligible for an exception by the Building Department in accordance with the City's Special Hours Work Permit if such activities are in compliance with applicable laws and permits.
  2. The movement of drilling rigs, tanker trucks or heavy equipment used in connection with the drilling or operation of oil or gas wells over public roads and streets, shall be consistent with the City's Traffic Engineer's approval, which shall be obtained in advance. The City's Traffic Engineer shall identify the streets which may be used and any conditions that may apply.
  3. All brine, mud, slush, saltwater, chemicals, wastewater, chemical, fluids or waste produced or used in the drilling or production of oil or gas shall be safely, lawfully and properly disposed of to prevent infiltration of or damage to any fresh water well, groundwater, watercourse, pond, lake or wetland.
  4. The oil or gas well site shall be kept in a clean and orderly condition, free of trash and debris, with weeds cut. Machinery and equipment not being used in the operation of the well shall not be stored or kept at the well site.
  5. An oil or gas well shall include measures or controls satisfactory to the City Engineer to prevent migration, run-off or discharge of any hazardous materials, including but not limited to any chemicals, oil or gas produced or used in the drilling or production of oil or gas, to adjoining property or to the City of Troy sanitary sewer system, stormwater system or any natural or artificial watercourse, pond, lake or wetland. There shall be no off-site discharge of storm water except to an approved drainage system in accordance with the City's engineering requirements.
- K. Inspection. The Building Official, and any other designee of the City Manager, shall have the right and privilege at any time during the construction phase and any drilling operation to enter upon the premises covered by the special use approval for the purpose of making inspections to determine if the requirements of this section are complied with or the requirements of any other code or ordinance of the City are met.
- L. Injection wells. Injection wells used for brine disposal or other chemicals from production wells or from other sources shall be expressly prohibited within the City.

- M. Pipelines. No operator shall excavate or construct any lines for the conveyance of fuel, water, oil, gas or petroleum liquids on, under, or through the streets, alleys or other properties owned by the City without an easement or right-of-way license from the City.
- N. Submittal Requirements. In addition to submittal requirements for a Site Plan as set forth in Article 8 and Special Use as set forth in Article 9, the following information shall be submitted as part of the application:
1. Environmental Impact Statement. Applicant shall submit an Environmental Impact Statement filed with the Michigan Department of Environmental Quality in connection with a well permit under Part 615 of the Natural Resources and Environmental Protection Act, MCL 524.61501, et seq, and the administrative rules promulgated under Part 615, as amended.
  2. Hydrogeological analysis.
  3. Emergency Response Plan. Pursuant to State and Federal law, the operator shall provide any information necessary to assist the City Emergency Services Department with an emergency response plan and hazardous materials survey establishing written procedures to minimize any hazard resulting from the operation. The Emergency Response Plan should include emergency contact information.
  4. Reclamation Plan. A written statement that describes how the land will be returned to a stable and productive condition post drilling operations.
  5. Operations Plan to include:
    - i. Site ingress/egress
    - ii. Haul Route Map. Vehicle Routes for Truck Traffic. Construction vehicles and commercial trucks, associated with drilling and/or production operations shall be restricted to roads designated by the City Engineer.
    - iii. Hours of Operation. State listed hours of operation.
    - iv. Soil Erosion, Mud and Dust Control Plan.
    - v. Noise Control Plan. Prior to the granting of special use approval and the commencement of operations, the petitioner shall submit a noise management plan, detailing how the equipment used in the drilling, completion, transportation, or production of a well complies with the maximum permissible noise levels of the Zoning Ordinance. If Special Use Approval is granted, the Petitioner shall be responsible for verifying compliance with this section and the noise management plan after the installation of the equipment. The noise management plan shall:
      - i. Identify operational noise impacts
      - ii. Provide documentation establishing the ambient noise level prior to construction.
      - iii. Detail how the impacts will be mitigated. In determining noise mitigation, specific site characteristics shall be considered, including but not limited to the following:
        1. Nature and proximity of adjacent development, location, and type
        2. Seasonal and prevailing weather patterns, including wind directions
        3. Vegetative cover on or adjacent to the site

4. Topography
- vi. Odor and Fume Control Plan
  - vii. Pollution Prevention Plan
  - viii. Impact Mitigation Plan
  - ix. Monitoring controls.

### 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.

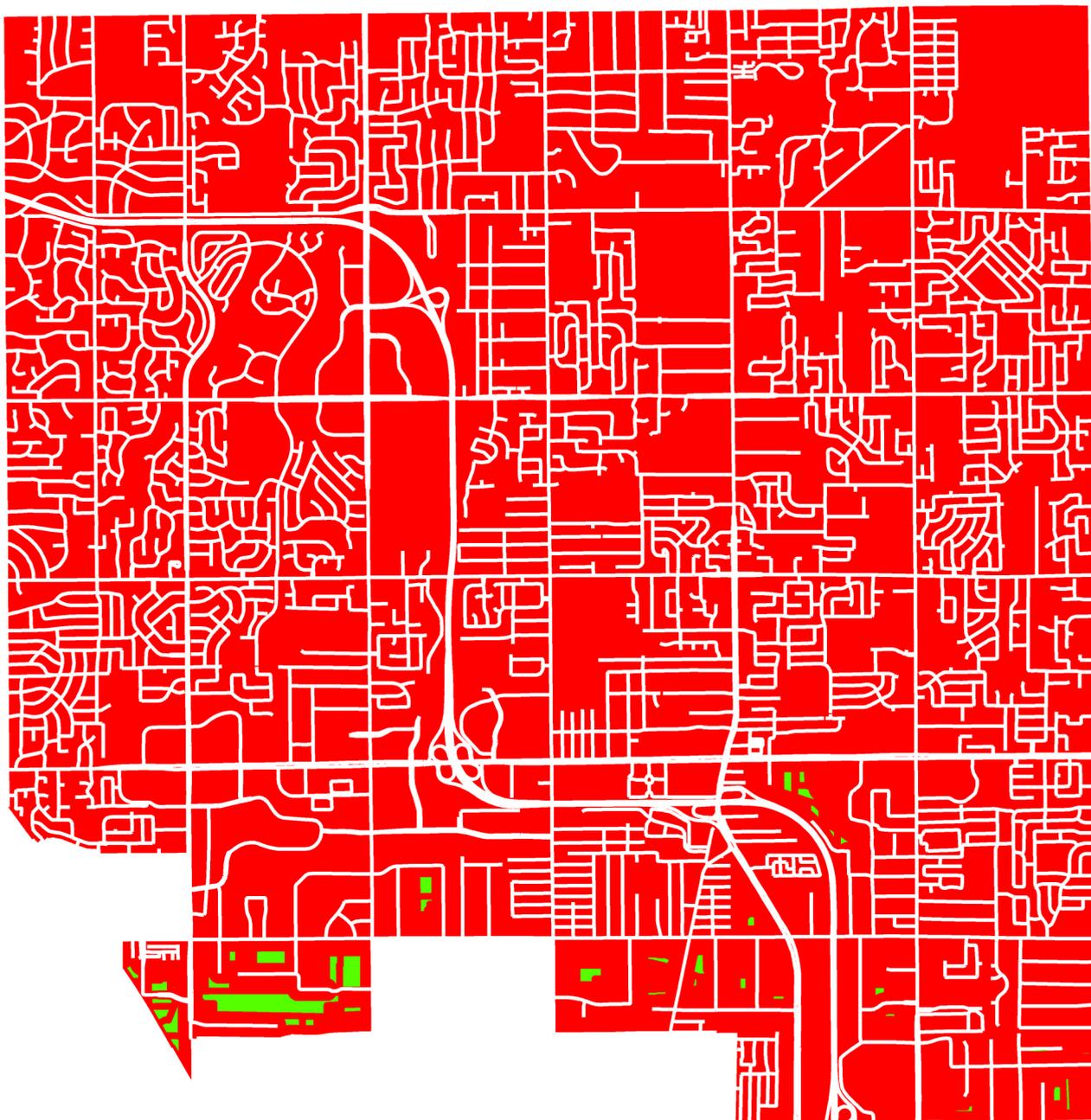
### Section 5. Effective Date

This amendment to the Zoning Ordinance shall take effect seven (7) days after publication, which shall be published within 15 days of adoption, as required the Michigan Zoning Enabling Act (Act 110 of 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 \_\_\_\_\_, 2015.

\_\_\_\_\_  
Dane Slater, Mayor

\_\_\_\_\_  
Aileen Bittner, City Clerk



## PROPOSED OIL AND GAS PROVISIONS

 Areas meeting criteria for Oil and Gas Facilities (as per proposed text amendment)

**ZONING ORDINANCE TEXT AMENDMENT**9. **PUBLIC HEARING - ZONING ORDINANCE TEXT AMENDMENT (File Number ZOTA 247) – Oil and Gas Extraction**

Mr. Savidant gave a PowerPoint presentation. He addressed the proposed regulations as relates to:

- Zoning District
- Special Use permit
- Minimum lot size and setbacks
- Screening and lighting
- Potential oil and gas sites (map)
- Nuisance performance standards
- Submittal requirements
- Comparison with Rochester Hills regulations

Mr. Motzny addressed the proposed regulations with respect to the constitutionality and non-exclusionary aspects of the law.

**PUBLIC HEARING OPENED**

Jennifer Halucha of 3219 Abington would like the City to strengthen its proposed regulations. She addressed regulations imposed by other communities.

Lois Pylat of 2378 Topaz encouraged members of government to contact Lansing in an effort to stop fracking. She addressed the potential for health consequences.

Cynthia Khan of 6902 Aurora addressed the dependency on other countries for energy and encouraged the use of our country's resources.

Toni Kovach of 2370 Topaz would like the City to strengthen the proposed regulations and provide protection of those who are in ill health.

Michael Ross of 152 Randall addressed the viable direction in which our country needs to go to stabilize its borders and international economy.

John Griffin of American Petroleum Institute, 124 W Allegan, Lansing, encouraged interested parties to learn more about the extraction of oil and fracking before speaking negatively on the matter. He addressed permitting in Troy, geological findings in Oakland County, protection of property rights and State regulations.

**PUBLIC HEARING CLOSED**

Chair Edmunds encouraged residents to contact their State legislators.

Mr. Savidant advised the audience the Planning Commission is the recommending body for a proposed text amendment and a Public Hearing will be scheduled at a future City Council meeting for consideration.

**Resolution # PC-2015-06-040**

Moved by: Hutson

Seconded by: Kuppa

**RESOLVED**, That the Planning Commission hereby recommends to the City Council that Articles 2, 4, and 6 of Chapter 39 of the Code of the City of Troy, which includes miscellaneous provisions related to oil and gas extraction, be amended as printed on the proposed Zoning Ordinance Text Amendment.

Yes: All present (9)

**MOTION CARRIED**

## CITY COUNCIL MINUTES-Final July 20, 2015

### **E-2 Public Hearing – Zoning Ordinance Text Amendment – File ZOTA 247 – Oil and Gas Extraction (Presented by Brent Savidant, Planning Director)**

The Mayor opened the Public Hearing for public comment. The Mayor closed the Public Hearing after receiving comment from Minesh Baxi and John Griffin.

Resolution #2015-07-090

Moved by Slater

Seconded by Campbell

RESOLVED, That Troy City Council **SCHEDULES** a joint meeting of the City Council and Planning Commission on Monday, September 14, 2015, at 6:00 PM in the Council Boardroom to discuss proposed amendments to the Zoning Ordinance pertaining to the regulation of oil and gas facilities, as requested by City Management.

Yes: All-7

No: None

**MOTION CARRIED**

**A. CALL TO ORDER:**

A Special Joint Meeting of the Troy City Council and Planning Commission was held on Monday, September 14, 2015, at City Hall, 500 W. Big Beaver Rd. Mayor Slater called the meeting to order at 6:01 PM.

**B. ROLL CALL:**

a)	<u>City Council Members</u>	<u>Planning Commission Members</u>
	Mayor Dane Slater	Chairman Donald Edmunds
	Jim Campbell	Ollie Apahidean
	Steve Gottlieb	Karen Crusse
	Dave Henderson	Carlton Faison
	Ellen Hodorek	Michael W. Hutson
	Ed Pennington – Arrived at 6:22 PM	Tom Krent
	Doug Tietz	Padma Kuppa
		Philip Sanzica
		John Tagle

**C. DISCUSSION ITEMS:****C-1 Master Plan Update - Carlisle/Wortman Associates, Inc.**

Mr. Brian Kischnick, City Manager, introduced Mr. Dick Carlisle, Carlisle/Wortman Associates, Inc., who discussed the Master Plan Community Engagement and remaining tasks involved in updating the Master Plan.

**C-2 Why We Are Here/Framing the Issues - City Manager Brian Kischnick**

Mr. Kischnick introduced Mr. Brent Savidant, Planning Director, who provided a brief introduction to the topic of the proposed amendment to the City of Troy Zoning Ordinance in order to regulate oil and gas extraction facilities.

**C-3 Presentation by Hal Fitch, Director, Office of Oil, Gas and Minerals, MDEQ**

Mr. Kischnick introduced Mr. Hal Fitch, Director of Oil, Gas and Minerals, MDEQ. Mr. Fitch provided an introduction to the functions and rules of the Office of Oil, Gas and Minerals of the Michigan Department of Environmental Quality. He stated that his office seeks to strike a balance between the rights of mineral owners, surface property owners and environmental protection. Mr. Fitch explained the latest security controls on wells in regards to environmental impact. He provided a brief summary of the restrictions in place regarding wells and extraction facilities. Mr. Fitch commented that the proposed ordinance looks promising but he pointed out a couple areas that he thinks could be problematic. He said the proposed setback distance, restricting drilling to a smattering of locations in one corner of the City, and limiting drilling to a vertical hole versus a horizontal track are problematic amendments that could be liabilities.

**C-4 Presentation by Jim Nash, Oakland County Water Resources Commissioner**

Mr. Kischnick introduced Mr. Jim Nash, Oakland County Water Resources Commissioner, who discussed his perspective on the proposed amendment to the City of Troy Zoning Ordinance on extraction facilities. He provided a recommendation that the City contact an organization called Flow for Water. He commented that the proposed ordinance is a good idea, and limiting exposure of the residents to the environmental effects of drilling sites such as air quality. He recommended frequent testing of the ground water and wildlife in the area around the drilling site. He said the City has a lot of power in controlling the regulations of tank farms and other aspects of facilities. Mr. Nash summarized that water quality and air quality are his biggest concerns with these facilities.

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**C-5 Presentation by John Griffin, Executive Director, Associated Petroleum Industries of Michigan**

Mr. Kischnick introduced Mr. John Griffin, Executive Director, Associated Petroleum Industries of Michigan, who discussed a handout he provided from the Energy Information Administration to the City Council and Planning Commission. Mr. Griffin explained that many communities are examining the issues of oil and gas extraction facilities. He said that national organizations are approaching individual communities in order to encourage communities to adopt restrictive ordinances and if enough communities adopt restrictions, there could be a de facto ban on extraction facilities. He said that everyone uses energy resources and products every day, and wells are necessary to provide those resources. He commented that the City of Troy proposed Zoning Ordinance Amendment seems very restrictive. Mr. Griffin said that the State restrictions are sufficient and consistent, and local restrictions will end up hurting consumers.

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**C-6 Questions/Discussion**

Chairman Edmunds asked about the presenters' assessments of ordinances enacted in nearby cities. Mr. Fitch answered that some he has seen are pretty restrictive, and Troy's proposed ordinance prohibits development in too large of areas. Mr. Nash commented that there is always a risk of a law suit for having too restrictive an ordinance. He said Flow for Water has a lot of useful information on their website. Mr. Fitch commented that some of the suggestions from Flow for Water are questionable.

Mayor Pro Tem Campbell asked what takes precedence: mineral rights or property rights. Mr. Fitch answered that mineral rights are dominant over the surface property rights.

Ms. Kuppa asked Mr. Savidant if he compared Troy's proposed ordinance to Rochester Hills ordinance and if Troy's proposed ordinance is defensible. Mr. Allan Motzny, Assistant City Attorney, said that Troy's proposed ordinance is defensible and does not prohibit drilling beyond the subsurface property lines as long as the drilling company has documentation that they have the right to do so. Mr. Nash said that the City has the right to regulate where pipes are placed, and pipes have the potential to leak more than trucks.

Council Member Tietz asked if the City Council passed an ordinance, and it was challenged, would the City be sued and have damages assessed to the City. Mrs. Bluhm answered that there is a risk of being sued if the City passes an ordinance that is more restrictive than the State regulations.

Mrs. Crusse asked for confirmation regarding the statement that the area of Troy does not lend itself to what hydraulic fracturing companies are looking for. Mr. Fitch answered that the land

and reservoirs in this area does not lend itself to hydraulic fracturing. Mrs. Crusse asked Mr. Fitch to confirm that hydraulic fracturing in the State of Michigan have been safe so far. He commented that there has not been an incident of environmental contamination from a hydraulic fracturing operation itself in the State of Michigan. Mrs. Crusse asked Mr. Griffin about his statement that when cities and townships create ordinances to control hydraulic fracturing, that he was of the opinion that it was better to regulate in the big picture instead of each municipality adopting individual regulations. Mr. Griffin answered that statewide regulations are best. Mr. Nash commented that most wells in Michigan were never tested, so there is no way to know if there were leaks or contamination. He said that citizen complaints need to be addressed. Mr. Griffin commented that a former EPA Administrator testified before Congress that there had been no accidents with hydraulic fracturing. He also said that new rules passed last March require baseline water testing. Mr. Nash commented that those rules are for large-scale fracking, not small-scale fracking.

Council Member Henderson asked what is meant by the phrase 40 acres under lease and 3 acres to drill. Mr. Fitch answered that a square 40 acres is the size of the tract that is needed to form one well, and leases on the land in those 40 acres are needed in order to drill.

Mr. Krent asked if the property owner owns the mineral rights or how property owners can find out if they own mineral rights on their land and how to get them if they don't own them. Mr. Fitch answered that residents can look at the Register of Deeds to see if the mineral rights have been sold at some point.

Mr. Apahidean asked Mr. Fitch knows how many wells in Michigan are horizontal wells and what percentage are in urban areas. Mr. Fitch answered that over 1,800 wells have been drilled within cities and villages. He said that horizontal drilling started around 1980, and is more the exception than the rule, so there aren't many horizontal wells.

Mr. Tagle asked how the City can know where the drilling companies may want to drill, so as to try to avoid limiting property rights. Mr. Fitch answered that you don't know until the drilling company conducts surveys and testing.

Council Member Gottlieb asked if there has been one incident of hydraulic fracking in Oakland County. Mr. Fitch answered that he is not aware of one. Mr. Griffin commented that permit applications can be found on the MDEQ website, listed by county. Mr. Fitch commented that when the MDEQ receives an application, they contact the local governing body and will attend public meetings if the local body requests their presence. Mr. Nash asked if drilling operations are exempt from FOIA. Mr. Fitch answered that the drilling sites and locations are not confidential, but the formation and character of the formation can be held confidential.

Mr. Hutson commented that if the land in Troy is no conducive to fracking, then there will be no harm in enacting the proposed ordinance. He said the State statute is general, and the proposed ordinance fills in gaps that are in the State statute. Mr. Hutson agreed with Mr. Nash that safety is most important.

Council Member Pennington asked if there's a case in Michigan where they've been doing horizontal fracturing. Mr. Fitch answered that horizontal drilling doesn't always mean horizontal fracturing takes place. He said that there have been about 80 high-volume hydraulic fracturing operations in Michigan. He said there have been about 15 large-scale horizontal wells.

Mr. Faison asked about the settlement amounts in the lawsuits and the difference in scenarios of the cases. Mr. Fitch answered that the Ludington area lawsuit was higher because of the prospective value of the operation. He said that in the Farmington Hills case, the damages to the operator were less because the value of the potential reserves was lower. Mr. Faison asked if Troy lends itself to large-scale development in terms of opportunity. Mr. Fitch answered that one of the wells in the formation in this part of the state produces about \$8000 in revenue per day.

**C-7 Wrap Up/Next Steps**

Mayor Slater thanked the speakers for their information. He said that he believes there needs to be more discussion, and that the ordinance amendment needs to go back to the Planning Commission for further discussion and review. Mr. Edmunds requested that the questions asked tonight be provided to the speakers for their consideration and answers. He said that perhaps this amendment could be postponed until November or December. Mrs. Crusse commented that this topic arose so that the City of Troy would not be taken by surprise by a drilling company wishing to drill in Troy. Mr. Edmunds asked if Shelby Township was notified when the exploratory drill was proposed. Mr. Fitch answered that Shelby Township was notified. Council Member Tietz asked the Planning Commission to pay attention to the fact that there were concerns tonight about the ordinance amendment being too restrictive.

**D. PUBLIC COMMENT:**

Janet Moore – Troy resident, is concerned about fracking in Troy.

David Riley – Engineer, is concerned about property values near extraction sites.

Marla Wills – is concerned about the hazards of extraction facilities and the surrounding area.

**E. ADJOURNMENT:**

The Meeting **ADJOURNED** at 7:13 PM.

\_\_\_\_\_  
Mayor Dane Slater

\_\_\_\_\_  
M. Aileen Dickson, CMC  
City Clerk

**Hal Fitch**  
**Chief, Office of Oil, Gas, and Minerals**  
**Michigan Department of Environmental Quality**

**John Griffin, Executive Director**  
**Associated Petroleum Industries of MI**

**Jim Nash**  
**Oakland County Water Resources Commissioner**

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1. What are the presenters' assessments of ordinances enacted in nearby cities?

**Fitch:** *I have not reviewed ordinances in nearby cities.*

**Griffin:** *API believes local ordinances are unnecessary and create a patchwork of regulations which have the impact of deterring production of minerals. Statewide regulation and oversight is best. We suggest that a particular industry should not be singled out for regulation if other industries or organizations operate in a similar fashion. (Restrictions on transportation, noise etc.)*

**Nash:** *Not being an attorney, I can't comment on other ordinances. I would suggest talking to FLOW for Water, at (231) 944-1568, for their opinion.*

2. What takes precedence: mineral rights or property rights?

**Fitch:** *First, let me clarify that mineral rights are property rights. The courts have found that the owner of the surface (if separate from the mineral owner) cannot prevent the owner of mineral rights (including oil and gas rights) from using the surface in a reasonable manner to extract his or her minerals.*

**Griffin:** *This issue is discussed in the attached legal memo.*

**Nash:** *In law, mineral rights are property rights. Most people would consider the right not to be polluted on their land as a property right. The balance of benefitting from your mineral rights and the effect on surrounding properties is what local communities must consider.*

3. If one were to compare Troy's proposed ordinance to Rochester Hills' ordinance, is Troy's proposed ordinance defensible?

**Fitch:** *I have not reviewed Rochester Hills' ordinance. I would advise caution in comparing ordinances as to what is "defensible," because the legal defensibility of any given ordinance may only be determined if it is challenged, and then it may depend on the specifics of the case.*

**Griffin:** *This question is for your attorneys to answer. The attached legal memo should be helpful in their research.*

**Nash:** *Again, talk to Flow for Water for legal advice on ordinances.*

4. If the City Council passed an ordinance, and it was challenged, would the City be sued and have damages assessed to the City?

**Fitch:** *This question calls for a legal conclusion and may depend on the details; however, another city in southeast Michigan—Farmington Hills—was sued because their ordinance was alleged to be unduly prohibitive, and the city settled for a substantial sum (see below).*

**Griffin:** *I again refer you to the legal memo for guidance, but we cannot speculate or give you legal advice. Answering such a hypothetical question would be difficult for anyone to answer without specifics.*

**Nash:** *The city could be sued over any ordinance, including this. I can't speak to the legal specifics.*

5. Could the presenters confirm the statement that the area of Troy does not lend itself for what hydraulic fracturing companies are looking?

**Fitch:** *The formations of interest for oil and gas development in the Troy area are not typically candidates for hydraulic fracturing.*

**Griffin:** *I will defer to Hal Fitch, the state geologist, who has made such a statement in the Oakland Press. A copy of the article is attached.*

**Nash:** *I can only repeat the claim that the formations aren't compatible with fracking. Future technologies may change that.*

6. When cities and townships create ordinances to control hydraulic fracturing, is it better to regulate in the big picture instead of each municipality adopting individual regulations?

**Fitch:** *First of all, it should be noted that hydraulic fracturing is just one aspect of the development of some oil and gas wells, and the practice of hydraulic fracturing itself has never caused environmental contamination in Michigan. We believe oil and gas development is most effectively regulated at the state level. The Michigan Department of Environmental Quality regulates essentially all aspects of oil and gas drilling and production intensively and comprehensively, and has the necessary technical and legal resources to do so. We have an excellent history of protecting the environment and public health and safety from damage by oil and gas development.*

**Griffin:** *Yes, assuming you mean statewide from a qualified regulating agency. A state's constitutional provisions relating to property rights needs to be recognized as well.*

**Nash:** *The companies would prefer only one set of rules for the state. Of course, all companies would prefer their industry not being regulated locally, but most don't have that option. Oil/gas extraction has many important pollution issues specific to the industry. While the basic rules are state-wide, local governments know better what their people want and need. Local health and welfare control over what can be done in their communities is important to government and people, so I believe it is our responsibility to protect our citizens as best we can locally.*

*As I said when we met, the claim that "the practice of hydraulic fracturing itself has never caused environmental contamination in Michigan," is simply not accurate. Of the thousands of fracked wells in Michigan in 50+ years, almost none were ever tested before or after drilling to see if there was contamination. Lack of data is NOT proof of lack of a problem. Pre and post drill testing is important for long term public safety. And not all pollution comes from actual drilling; spills at sites, leaking*

gas lines and air quality issues aren't directly related to drilling, but only happen at drilling sites and supply chain.

7. What is meant by the phrase "40 acres under lease and 3 acres to drill"?

**Fitch:** The DEQ establishes "drilling units," defined as a designated tract of land that can be efficiently and effectively developed by one well. The size and orientation depends on the characteristics of the target formation. For the formation of current interest in southeast Michigan (the "Trenton-Black River Formation"), 40-acre drilling units have been established. The units must be approximately square and based on government land survey lines. The oil and gas developer must have leases or other legal arrangements on all parcels within the unit giving the developer the right to drill and extract oil and gas from the unit, and each mineral owner shares in the proceeds of any production. About three acres is the minimum area needed for a drilling operation, consisting of a drill rig, pumps, fluid handling and storage, and truck loading area.

**Griffin:** I will defer to Hal Fitch to answer.

**Nash:** This is well explained by Mr. Fitch's answer.

8. Do property owners own their mineral rights and how can property owners find out if they own mineral rights on their land and how to get them if they don't own them?

**Fitch:** Mineral rights in a parcel may be owned by the owner of the surface or they may be owned separately by another person. A surface property owner can usually determine whether they own the mineral rights by searching the county records. Mineral rights, like other rights in a parcel, can be bought and sold, and a surface owner may negotiate with the mineral owner to purchase the mineral rights.

**Griffin:** It depends if the mineral and surface rights are unified or severed. That information can be found at the register of deeds office. For a surface owner to obtain mineral rights they do not own, they must acquire them from the mineral owner.

**Nash:** Mineral rights can go with the land, or they can be sold separately. Any particular property's mineral rights can be determined by checking the county Clerk/Register of Deeds.

9. How many wells in Michigan are horizontal wells and what percentage are in urban areas?

**Fitch:** About 1350 horizontal oil and gas wells have been drilled in Michigan out of a total of about 60,000 wells. There have been more than 1800 wells drilled in cities and villages in Michigan. We can confirm 17 of those to be horizontal wells; there are probably more in that category but it would require a detailed review of the records of each well to determine an exact number.

**Griffin:** The DEQ Oil Gas and Minerals Section compile those statistics. They can be found on their website at [http://www.michigan.gov/deq/0,4561,7-135-3306\\_57064---,00.html](http://www.michigan.gov/deq/0,4561,7-135-3306_57064---,00.html)

**Nash:** There are relatively few in urban areas, and most of those are in industrial areas. Until recently wells in highly populated areas were rare, and few state properties sold their mineral rights. Horizontal, fracked or conventional drilling all have issues that need to be addressed.

10. How does one know where the drilling companies may want to drill, so as to try to avoid limiting property rights?

**Fitch:** Only the oil and gas company knows where they may want to drill, and they do not generally disclose that information until they are close to making a decision. One can sometimes surmise where there is interest in drilling by learning where companies are leasing mineral rights.

**Griffin:** Companies will conduct seismic testing in areas where they believe recoverable oil and gas deposits could potentially be present. A company may then proceed to leasing mineral rights. Then in some cases an exploratory well is drilled. If the production company then believes sufficient deposits can be produced economically, a production well can be drilled. I will leave it to Hal Fitch to outline the public notice requirements under law and rule.

**Nash:** For many of the early operations that decide where to drill there is no way to know their plans. Some of their state filings are exempt from FOIA until actual operations begin. In Southfield last year the signs of development were sounding trucks driving on local roads, thumping the ground for seismic testing. The state lists all leases on the DEQ web site.

11. Has there been one incident of hydraulic fracturing in Oakland County?

**Fitch:** I am quite sure hydraulic fracturing has never been used in Oakland County; however, it would require a detailed review of each well record to confirm that. I can say with certainty there has never been a high-volume hydraulic fracturing operation (one using more than 100,000 gallons of fracturing fluid) in the county.

**Griffin:** Hal Fitch is the best to answer this.

**Nash:** Not that I am aware of. I am aware of a horizontal fracking operation in Livingston County and one was proposed in Washtenaw County, but I'm not sure it is operational.

12. Has there been a case in Michigan where horizontal fracturing has been undertaken?

**Fitch:** Hydraulic fracturing has been used in conjunction with horizontal drilling in about 40 oil and gas wells in Michigan.

**Griffin:** Yes. See the DEQ website for a list.

**Nash:** There have been some, but the industry is in its infancy in Michigan. One well in Northern Michigan used (and destroyed) 22 million gallons of water, and many communities are concerned about impacts of this technique.

13. A statement was made about settlements in two different lawsuits, please explain the difference in scenarios of the cases.

**Fitch:** In the first case, *Miller Brothers v. Department of Natural Resources*, the DNR refused to issue permits for oil and gas development within the Nordhouse Dunes Wilderness Area. The surface was owned by the United States and managed by the Forest Service, and the mineral rights were owned primarily by private parties and leased to Miller Brothers. There were multiple potential oil and gas reservoirs identified by Miller Brothers under the Wilderness Area, with a postulated very high value. The court ruled that the State had unlawfully deprived Miller Brothers and the mineral owners of their property rights. The State settled the case for more than \$90 million. In the

second case, *West Bay Exploration Co v. City of Farmington Hills*, the city denied permission for West Bay Exploration to drill a well from a requested surface location to a one-well target identified under the city. The city settled the case for a substantial sum (\$800,000, according to third party sources) and West Bay eventually drilled the well (a successful oil producer) from another surface location. It should be noted that every case may differ in detail, and may have to be weighed according to its merits and the degree of harm incurred.

**Griffin:** See the legal memo for information on the cases.

**Nash:** Mr. Fitch made a fair statement of the cases in his statement. I would again suggest you contact Flow for Water for better legal advice on this issue.

14. Does Troy lend itself to large-scale development in terms of opportunity?

**Fitch:** The potential scale of oil and gas development can only be determined by drilling.

**Griffin:** One can never know what the future holds. There has been limited development to date when compared to other areas. See the DEQ OGM website for a map of all wells drilled in the state. Note: The map has more than oil and gas wells so look at the legend.

**Nash:** This is only determined by the oil/gas extraction companies themselves, as determined by the testing they do themselves. The DEQ only regulates the actual drilling and ancillary issues once the permitting process actually begins.

15. Was Shelby Township notified when the exploratory drill was proposed?

**Fitch:** Yes. The DEQ notified the Shelby Township Supervisor, Richard Stathakis, twice – once when the first application for a permit to drill was received, and again when an amended application was filed.

**Griffin:** Hal Fitch can answer.

**Nash:** DEQ followed normal policy of notice. Again, only once actual drilling is decided on and the process officially begins do public notices begin, until then no one outside the company knows their plans.

**Memorandum**

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To: The Honorable Arlan B. Meekhof, State Senator  
The Honorable Kevin Cotter, State Representative

From: William A. Horn

Date: October 14, 2015

Subject: Analysis of Constitutional Protections for Property Rights, Including Oil and Gas Interests

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**Introduction**

This paper examines the protections afforded to owners and lessees of oil and gas interests by the United States Constitution and the Michigan Constitution of 1963. The protections afforded those interests accrue because oil and gas interests are real property interests. There also are state constitutional protections that flow from the fact that oil and gas in place is a natural resource.

**Executive Summary**

**A. Property Interests Enjoy Special Protections Under the State and Federal Constitutions**

Both the federal and the state constitutions provide special protections for property. Both constitutions prohibit the taking of private property for public use “without just compensation.” See United States Constitution, Amendment V (“[N]or shall private property be taken for public use, without just compensation.”) Michigan Constitution of 1963, Article X §2 (“Private property shall not be taken for public use without just compensation. . . .”). Both constitutions also preclude state or local governments from depriving a person of property without due process of law. See United States Constitution, Amendment XIV (“[N]or shall any State deprive any person of life, liberty, or property, without due process of law. . . .”) Michigan Constitution of 1963, Article I § 17 (“No person shall . . . be deprived of life, liberty or property, without due process of law.”).

**B. Oil and Gas Interests are Property Interests Protected by These Constitutional Provisions**

Whether or not a particular interest is “property” and, thus, protected under the constitutions is an issue resolved by reference to state property law. See *Board of Regents of State Colleges v Roth*, 408 US 504, 577 (1972) (“Property interests, of course, are not created by the Constitution. Rather they are created and their dimensions are defined by existing rules or

understandings that stem from an independent source such as state law-rules.”). There can be no question that oil and gas interests are property in Michigan:

We have held that oil and gas are a part of the realty until severed therefrom. *Eadus v. Hunter*, 249 Mich. 190, 228 N.W. 782; *Attorney General v. Pere Marquette Ry. Co.*, 263 Mich. 431, 248 N.W. 860, 94 A.L.R. 520. And it follows that a transfer of title or of a right in the unsevered oil and gas, together with the right to go upon the land for the purpose of taking the oil and gas therefrom, involves a granting of rights in real estate . . . .

*Jaenicke v Davidson*, 290 Mich 248, 303 (1939).

Further, “[o]il, gas, and leasehold interests such as those held by the plaintiff in the instant case are viable property interests with a value derived from the ability to produce the oil and gas.” *West Bay Exploration Co v City of Farmington Hills*, unpublished opinion per curiam of the Court of Appeals, issued June 19, 2001 (Docket No. 217590), p. 5. See also *Bass Enterprises Production Co v United States*, 381 F3d 1360 (Fed Cir 2004).

## Discussion

### A. Neither the State of Michigan Nor Its Political Subdivisions May Take Oil and Gas Interests Without Just Compensation

#### 1. Regulatory Taking

The United States Supreme Court has long recognized that the government effectively takes a person’s property by overburdening the property with regulations. *Pennsylvania Coal Co v Mahon*, 260 US 393, 415 (1922) (“The general rule, at least, is that, while property may be regulated to a certain extent, if regulation goes too far, it will be recognized as a taking.”). “The rub, of course, has been-and remains-how to discern how far is ‘too far.’” *Lingle v Chevron USA Inc*, 544 US 528, 538 (2005).

The Supreme Court has split its discernment of what is “too far” into three categories (or, more accurately, two categories and one set of standards):

Our precedents stake out two categories of regulatory action that generally will be deemed *per se* takings for Fifth Amendment purposes. **First, where government requires an owner to suffer a permanent physical invasion of her property-however minor-it must provide just compensation.** See *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419, 102 S.Ct. 3164, 73 L.Ed.2d 868 (1982) (state law requiring landlords to permit cable companies to install cable facilities in apartment buildings effected a taking). **A second categorical rule applies to regulations that completely deprive an owner of “all economically beneficial use[er]” of her property.** *Lucas*, 505 U.S., at 1019, 112 S.Ct. 2886 (emphasis in original). . . . **Outside these two relatively narrow categories** (and the special context of land-use exactions discussed below, see *infra*, at 2086-2087), **regulatory takings challenges are governed by the standards set forth in Penn Central Transp. Co. v. New York City**, 438 U.S. 104, 98 S.Ct. 2646, 57 L.Ed.2d 631 (1978).

The Court in *Penn Central* acknowledged that it had hitherto been “unable to develop any ‘set formula’” for evaluating regulatory takings claims, but identified “several factors that have particular significance.” *Id.*, at 124, 98 S.Ct. 2646. Primary among those factors are “[t]he economic impact of the regulation on the claimant and, particularly, the extent to which the regulation has interfered with distinct investment-backed expectations.” *Ibid.* In addition, the “character of the governmental action” - for instance whether it amounts to a physical invasion or instead merely affects property interests through “some public program adjusting the benefits and burdens of economic life to promote the common good” - may be relevant in discerning whether a taking has occurred. *Ibid.* The *Penn Central* factors-though each has given rise to vexing subsidiary questions-have served as the principal guidelines for resolving regulatory takings claims that do not fall within the physical takings or *Lucas* rules.

*Lingle*, 544 US at 538-539 (emphasis added). The Michigan Supreme Court has recognized all of the types of claims described in *Lingle*. *K & K Construction Inc v Department of Natural Resources*, 456 Mich 570, 576-577 (1998). So too has the Sixth Circuit Court of Appeals. *Tennessee Scrap Recyclers Association v Bredson*, 556 F3d 412 (CA 6, 2009).

#### a. Categorical Takings

A regulation resulting in a deprivation of all economically beneficial use is a taking for which compensation is due. Although several earlier Supreme Court cases acknowledged the “category,” *Lucas v South Carolina Coastal Council*, 505 US 1003 (1992) provides the most complete rationale for the rule:

We have never set forth the justification for this rule. Perhaps it is simply, as Justice Brennan suggested, that total deprivation of beneficial use is, from the landowner’s point of view, the equivalent of a physical appropriation. *See San Diego Gas & Electric Co. v. San Diego*, 450 U. S., at 652 (dissenting opinion). “[F]or what is the land but the profits thereof[?]” 1 E. Coke, *Institutes*, ch. 1, § 1 (1st Am. ed. 1812). Surely, at least, in the extraordinary circumstance when no productive or economically beneficial use of land is permitted, it is less realistic to indulge our usual assumption that the legislature is simply “adjusting the benefits and burdens of economic life,” *Penn Central Transportation Co.*, 438 U. S., at 124, in a manner that secures an “average reciprocity of advantage” to everyone concerned, *Pennsylvania Coal Co. v. Mahon*, 260 U. S., at 415. And the functional basis for permitting the government, by regulation, to affect property values without compensation—that “Government hardly could go on if to some extent values incident to property could not be diminished without paying for every such change in the general law,” *id.*, at 413—does not apply to the relatively rare situations where the government has deprived a landowner of all economically beneficial uses.

\* \* \*

We think, in short, that there are good reasons for our frequently expressed belief that when the owner of real property has been called upon to sacrifice all economically beneficial uses in the name of the common good, that is, to leave his property economically idle, he has suffered a taking.

*Lucas*, 505 US at 1017-1019 (footnotes omitted).

**b. *Penn Central* Balancing**

Even if the regulation does not rise to the level of a categorical taking (for example by reducing but not eliminating all beneficial economic use), it may still require compensation if it is deemed a taking under the balancing test of *Penn Central*. The Michigan Supreme Court described application of the balancing test as follows:

In the . . . balancing test, a reviewing court must engage in an “ad hoc, factual inquir[y],” centering on three factors: (1) the character of the government’s action, (2) the economic effect of the regulation on the property, and (3) the extent by which the regulation has interfered with distinct, investment-backed expectations.

*K & K Construction*, 456 Mich at 577.

**c. Denial of Oil and Gas Drilling Permits Has Been Found to Result in an Unconstitutional Taking**

The Michigan Court of Appeals has decided takings claims involving owners and developers of oil and gas interests, finding that refusal to issue drilling permits deprived the owners and developers of all economically viable use of the property. In 1994, the court reasoned:

Plaintiffs’ mineral interests in the Nordhouse Dunes Area had one, and only one, economically viable use: the extraction of any oil or gas that might be found under the land. To extract oil and gas from the land, a well is needed. To be able to drill a well, a permit issued by the Supervisor of Wells is required. M.C.L. § 319.23; M.S.A. § 13.139(23). The director of the DNR is the Supervisor of Wells. M.C.L. § 319.3(1); M.S.A. § 13.139(3)(1). The director’s administrative action made it clear that no permits would be issued for drilling in the protected area. The director’s action prevents plaintiffs from extracting any oil or gas from the land. Consequently, by the exercise of its regulatory power, the government had so restricted the use of plaintiffs’ property rights that plaintiffs had been deprived of all economically viable use.

*Miller Brothers v Department of Natural Resources*, 203 Mich App 674, 679-680 (1994).<sup>1</sup>

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<sup>1</sup> The *Pennsylvania Coal* case that serves as the foundation of all regulatory takings cases was also about severed mineral rights:

“For practical purposes, the right to coal consists in the right to mine it.” *Commonwealth v. Clearview Coal Co.*, 256 Pa.St. 328, 331. What makes the right to mine coal valuable is that it can

In 2001, the Court of Appeals stated: “Oil, gas, and leasehold interests such as those held by plaintiff in the instant case are viable property interests with a value derived from the ability to produce the oil and gas. Denial of permits to drill for and produce oil and gas consequently cause actual and concrete injury to the holder of such interests, so much so that such denials have been held to be unconstitutional takings of property” *West Bay Exploration Co v City of Farmington Hills*, unpublished opinion per curiam of the Court of Appeals, issued June 19, 2001 (Docket No. 217590), pp. 5-6.

Where the legislation or regulation does not preclude all economically beneficial use there is no categorical taking even where the property at issue is an oil and gas interest. *Schmude Oil Inc v Department of Environmental Quality*, 306 Mich App 35 (2014) (Where oil and gas could be accessed through directional drilling, albeit at higher cost, economically beneficial use remained.). The *Penn Central* balancing test is then used to assess whether a taking has occurred based upon the unique facts of each case. While one can disagree with the factual findings and whether the proper balance was struck by the court in *Schmude Oil*, the correct legal principles were applied.

In summary, an otherwise valid regulation of oil and gas development can, and has been found in several cases to, constitute a taking of the oil and gas interest. The takings clauses of the federal and state constitutions do not invalidate such a regulation, or preclude its application; rather, they can require that just compensation be paid for the value of the oil and gas interest.

## **B. Neither the State of Michigan Nor Its Political Subdivisions May Deprive a Person of Oil and Gas Interests Without Due Process of Law**

Although one might expect “due process” protections to be limited to the fairness of government procedures, it encompasses more. “[T]he United States Supreme Court has interpreted [the due process] clause to ‘guarantee [ ] more than fair process,’ [citation omitted] and to cover a substantive sphere as well, ‘barring certain government actions regardless of the fairness of the procedures used to implement them’ [citations omitted].” *Mettler Walloon LLC v Melrose Township*, 281 Mich App 184, 197 (2008).

“The essence of a claim of a violation of substantive due process is that the government may not deprive a person of liberty or property by an *arbitrary* exercise of power.” *Landon Holdings Inc v Grattan Township*, 257 Mich App 154, 173 (2003). In evaluating the due process propriety of zoning ordinances which limit or exclude certain land uses, the Michigan courts have stated:

To show a violation of substantive due process, “a plaintiff must prove (1) that there is no reasonable governmental interest being advanced by the present zoning classification, or (2) that the ordinance is unreasonable because of the purely

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be exercised with profit. To make it commercially impracticable to mine certain coal has very nearly the same effect for constitutional purposes as appropriating or destroying it.

*Pennsylvania Coal Co.*, 260 US at 414.

arbitrary, capricious and unfounded exclusion of other types of legitimate land use from the area under consideration.”

*Grand/Sakwa of Northfield LLC v Northfield Township*, 304 Mich App 137, 153 (2014) citing *A & B Enterprises v Madison Township*, 197 Mich App 160, 162 (1992); see also *Landon Holdings*, 257 Mich App at 173-174. Reasonableness, in turn, depends on the facts in each case. *Korby v Redford Township*, 348 Mich 193, 197-198 (1957).

Therefore, state or local regulation of the development of oil and gas interests must comply with the due process provisions in the federal and state constitutions. Arbitrary, capricious, or unfounded exclusion or restriction of oil and gas development is constitutionally invalid.

### **C. Oil and Gas Interest Owners are Entitled to Equal Protection**

The equal protection clauses in the federal and state constitutions also offer constitutional protections. “The Michigan and United States Constitutions provide coextensive provisions on equal protection. Both guarantee equal protection of the law.” *Maple BPA Inc v Bloomfield Charter Twp*, 302 Mich App 505, 519 (2013) (footnotes omitted).

The equal protection clauses apply to land use decisions made by governmental entities: “On its face, an ordinance which totally excludes from a municipality a use recognized by the constitution or other laws of this state as legitimate also carries with it a strong taint of unlawful discrimination and a denial of equal protection of the law as to the excluded use.” *Kropf v Sterling Heights*, 391 Mich 139, 155-156; 215 NW2d 179 (1974).

As is discussed in the next section, development of natural resources, including oil and gas, is deemed to be of paramount public concern by the Michigan Constitution. Thus, regulations prohibiting or excluding oil and gas development are subject to an equal protection challenge.

### **D. The Development of Natural Resources Such as Oil and Gas is of Constitutional Significance**

Article IV of the Michigan Constitution of 1963 provides:

§ 52 Natural resources; conservation, pollution, impairment, destruction.

The conservation and development of the natural resources of the state are hereby declared to be of paramount public concern in the interest of the health, safety and general welfare of the people. The legislature shall provide for the protection of the air, water and other natural resources of the state from pollution, impairment and destruction.

Oil and gas are natural resources. *Northern Michigan Exploration Co v Michigan Public Service Commission*, 153 Mich App 635, 638 (1986); *Addison Township v Gout*, 432 Mich 627, 636 (1989) opinion vacated 433 Mich 1201 (1989) reasoning readopted 435 Mich 809 (1990). Thus, the Michigan Constitution declares that the development of oil and gas is of paramount public concern. The scope and extent to which this clause acts as a constitutional limitation on state and local regulation of oil and gas rights has not been definitively addressed by the courts.

However, as a constitutional provision, it is at a minimum, a background principle which warrants consideration when the state or local government seeks to regulate the development of oil and gas, or other natural resources.<sup>2</sup>

### Conclusion

The federal and state constitutions contain coextensive protections that preclude the taking of property, including oil and gas interests, either directly or by way of burdensome regulation, without compensation. Both constitutions likewise preclude the government from depriving a person of property such as oil and gas interests without due process.

Both constitutions prohibit the government from adopting laws or regulations that treat oil and gas interest owners differently from other land users unless that differentiation is rationally related to a legitimate government interest. Finally, the Michigan Constitution of 1963 declares that development of Michigan's natural resources such as oil and gas is of paramount public concern.

Takings, due process, and equal protection claims have been frequently litigated in the federal and Michigan courts. The tests and factors to be considered are well-developed, but fact intensive and complicated to apply, whether by a court, or by a state or local unit of government considering regulation of oil and gas development. Judicial applications of the natural resource development provision in §52 of the Michigan Constitution of 1963 are rare; however, being part of the constitution, it should not be ignored by government decision-makers contemplating regulation of oil and gas development.

Mika Meyers PLC

By: \_\_\_\_\_

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Grand Rapids, MI 49503  
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<sup>2</sup> Perhaps in recognition of this background constitutional principle, the Legislature has restricted local units of government in the use of their zoning authority to limit development of natural resources, "An ordinance shall not prevent the extraction, by mining, by valuable natural resources from any property unless very serious consequences would result from the extraction of those natural resources." MCL 125.3205(3).

**ZONING ORDINANCE TEXT AMENDMENT**

9. PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (File Number ZOTA 247) – Oil and gas Extraction

Mr. Savidant reviewed the proposed Zoning Ordinance Text Amendment.

After a brief discussion, the members concurred the proposed language meets the intent of Planning Commission.

**Resolution # PC-2016-01-008**

Moved by: Hutson

Seconded by: Krent

**RESOLVED**, That the Planning Commission, after review of the comments of Hal Fitch, John Griffin and Jim Nash in connection with the draft of the oil and gas extraction ordinance, believes the proposed Zoning Ordinance Text Amendment is in the best interest of the City of Troy and that the City Council of the City of Troy adopt it as an ordinance.

Yes: All present (7)

Absent: Faison, Kuppa

**MOTION CARRIED**



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January 17, 2016 8:00 a.m. UPDATED 12 DAYS AGO

# Oil drilling permit sought for church land in Southfield

UPDATED



By JAY GREENE

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Michigan Department of Environmental Quality

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## Active oil and gas wells by county



**Jordan Development Co. LLC**, one of the oldest and largest oil and gas exploration companies based in Michigan, is betting against long-term low crude oil prices and has applied for a drilling permit in Southfield.

Raising some eyebrows and bucking a six-month moratorium on fossil fuel extraction recently approved by the **Southfield City Council**, Jordan has signed a lease agreement for the drilling with the **Word of Faith International Christian Center Inc.** at Evergreen and Nine Mile roads.

If the company gets a permit, said Ben Brower, a vice president with Traverse City-based Jordan Development, drilling of the 2,900-foot well will begin immediately and initially employ 50 workers for the 10-day project. The company has 450 total wells under its belt.

Ongoing employment would include one employee checking on the pump each day and another employee hauling oil with a truck every couple of days, he said.

A decision is expected this week on the drilling permit, said Hal Fitch, chief of the office of oil, gas and minerals with the **Michigan Department of Environmental Quality**.

Fitch said DEQ decided to delay its decision past the 50-day statutory period that ran out earlier this month after Jordan's Oct. 29 application generated more than 1,500 comments.

"There were only 20 to 30 opposing the project," said Fitch, who described the details of the drilling permit application as not unusual compared with the dozens of others DEQ has received the past several years.

Fitch said supporters overwhelmingly cited benefits of the revenue to the church and how it would help charitable and community causes. Opponents cited Southfield's moratorium; the potential impacts to public health, safety and the environment; and concerns over hydraulic fracturing.

Brower said Jordan does not plan to conduct hydraulic fracturing to extract gas from shale rocks. He said the church property is on top of a geological formation called a Niagaran reef made of porous rock. That structure makes the shale naturally fractured and doesn't require water to be injected at high pressure to remove gas.

Several neighbors of the church, including Larry Quarles and Skip Davis, contacted *Crain's* last week with their environmental concerns, including that water could be used in the extraction process.

"Oil is removed through natural pressure," Brower said. "Hopefully we take out only oil, maybe some gas, and not water. If gas and water comes up, we will truck the water off the site."

If gas comes up, Brower said, normal process is to either burn it off or transport it for sale to the nearest gas pipeline.

Quarles, a retired **IBM** engineer and one of the leaders of Stop the Drilling in Southfield, said he is concerned about the oil drilling for several reasons that include reduced property values, impact from potential methane gas air pollution and additional truck traffic through a neighborhood that is populated with schools and houses.

"We are a mile from the Rouge River. There has been no regard for the health and safety of our community," said Quarles. "The state has disregarded our (City Council) who says they do not want it."

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"There are a lot of active oil or natural gas producing wells right now in Oakland County," including the one proposed by Jordan Development in Southfield, said Fitch, noting most of the several dozen active wells are in unincorporated areas outside of the county's cities and villages.

Since last September, however, only one well is producing gas within a city limit in Oakland County out of about 66 active permits, Fitch said. This gas well is on property owned by **Michigan State University** at its management education center in Troy.

Michigan has more than 14,000 active and producing wells, including about 179 in Southeast Michigan, said the DEQ.

The majority are oil wells and are in St. Clair County, with 81 producing wells, followed by 34 in Washtenaw County, 25 in Livingston, 19 in Oakland, eight in Macomb, eight in Wayne and four in Monroe, the DEQ said.

Brower said Jordan hopes to tap into a major oil supply in Southfield on the church's 110-acre property. But he said low oil prices the past two years have slowed drilling in Michigan to levels he hasn't seen in 18 years.

"The prices are terrible, \$32.25 is the national number now per barrel. Southern Michigan gets \$6 less (because of transportation costs), so we are into the \$26-per-barrel range," said Brower.

"It does affect the drilling. Nobody has done anything (drilling) the last six months," he said. "We have been working on this project such a long time we want to get it started."

Brower said he hopes oil prices will rise later this year.

"It is right at the edge of not being profitable," he said. "We hope this is a long-term project where we make money when the price goes up."

Still, Brower said some of Jordan's dozen or so Southeast Michigan wells are producing oil and gas at good levels.



Photo by Word of Faith International Christian Center

**Jordan Development Co. LLC** has signed a lease agreement for drilling with the **Word of Faith International Christian Center Inc.** at Evergreen and Nine Mile roads in Southfield.

For example, a joint venture project between Jordan and Traverse City-based **West Bay Exploration Co.** on MSU property has produced about \$60 million of natural gas since the well was drilled in 2002, Brower said.

Brower said the MSU gas well has generated 8 billion cubic feet of gas the past 14 years. The state has earned \$ 6 million in royalties, and MSU earned \$12 million.

Andrea Simpson, director of public relations for Word of Faith, said the church granted permission to Jordan last summer after receiving written assurances the drilling would not damage the property or environment.

Simpson said Bishop Keith Butler told Jordan Development that the church was opposed to hydraulic fracturing to remove hard-to-get gas deposits.

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Simpson said that once people opposed to the drilling get accurate information about the project, "I think they would be OK with it."

Jordan's application states it has leased 40 acres for the Word of Faith project. The nearest occupied structure is a church building 525 feet away, 75 feet more than required by law. The nearest private building to the proposed well is 900 feet.

"We have a spot in dense woods that is very sealed from public viewing," Brower said. "The church very much wants it."

Simpson said the church signed the lease agreement because "it could be a source of income or revenue for the church" if oil or gas is found.

"We could do more mission work all over the world and community programs to help Southfield," Simpson said. She declined to state the percentage of royalties the church would receive from Jordan.

Founded in Detroit in 1979, Word of Faith moved to Southfield in 1998 for more space and to upgrade its facilities, Simpson said. The church also provides mission services of clothes, food, toys for kids, end-of-life care to seniors and other services in Southeast Michigan.

"We had a transitional living home for homeless young women (Agape House) and had to close it" after three years because of funding issues, Simpson said. "The home ultimately serviced over 20 young ladies (work and life skills) during the three years it was open."

Simpson said the church might consider reopening the house depending on how much revenue is generated if the oil drilling is successful.

Brower said Jordan became interested in a lease with Word of Faith after seismic tests indicated there might be a plentiful supply of underground oil in the Southfield area.

"We have drilled with partners a little farther west in Livonia with good success," said Brower. "We have quite a few wells in (Southeast Michigan) with lots of gas and oil. Not so much in Wayne County."

Brower said Jordan is a partner in three high-producing wells in Livonia with West Bay Exploration. "One well is over 200,000 barrels. That is good for anywhere in Michigan," he said.

*Jay Greene: (313) 446-0325. Twitter: @jaybgreene*

## UPDATE

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Protests are continuing Sunday morning at the Word of Faith church. Organizations tell me they have created a Facebook page, Stop the Drilling in Southfield, where news is posted.

On Feb. 17, the DEQ will hold a public hearing before they take action on Jordan's oil drilling permit. It will be held at 6 p.m. at the **Southfield High School Auditorium**.

Two town hall meetings have been held with several hundred people attending.

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## MICHIGAN MORNING NEWSLETTER

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**Lori G Bluhm**

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**From:** DaneSlater <djlkslater@aol.com>  
**Sent:** Wednesday, February 17, 2016 9:54 AM  
**To:** Brian M Kischnick; Lori G Bluhm  
**Cc:** jkcampbell@comcast.net  
**Subject:** Woodland Protection Ordinance Ammendment

Good morning Lori and Brian,

Per our conversations and on behalf of Councilman Campbell and myself, we are asking to please add as a council referral item to reconsider the Woodland Protection Ordinance with amendment omitting the cash deposit option to the next council agenda. Also, please include language for a resolution addressing the tree cluster issue proposed by the planning commission.

Respectfully,

Dane

Sent from my iPad

PROPOSED RESOLUTIONS

A. MOTION FOR RECONSIDERATION:

NOW THEREFORE, BE IT RESOLVED that upon the request of Mayor Slater and Councilmember Campbell and the Troy Planning Commission, and as allowed by the City Council Rules of Procedure #11, the Troy City Council **AGREES** to **RECONSIDER** its vote on Resolution #2016-02-103, based on a revised proposal. The resolution for reconsideration is as follows:

Resolution #2016-02-013

Moved by Slater

Seconded by Abraham

RESOLVED, That Articles 8 and 13 of Chapter 39 of the Code of the City of Troy, which includes miscellaneous provisions related to woodland protection, be **AMENDED** to read as written in the proposed Zoning Ordinance Text Amendment (ZOTA 248), City Council Public Hearing Draft, as recommended by the Planning Commission.

Yes: Abraham, Hodorek, Slater

No: Baker, Campbell, Henderson, Pennington

**MOTION FAILED**

Vote on Motion for Reconsideration:

Yes:

No:

B. MOTION FOR APPROVAL OF AMENDED PROPOSED WOODLANDS PROTECTION ORDINANCE PROVISIONS

NOW THEREFORE, BE IT RESOLVED, That Articles 8 and 13 of Chapter 39 of the Code of the City of Troy, which includes miscellaneous provisions related to woodland protection, be **AMENDED** to read as written in the attached proposed Zoning Ordinance Text Amendment (ZOTA 248), City Council Red Lined Public Hearing Draft, which is an amendment from the draft recommended by the Planning Commission, since this proposed amendment deletes Chapter 39, Sections 13.07.F.2.c and 13.07.F.3, which was the option to allow cash deposits in lieu of woodland preservation, mitigation or replacement.

Vote on Approval of Amended Woodlands Ordinance Protection Provisions:

Yes:

No:

C. MOTION REFERRING CLUSTER OPTION REVIEW TO PLANNING COMMISSION

NOW THEREFORE, BE IT RESOLVED, That the Troy City Council **REFERS** the zoning ordinance provisions concerning cluster developments to the Troy Planning Commission, and **REQUESTS** that a proposed enhanced cluster option zoning text amendment be presented to the Troy City Council at the earliest possible date.

Vote on Direction for Cluster Zoning Review:

Yes:

No:

CITY OF TROY

AN ORDINANCE TO AMEND  
CHAPTER 39 OF THE CODE  
OF THE CITY OF TROY  
CITY COUNCIL RED LINED PUBLIC HEARING DRAFT  
(modifications in yellow highlight)

The City of Troy ordains:

Section 1. Short Title

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

Section 2. Amendment

Chapter 39 of the Code of the City of Troy is amended as follows:

**Revise Section 8.05.A to read as follows:**

9. A tree inventory preservation plan in accordance with Article 13 the City of Troy Landscape Design and Tree Preservation Standards shall be attached to all applications for Site Plan Approval. This requirement may be waived by the Zoning Administrator, in those instances where the Topographic Survey and/or other written information provided by the applicant demonstrate that the nature of the site is such that a tree inventory Tree Preservation Plan would not be applicable, or would serve no practical purpose.
10. A landscape plan prepared in conformance with Article 13 the City of Troy's Landscape Design and Tree Preservation Standards.

**Add Section 13.07 to read as follows:**

Section 13.07: Woodland Protection:

- A. Purpose and Intent. It is the intent of these regulations to help prevent unregulated and, in many cases, unnecessary removal of trees and related natural resources. The protection of trees, woodlands and woodland resources will promote the preservation of important physical, aesthetic, recreational and economic assets for both present and future generations. Specifically, it is found that:
  1. Trees and woodlands provide for public welfare and safety through the reduction of erosion, siltation, and flooding;
  2. Trees and woodlands help protect water quality by protecting groundwater recharge areas, reducing risk of groundwater contamination and

- maintaining base flows in streams and rivers, thus reducing the risk of degrading vegetation, wildlife, wetlands and surface water systems throughout the city;
3. Trees and woodlands increase the economic value of land for most uses;
  4. Tree and woodland growth protects public health through the absorption of air pollutants and contamination and reduces carbon dioxide content of the ambient air; and
  5. Tree and woodland growth serves as an essential component of the general welfare of the City by maintaining natural beauty, recreation, and natural heritage.

The purpose of this section is as follows:

1. To encourage the preservation of trees and related natural resources of the woodland ecosystem on undeveloped and underdeveloped land and in connection with the development of land;
2. To provide for the protection, preservation, proper maintenance and use of trees and woodlands in order to minimize damage from erosion and siltation, loss of wildlife and vegetation, and/or from the destruction of the natural habitat;
3. To protect trees and woodlands (including woodland resources) for their economic support of local property values when allowed to remain uncleared and/or unharvested in whole or in significant part, and for their natural beauty, character, and ecological or historical significance; and
4. To provide for the paramount public concern for these natural resources in the interest of the health, safety and general welfare of the residents of the City, consistent with Article II, Section 201 of the Michigan Zoning Enabling Act of 2006, and in keeping with Article IV, Section 52 of the Michigan Constitution of 1963 and the intent of the Michigan Natural Resources and Environmental Protection Act, PA 451 of 1994.

B. Applicability:

1. The provisions of tree protection shall apply prospectively to all parcels in the City where site plan review is required as set forth in Section 8.02, and any Subdivision as set forth in Chapter 41 of the City Code.
2. If it is determined that based on associated historical aerial photographs or other evidence, an owner or developer of property required to comply with this section has removed or cleared protected trees within five (5) years of the time of site plan or subdivision approval, the Planning Commission may require the property owner or developer to install additional landscaping as

required by the site plan or subdivision approval and to offset the impact of the new development upon adjacent properties.

C. Protected Trees as Defined:

1. Landmark Tree: A woody plant, in a healthy, live condition (has a health and condition standard factor of over 50% based on standards established by the International Society of Arboriculture). The following species that meet the minimum size (DBH) requirement are considered landmark trees.

<b>Common Name</b>	<b>Botanical Name</b>	<b>Size (inches)</b>
Basswood	<i>Tilia</i>	18"
Beech, American	<i>Fagus grandifolia</i>	18"
Black Cherry	<i>Prunus serotina</i>	18"
Black Walnut	<i>Juglans nigra</i>	18"
Buckeye, Ohio	<i>Aesculus glabra</i>	18"
Douglas Fir	<i>Pseudotsuga menziesii</i>	18"
Fir	<i>Abies</i>	18"
Kentucky Coffeetree	<i>Gymnocladus dioicus</i>	18"
London Planetree/American Sycamore	<i>Platanus</i>	18"
Pine (All species)	<i>Pinus</i>	18"
Spruce	<i>Picea</i>	18"
Tulip Poplar	<i>Liriodendron tulipifera</i>	18"
Hickory	<i>Carya</i>	16"
Honey Locust	<i>Gleditsia tricanthos</i>	16"
Maple (Red)	<i>Acer rubrum</i>	16"
Maple (Sugar)	<i>Acer saccharum</i>	16"
Oak (All species)	<i>Quercus</i>	16"

Arborvitae	<i>Thuja</i>	12"
Bald Cypress	<i>Taxodium distichum</i>	12"
Birch	<i>Betula</i>	12"
Black Tupelo	<i>Nyssa sylvatica</i>	12"
Cherry, Flowering	<i>Prunus spp.</i>	12"
Crabapple/Hawthorne	<i>Malus/crataegus</i>	12"
Dawn Redwood	<i>Metasequoia glyptostroiboides</i>	12"
Ginkgo	<i>Ginkgo</i>	12"
Hackberry	<i>Celtis occidentalis</i>	12"
Hawthorn	<i>Crataegus</i>	12"
Hemlock	<i>Tsuga</i>	12"
Larch/Tamarack	<i>Larix</i>	12"
Magnolia	<i>Magnolia</i>	12"
Pear	<i>Pyrus spp.</i>	12"
Persimmon	<i>Diospyros virginiana</i>	12"
Sassafras	<i>Sassafras albidum</i>	12"
Sweetgum	<i>Liquidamber styraciflua</i>	12"
Yellow Wood	<i>Cladrastis lutea</i>	12"
Blue-Beech/Hornbeam	<i>Carpinus caroliniana</i>	8"
Butternut	<i>Juglans cinera</i>	8"
Cedar of Lebanon	<i>Cedrus spp.</i>	8"
Chestnut	<i>Castanea</i>	8"
Dogwood, Flowering	<i>Cornus florida</i>	8"

Hop-Hornbeam/Ironwood	<i>Ostrya virginiana</i>	8"
Maple, Mountain/Striped	<i>Acer spicatum/pensylvanicum</i>	8"
Paw Paw	<i>Asimina triloba</i>	8"
Redbud	<i>Cercis canadensis</i>	8"
Serviceberry	<i>Amelanchier</i>	8"
Any healthy tree with a DBH 24" or greater, (except invasive species), or a healthy tree of the species described above with the minimum DBH listed.		

2. Woodlands: Trees in a Woodland, which is defined as one-quarter (1/4) acre or more of contiguously wooded land where the largest trees measure at least six (6) inches in diameter at breast height (DBH). The acreage is to be measured from the dripline to dripline of trees on the perimeter. Contiguous shall be defined as the majority of the one-quarter (1/4) acre being under the vegetation dripline.

D. Tree Inventory. A Tree Inventory is required as a component of the preliminary site plan submission as set forth in Section 8, and any Subdivision as set forth Chapter 41 of the City Code.

1. Tree Inventory shall contain the following:
  - a. Location of all trees over six (6) inches in DBH.
  - b. Common and botanical names of all identified trees, their size in inches at their DBH, and a description of each tree's health.
  - c. Indication of all trees to be removed.
  - d. Indication of all trees to be preserved.
2. A Tree Inventory must be prepared by either a certified forester or Registered Landscape Architect.

E. Tree Replacement:

1. When as part of a site plan or subdivision approval the Troy Planning Commission authorizes the removal of Landmark Trees and trees within a Woodland, the removal shall be mitigated as follows:
  - a. Woodland Trees six (6) inches or larger DBH shall be mitigated by installation of replacement trees equal to a minimum of fifty percent (50%) of the original DBH removed.
  - b. Landmark Trees (including those located within Woodlands to be removed) shall be mitigated by installation of replacement trees equal to a minimum of one hundred percent (100%) of the original DBH of the tree(s) removed.

- c. Replacement trees shall be non-sterile varieties of species native to southeast Michigan, and not prohibited by Chapter 28 of the City of Troy ordinance. The minimum size of a deciduous replacement tree shall be two and one-half (2.5) inch caliper. The minimum size of a coniferous replacement tree shall be six (6) feet in height. Deciduous replacement of one-half (.5) caliper inch is equal to one foot in height for coniferous replacement.
2. A Tree Replacement Plan must be prepared by either a certified forester or Registered Landscape Architect. The property owner shall have the proposed Tree Replacement Plan approved by the Planning Commission.
3. These tree replacement requirements are separate from and in addition to the landscape requirements set forth in Article 13.02

F. Tree Replacement Alternatives:

1. Any identified Woodland and Landmark Tree that is retained onsite as part of the development may count towards two (2) times the inch for inch replacement requirement.
2. When reviewing site plans, the Planning Commission prioritizes Landmark and Woodland Tree protection and mitigation in order as follows:
  - a. Protecting and preserving existing onsite Landmark and Woodland Trees.
  - b. Providing all required mitigation on the site of development.
  - c. Paying into a tree fund, only if protecting and preserving on site, or mitigation on site has been explored by applicant and due to unique circumstance as outlined in section 3 below is not possible.
3. The Planning Commission may allow for tree replacement off-site at the request of the applicant when site factors including the size of the parcel (no available area for planting), tree condition or development requirements may make conformity to this section difficult or undesirable. If the Planning Commission permits the applicant to plant off-site the applicant shall be required to pay the equivalent fee of the cost of the tree replacement, including the cost of installation to the City Tree Fund. The City Tree Fund shall be used to plant trees on public property.

G. Exemptions from Replacement:

1. The following shall be exempt from the requirements of these Tree Replacement as set forth in Section 13.07.F:
  - a. Parcels of land that are not subject to site plan review.
  - b. Tree trimming and removal necessary to the operation of essential service facilities of a municipal or other governmental department or agency or public utility franchised to operate in the City.
  - c. Tree clearing within an existing public road right-of-way or an existing private road easement.

- d. The removal of any tree which is demonstrated by the property owner to the Zoning Administrator or designee's satisfaction to have a health and condition standard factor of less than 50 percent based upon the standards established by the International Society of Arboriculture.
  - e. Trees that are considered invasive by the International Society of Arboriculture
  - f. Removal of trees that have become a potential danger to human life or property.
- H. Tree Protection. Protected trees, shall be preserved to the greatest extent practicable through the use of site development techniques including but not limited to the following:
- 1. In general, Landmark Trees should not be removed for development. Site design should consider any Landmark Tree on a site as an important design element.
  - 2. Locate development in areas of the site that are already disturbed or cleared of trees and woody vegetation.
  - 3. Minimize clearing and grading of the site by working with the site's existing topography. Grading, roads, walkways, utility lines, and all other aspects of soil disturbance shall be minimized to the extent possible considering standards of sound design and public safety. Clearing for buildings should be limited to the smallest area needed for safe and effective building work.
  - 4. Use retaining walls and other techniques to minimize grade changes near trees.
  - 5. Maintain trees along the perimeter of sites to provide buffer.
  - 6. Maintain grades and moisture conditions within the Critical Root Zone (CRZ) of trees, being that area in which the loss, disturbance, or damage to any roots will adversely affect the tree's long term health and structural stability. Many of the native hardwood trees: oaks, hickories, maples and beeches, for example, and most old trees do not adapt to environmental changes brought about by construction. Grading changes should not occur within the CRZ of a tree. In addition, grading on a site should neither increase or decrease moisture conditions within a tree's CRZ. The area of concern around an important tree may be significantly larger than the CRZ. The drip line of the tree shall be used for comparison, and if larger than the CRZ, the dripline should be used to determine how best to protect an important tree.
  - 7. Locate utility lines away from trees to be retained. If this is not possible, install utility lines through bored tunnels instead of trenches.
  - 8. Conduct any necessary excavation around trees by hand.
  - 9. Applicant must provide a Tree Protection Plan that is compliant with requirements as set forth Chapter 28, Tree Regulations.

10. Upon reasonable notice to the property owner and/or Applicant, the City shall have the right to periodically inspect the site during site plan review, land clearing, and/or construction to ensure compliance.

I. Tree Removal as a Result of Construction Activity:

1. Any protected tree identified for preservation on an approved site plan that has died within three years (3) of the start of construction shall be replaced under the appropriate Landmark Tree and Woodland replacement requirement.

J. Site Plan Approval and Enforcement:

1. Tree protection and mitigation as approved by the Planning Commission is a condition of Site Plan approval and enforced as such.

K. Appeals and Variances. All appeals or requests for variances from the provisions of this section shall be made to the City of Troy Zoning Board of Appeals in accordance with Article 15 of the City of Troy Zoning Ordinance.

L. Violations and Penalties. Violations of the provisions of this section are violations of the City of Troy Zoning Ordinance and subject to Article 3 of the City of Troy Zoning 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 amendment to the Zoning Ordinance shall take effect ten (10) days after publication, which shall be published within 15 days of adoption, as required the Michigan Zoning Enabling Act (Act 110 of 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 \_\_\_\_\_, 2016.

\_\_\_\_\_  
Dane Slater, Mayor

\_\_\_\_\_  
Aileen Dickson, City Clerk

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6.a. ZONING ORDINANCE TEXT AMENDMENT (File Number ZOTA 248) – Woodland Protection

Mr. Savidant reported the proposed text amendment was considered at the February 8, 2016 City Council meeting and a Resolution to adopt the amendment was denied by a vote of 3-4. Mr. Savidant feels Council members were not necessarily opposed to the language but wanted more time to study the item. He asked members of the Planning Commission to consider passing a resolution asking City Council to reconsider their vote and to take the item under study at a future study session.

A brief discussion followed on:

- Review independently woodland protection and enhanced cluster option.
- Joint meeting with City Council; freer flow of dialogue with only Council members and staff present.
- Cluster development option; revisions and incentivizations.

**Resolution # PC-2016-02-013**

Moved by: Hutson

Seconded by: Krent

**RESOLVED**, That the Planning Commission encourages the Troy City Council to reconsider its vote at the February 8, 2016 City Council meeting on the proposed text amendment to Articles 8 and 13 of Chapter 39 (adding woodland protection provisions to the Zoning Ordinance), and schedule a Troy City Council study session to discuss woodland protection.

**BE IT FURTHER RESOLVED**, That the Planning Commission commence immediately a study in the hopes of formatting a revised enhanced cluster option for inclusion within the City's Zoning Ordinance.

Yes: All present (8)

Absent: Sanzica

**MOTION CARRIED**

**ELECTION COMMISSION MINUTES – Final****September 25, 2015**

A meeting of the Troy Election Commission was held September 25, 2015, at City Hall, 500 W. Big Beaver Road. City Clerk Dickson called the Meeting to order at 8:10 AM.

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**Roll Call:**

PRESENT: M. Aileen Dickson – City Clerk, Harry Philo  
ABSENT: David Anderson

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**Approval of Minutes**

Resolution #EC-2015-09-08  
Moved by Philo  
Seconded by Dickson

RESOLVED, That the following Minutes are **APPROVED** as submitted:

Election Commission Meeting – August 20, 2015

Yes: Dickson, Philo  
No: None  
Absent: Anderson

**MOTION CARRIED**

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**Approval of Election Inspector Assignments – November 3, 2015 City General Election**

Resolution # EC-2015-09-09  
Motion by Philo  
Seconded by Dickson

RESOLVED, That Election Inspectors be **APPOINTED** for the November 3, 2015 City General Election, as presented by the City Clerk.

BE IT FURTHER RESOLVED, That the City Clerk is hereby **AUTHORIZED** to make emergency appointments as necessary.

Yes: Dickson, Philo  
No: None  
Absent: Anderson

**MOTION CARRIED**

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**Authorization to Conduct Testing for the November 3, 2015 City General Election**

Resolution # EC-2015-09-10

Motion by Philo  
Seconded by Dickson

RESOLVED, That the Election Commission hereby **AUTHORIZES** the City Clerk to conduct preliminary and public tests of the programming, equipment and ballots on behalf of the Election Commission for the November 3, 2015 City General Election.

Yes: Dickson, Philo  
No: None  
Absent: Anderson

**MOTION CARRIED**

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**Adjournment:**

The meeting was **ADJOURNED** at 8:12 AM.

*M. Aileen Dickson*

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M. Aileen Dickson, CMC, CMMC  
City Clerk

Acting Chair Abitheira called the Regular meeting of the Building Code Board of Appeals to order at 3:00 p.m. on December 2, 2015 in the Council Board Room of the Troy City Hall.

1. ROLL CALL

Members Present

Gary Abitheira  
Michael Morris  
Andrew Schuster

Members Absent

Theodore Dziurman, Chair  
Brian Kischnick

Support Staff Present:

Mitch Grusnick, Building Official/Code Inspector  
Kathy L. Czarnecki, Recording Secretary

Also Present:

Attached and made a part hereof is the signature sheet of those present and signed in at this meeting.

2. APPROVAL OF MINUTES

Moved by: Morris  
Support by: Schuster

**RESOLVED**, To approve the minutes of the November 4, 2015 Regular meeting and November 18, 2015 Special meeting as submitted.

Yes: All present (3)  
Absent: Dziurman, Kischnick

**MOTION CARRIED**

3. HEARING OF CASES

A. **VARIANCE REQUEST, ALHAJ-SALEH ABDALLAH, 5691 LIVERNOIS** – This property is a double front corner lot. As such it has a 40 foot minimum required setback along Blanche. The petitioner is requesting a variance to install a 6 foot high privacy fence set back 10 feet along the Blanche property line where City Code limits fences to 30 inches high and non-obscuring.

Mr. Grusnick reported the department received two written responses to the public hearing notices in support of the variance request.

The applicant was present.

Mr. Abitheira opened the floor for public comment. Acknowledging there was no one present to speak, the floor was closed.

Moved by: Morris  
Support by: Schuster

**RESOLVED**, To grant the variance as requested, for the following reason:

- 1. The variance would not be contrary to the public interest or general purpose and intent of Chapter 83.

Yes: All present (3)  
Absent: Dziurman, Kischnick

**MOTION CARRIED**

- B. **VARIANCE REQUEST, LISA J. DAIEK, 3452 WOLVERINE** – This property is a double front corner lot. It has a 25 foot minimum required setback along both Wolverine and Winter. The petitioner is requesting a variance to install a 4 foot high non-obscuring fence along the Winter property line where City Code limits fences to 30 inches high.

Mr. Grusnick reported the department received no written responses to the public hearing notices.

The applicant was present.

Mr. Abitheira opened the floor for public comment. Acknowledging there was no one present to speak, the floor was closed.

Moved by: Schuster  
Support by: Abitheira

**RESOLVED**, To grant the variance subject to (1) installing the fence 5 feet off the property line or 6 feet from the sidewalk, and (2) adding landscaping on the outside of the fence, for the following reason:

- 1. The variance would not be contrary to the public interest or general purpose and intent of Chapter 83.

Yes: All present (3)  
Absent: Dziurman, Kischnick

**MOTION CARRIED**

4. COMMUNICATIONS

Mr. Grusnick gave an update on Chair Dziurman.

5. PUBLIC COMMENT

None.

6. MISCELLANEOUS BUSINESS

A. 2016 MEETING DATES

It was the consensus of the Board to adopt the 2016 meeting dates as presented.

7. ADJOURNMENT

The Regular meeting of the Building Code Board of Appeals adjourned at 3:35 p.m.

Respectfully submitted,



\_\_\_\_\_  
Gary Abitheira, Acting Chair



\_\_\_\_\_  
Kathy L. Czarnecki, Recording Secretary



Acting Chair Kischnick called the Special meeting of the Building Code Board of Appeals to order at 3:00 p.m. on January 20, 2016 in the Council Board Room of the Troy City Hall.

1. ROLL CALL

Members Present

Brian Kischnick  
Michael Morris  
Andrew Schuster

Members Absent

Theodore Dziurman, Chair  
Gary Abitheira

Support Staff Present

Mitch Grusnick, Building Official/Code Inspector  
Chuck Riesterer, Assistant Fire Chief  
Kathy L. Czarnecki, Recording Secretary

Also Present:

Attached and made a part hereof is the signature sheet of those present and signed in at this meeting.

2. HEARING OF CASE

- A. **VARIANCE REQUEST, STUCKY VITALE ARCHITECTS FOR YAREMA DIE AND ENGINEERING, 1855 STEPHENSON HIGHWAY** – A variance to construct a 14,686 square foot unsuppressed roof shelter addition to the existing 62,628 square foot fully suppressed building. Section 503.1, 506.3 and Table 503 of the 2012 Michigan Building Code requires fire suppression in the existing building and proposed roof shelter addition.

Present were:

- James Yarema, Yarema Die and Engineering
- John Vitale, Stucky Vitale Architects
- Michael Blaneck, Stucky Vitale Architects
- Gary Roncelli, Roncelli, Inc.
- Nick Contesti, Roncelli, Inc.
- Jim Tessmer, Roncelli, Inc.

Mr. Grusnick reviewed Sections of the Building Code relating to the variance request.

There was discussion on:

- Manufacturing process and product.
- Shelter would provide storage of non-combustible metal parts and storage containers and will improve manufacturing process.
- Existing masonry building is fully fire suppressed.
- No connection between existing building and proposed shelter.
- Shelter would be self-supported metal structure on the exterior.

Assistant Fire Chief Riesterer said the Fire Department has no objection to the variance request. He cited Fire Department standard procedure that would be conducted after construction of the shelter.

Mr. Kischnick opened the floor for public comment. Acknowledging there was no one present to speak, the floor was closed.

Moved by: Schuster  
Support by: Morris

**RESOLVED**, That the variance be approved as written.

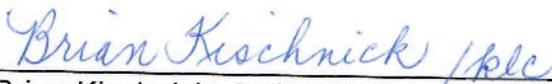
Yes: All present (3)  
Absent: Abitheira, Dziurman

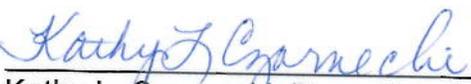
**MOTION CARRIED**

3. ADJOURNMENT

The Special meeting of the Building Code Board of Appeals adjourned at 3:10 p.m.

Respectfully submitted,

  
\_\_\_\_\_  
Brian Kischnick, Acting Chair

  
\_\_\_\_\_  
Kathy L. Czarnecki, Recording Secretary



Chair Edmunds called the Regular meeting of the Troy City Planning Commission to order at 7:00 p.m. on January 26, 2016 in the Council Board Room of the Troy City Hall.

1. ROLL CALL

Present:

Ollie Apahidean  
Karen Crusse  
Donald Edmunds  
Michael W. Hutson  
Tom Krent  
Philip Sanzica  
John J. Tagle

Absent:

Carlton M. Faison  
Padma Kuppa

Also Present:

R. Brent Savidant, Planning Director  
Ben Carlisle, Carlisle Wortman Associates  
Allan Motzny, Assistant City Attorney  
Kathy L. Czarnecki, Recording Secretary

2. APPROVAL OF AGENDA

**Resolution # PC-2016-01-005**

Moved by: Apahidean

Seconded by: Tagle

**RESOLVED**, To approve the Agenda as prepared.

Yes: All present (7)

Absent: Faison, Kuppa

**MOTION CARRIED**

3. APPROVAL OF MINUTES

**Resolution # PC-2016-01-006**

Moved by: Krent

Seconded by: Sanzica

**RESOLVED**, To approve the minutes of the January 12, 2016 Regular meeting as submitted.

Yes: All present (7)

Absent: Faison, Kuppa

**MOTION CARRIED**

4. PUBLIC COMMENT – Items not on the Agenda

There was no one present who wished to speak.

5. ZONING BOARD OF APPEALS (ZBA) REPORT

Mr. Sanzica reported there was no Zoning Board of Appeals (ZBA) meeting in January.

6. DOWNTOWN DEVELOPMENT AUTHORITY (DDA) REPORT

Mr. Savidant reported on the January 13, 2016 Downtown Development Authority regularly scheduled meeting and the January 25, 2016 Joint City Council/Downtown Development Authority meeting.

7. PLANNING AND ZONING REPORT

Mr. Savidant reported on the following:

- 888 W Big Beaver; property going up for auction on February 8.
- 645 E Big Beaver; Crispelli's Restaurant (former Big Beaver Tavern).
- Conditional Rezoning Application; North side of Big Beaver between Troy and Frankton; two tenant restaurants.

**SITE CONDOMINIUM DEVELOPMENT REVIEW**

8. PRELIMINARY SITE PLAN REVIEW (File Number JPLN2015-0016) – Proposed Estates at Willowbrook, 28 units/lots, East side of John R, South of Wattles, Section 24, Currently Zoned R-1C (One Family Residential) District

Mr. Carlisle reported on the Preliminary Site Condominium Plan application for Estates at Willowbrook specifically addressing the non-regulated wetlands, buffer of trees along the northern and eastern property lines, connection to the east with adjacent Wattles Square subdivision and the outlot in the southeast corner. Mr. Carlisle recommended Preliminary Site Plan approval of the application subject to the conditions as identified in his report dated January 20, 2016.

Present were Nathan Robinson of Horizon Engineering and Joseph Maniaci of Mondrian Properties.

There was discussion on:

- Tree preservation along northern and eastern borders.
- Interior landscaping.
- Tree inventory; existing vegetation and brush.
- Proposed landscaping as relates to the proposed Woodland Protection ordinance.
- Stormwater management; drainage.
- Maintenance responsibility of outlot.

Mr. Savidant said maintenance of the outlot would be addressed through the Site Condominium Master Deed and Bylaws required to be filed and recorded prior to Final Site Plan approval. He addressed the Michigan Department of Environmental Quality (MDEQ) wetlands determination and regulations.

Chair Edmunds opened the floor for public comment.

Pete Wilkins, 3905 Wayfarer, addressed the drainage of water, tree preservation and clearing of brush.

Paul Leitheiser, 3897 Wayfarer, addressed the tree inventory and asked if the developer would cut down the existing cottonwood tree on site.

Fred Przybysz, 3842 Wayfarer, expressed traffic concerns with the opening of Dexter. He said a traffic problem exists now in Wattles Square subdivision that he has addressed with the Police Department. There is congestion with parked cars in the area of the path that connects to Barnard Elementary.

Kelly Martin, 3884 Fairfax, expressed concerns with opening Dexter as relates to traffic, crime and safety.

Chair Edmunds closed the floor.

Discussion continued on landscaping and the outlot as relates to maintenance.

Mr. Maniaci said he would comply with the conditions identified in the Planning Consultant report. He offered to cut down the cottonwood tree as requested by the homeowner during public comment. Mr. Maniaci offered no additional landscaping; he said the proposed site plan meets more than the minimum landscaping requirements.

**Resolution # PC-2016-01-**

Moved by: Krent

Seconded by:

**RESOLVED**, That Preliminary Site Condominium Approval, pursuant to Article 8 and Section 10.02 of the Zoning Ordinance, as requested for Estates at Willowbrook Site Condominium, 28 units/lots, East side of John R, South of Wattles, Section 24, Currently Zoned R-1C (One Family Residential) District, be granted, subject to the following:

1. Clarify maintenance responsibility for outlot prior to Final Site Plan Approval.
2. Provide temporary turnaround at end of Sandpiper Drive and Macaw Drive.
3. Widen John R sidewalk to 8 feet.
4. Provide greater tree species variety.
5. Resubmit floor plans for Final Site Plan.

Mr. Motzny advised the applicant he could request a postponement of the matter until a full Board is present.

Mr. Maniaci asked to postpone the item to the next Planning Commission meeting.

(Motion on the floor failed for lack of support.)

**Resolution # PC-2016-01-007**

Moved by: Krent

Seconded by: Sanzica

**RESOLVED**, To postpone the item to the next meeting.

Discussion on the motion on the floor.

The Board asked the applicant to come back with a maintenance plan for the outlot and to consider the buffer along the eastern property line.

Roll call on the motion on the floor.

Yes: All present (7)

Absent: Faison, Kuppa

**MOTION CARRIED**

Chair Edmunds requested a recess at 8:00 p.m.; the meeting reconvened at 8:10 p.m.

**ZONING ORDINANCE TEXT AMENDMENT**

- 9. **PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (File Number ZOTA 247)**  
– Oil and gas Extraction

Mr. Savidant reviewed the proposed Zoning Ordinance Text Amendment.

After a brief discussion, the members concurred the proposed language meets the intent of Planning Commission.

**Resolution # PC-2016-01-008**

Moved by: Hutson

Seconded by: Krent

**RESOLVED**, That the Planning Commission, after review of the comments of Hal Fitch, John Griffin and Jim Nash in connection with the draft of the oil and gas extraction ordinance, believes the proposed Zoning Ordinance Text Amendment is in the best interest of the City of Troy and recommends that the City Council of the City of Troy adopt it as an ordinance.

Yes: All present (7)  
Absent: Faison, Kuppa

**MOTION CARRIED**

**OTHER BUSINESS**

10. PLANNING COMMISSION 2015 ANNUAL REPORT

There was a brief discussion as to the number of projects that have been completed.

11. PUBLIC COMMENT – Items on Current Agenda

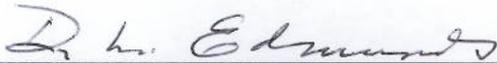
There was no one present who wished to speak.

12. PLANNING COMMISSION COMMENT

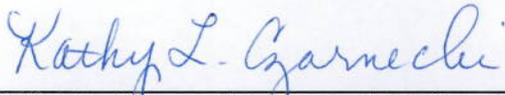
There were general Planning Commission comments.

The Regular meeting of the Planning Commission adjourned at 8:35 p.m.

Respectfully submitted,



\_\_\_\_\_  
Donald Edmunds, Chair



\_\_\_\_\_  
Kathy L. Czarnecki, Recording Secretary

Chair Dziurman called the Regular meeting of the Building Code Board of Appeals to order at 3:00 p.m. on February 3, 2016 in the Council Board Room of the Troy City Hall.

1. ROLL CALL

Members Present

Theodore Dziurman, Chair  
Gary Abitheira  
Michael Morris  
Andrew Schuster

Members Absent

Brian Kischnick

Support Staff Present:

Mitch Grusnick, Building Official/Code Inspector  
Kathy L. Czarnecki, Recording Secretary

Also Present:

Attached and made a part hereof is the signature sheet of those present and signed in at this meeting.

2. APPROVAL OF MINUTES

Moved by: Morris  
Support by: Schuster

**RESOLVED**, To approve the minutes of the December 2, 2015 Regular meeting and January 20, 2016 Special meeting as submitted.

Yes: All present (4)  
Absent: Kischnick

**MOTION CARRIED**

3. HEARING OF CASES

A. VARIANCE REQUEST, PHILLIPS SIGN & LIGHTING INC., 44201 DEQUINDRE –

A variance from the Sign Code to replace two wall signs measuring 91.32 and 100 square feet, respectively, with two 180 square foot wall signs. The site currently has numerous signs. The site is allowed a total of two signs.

Mr. Grusnick reported the department received no written responses to the public hearing notices.

Present were Jake Meadows representing Troy Beaumont Hospital and Ed Phillips of Phillips Sign & Lighting.

Chair Dziurman opened the floor for public comment. Acknowledging there was no one present to speak, the floor was closed.

Moved by: Abitheira  
Support by: Morris

**RESOLVED**, To grant the variance as requested, for the following reason:

- 1. The variance would not be contrary to the public interest or general purpose and intent of Chapter 85.

Yes: All present (4)  
Absent: Kischnick

**MOTION CARRIED**

- B. **VARIANCE REQUEST, MICHAEL STEPHENS OF SIGN-A-RAMA, 1977 E. WATTLES** – A variance from the Sign Code to replace a wall sign with a 32.2 square foot wall sign. The Sign Code allows a maximum 19.2 square foot wall sign.

Mr. Grusnick reported the department received no written responses to the public hearing notices.

Michael Stephens of Sign-a-Rama was present.

Chair Dziurman opened the floor for public comment. Acknowledging there was no one present to speak, the floor was closed.

Moved by: Schuster  
Support by: Abitheira

**RESOLVED**, To grant the variance as requested, for the following reason:

- 1. The variance would not be contrary to the public interest or general purpose and intent of Chapter 85.

Yes: All present (4)  
Absent: Kischnick

**MOTION CARRIED**

- 4. **COMMUNICATIONS**

None.

- 5. **PUBLIC COMMENT**

None.

6. MISCELLANEOUS BUSINESS

None.

7. ADJOURNMENT

The Regular meeting of the Building Code Board of Appeals adjourned at 3:15 p.m.

Respectfully submitted,

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Theodore Dziurman, Chair

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Kathy L. Czarnecki, Recording Secretary

G:\Building Code Board of Appeals Minutes\2016\Draft\2016 02 03 Regular Meeting\_Draft.doc



A meeting of the Troy Election Commission was held February 10, 2016, at City Hall, 500 W. Big Beaver Road. City Clerk Dickson called the Meeting to order at 8:00 AM.

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**Roll Call:**

PRESENT: David Anderson, M. Aileen Dickson – City Clerk, Harry Philo

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**Approval of Minutes**

Resolution #EC-2016-02-01

Moved by Philo

Seconded by Dickson

RESOLVED, That the following Minutes are **APPROVED** as submitted:

Election Commission Meeting – September 25, 2015

Yes: Anderson, Dickson, Philo

No: None

**MOTION CARRIED**

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**Approval of Election Inspector Assignments – March 8, 2016 Presidential Primary Election**

Resolution #EC-2016-02-02

Motion by Philo

Seconded by Anderson

RESOLVED, That Election Inspectors be **APPOINTED** for the March 8, 2016 Presidential Primary Election, as presented by the City Clerk.

BE IT FURTHER RESOLVED, That the City Clerk is hereby **AUTHORIZED** to make emergency appointments as necessary.

Yes: Dickson, Philo, Anderson

No: None

**MOTION CARRIED**

**Authorization to Conduct Testing for the March 8, 2016 Presidential Primary Election**

Resolution # EC-2016-02-03

Motion by Anderson

Seconded by Philo

RESOLVED, That the Election Commission hereby **AUTHORIZES** the City Clerk to conduct preliminary and public tests of the programming, equipment and ballots on behalf of the Election Commission for the March 8, 2016 Presidential Primary Election.

Yes: Philo, Anderson, Dickson

No: None

**MOTION CARRIED**

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**Adjournment:**

The meeting was **ADJOURNED** at 8:09 AM.

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M. Aileen Dickson, MMC, CMMC  
City Clerk

**QUARTERLY REPORT**  
**January 2016**

<b>BOARD OF TRUSTEES</b>	
<b>Representative</b>	<b>Municipality</b>
D. Schueller (Alternate)	City of Berkley
C. Wilson	Village of Beverly Hills
L. Wood	City of Birmingham
M. Pollock	City of Clawson
L. Cureton	City of Ferndale
A. LeCureaux	City of Hazel Park
A. Sullivan	City of Huntington Woods
M. Baumgarten	City of Lathrup Village
R. Fortura	City of Oak Park
S. Pietrzak	City of Pleasant Ridge
G. Rassel	City of Royal Oak
T. Richnak	City of Troy

<b>OFFICERS</b>	
Chairman:	G. Rassel
Vice Chair:	C. Wilson
Secretary:	T. Richnak
Advisory Committee:	C. Wilson G. Rassel

J. A. McKeen	General Manager
R. Jackovich	Operations Manager

Board of Trustees  
SOCRRA

Subject: Quarterly Report - January 2016

Board Members:

Attached is a copy of SOCRRA's Quarterly Report covering the first six months operation of the 2015/16 fiscal year. The report contains a financial statement of SOCRRA's operation and an outline of projects in progress or completed during the quarter. The report also contains statistical information and other information of general interest to the members of the Board of Trustees, and the members of the governing body of each of the member municipalities of this Authority.

### **FINANCIAL STATEMENT**

The total net income for the first 6 months of 2015/16 was \$547,238 before depreciation. This is an increase from the net income of \$372,531 that was recorded for the first 6 months of 2014/15. The net income for the first 6 months was \$519,153 more than budgeted.

	<u>Actual</u>	<u>Compared to Budget</u>
Revenue	\$9,901,498	+\$ 365,208
Expenses	\$9,354,259	-\$ 153,946
Net Income	+\$547,238	+\$ 519,153

Revenue was higher than planned due to increased non-member refuse from Car Trucking, Rizzo Services and Tringali Sanitation (+\$437,000), revenue from the member communities (+\$111,000), non-member yard waste revenue (+\$41,000) and compost sales (+\$26,000). These increases were partially offset by lower than planned prices for our recycled materials (-\$240,000) and by lower than planned miscellaneous revenue (-\$7,000).

Expenses were below budget primarily due to lower than planned costs for non-labor Administrative and General Expenses (-\$124,000), maintenance (-\$72,000) and utilities (-\$21,000), which were partially offset by higher than planned costs for labor (+\$23,000), contractor expenses (+\$22,000) and supplies (+\$12,000).

Total revenue for the first six months of 2015/16 decreased by \$3,182,000 compared to the first six months of 2014/15. This decrease was due to decreased revenue from the member communities due to the flood debris that occurred during 2014/15 (-\$3,050,000), decreased revenue from the sale of recyclables (-\$150,000), decreased compost sales (-\$6,000) and lower miscellaneous revenue (-\$5,000) which were partially offset by increased non-member refuse (+\$26,000), and increased non-member yard waste (+\$7,000).

Operating expenses for the first six months of 2015/16 were \$3,356,000 lower compared to the first six months of 2014/15. The decrease in expenses was primarily due to the extra collection and disposal costs associated with the increased refuse tonnage that resulted from the August 2014 flooding disaster.

Additional financial detail is attached.

### **MATERIAL HANDLED**

SOCRRA processed 116,965 tons of refuse, yard waste and recyclables during the first six months of the current fiscal year. This represents a decrease of 14.3% or 19,501 total tons compared to the same period last year. Member refuse decreased by 28.4% largely due to the huge amount of refuse resulting from the August 2014 flood disaster. Member recycling increased by 8.0% from the previous year. Non-member refuse decreased by 2.0% compared to last year due to Tringali Sanitation, Rizzo Services and Car Trucking delivering lower tonnages to our Troy Transfer Station.

Our recent history of tonnage handled for the first half of the fiscal year is displayed in the table below:

	2011/12	2012/13	2013/14	2014/15	2015/16
Member Refuse	55,319	53,039	54,400	77,447	55,460
Non-Member Refuse	13,431	14,600	16,169	19,389	18,985
Member Recycling	8,819	8,986	9,273	9,005	9,729
Non-Member Recycling	240	261	261	263	227
Yard Waste	<u>30,259</u>	<u>29,581</u>	<u>32,947</u>	<u>30,362</u>	<u>32,564</u>
TOTAL	108,068	106,467	113,050	136,466	116,965

### **CAPITAL EXPENDITURES**

Capital expenditures for the first six months of the fiscal year totaled \$411,107 and were for the replacement of concrete paving at the Troy Transfer Station that was damaged by the flood debris in 2014 (\$121,000), repairs to one of our rental homes in Rochester Hills that was severely damaged by a fire (\$91,000), payments for the purchase of a new loader at the MRF (\$50,000), payments for the purchase of a used Scarab compost turner at the Compost Site (\$39,000), purchase of the parts for relining the baler at the MRF (\$33,000), the initial expenses for the conversion of our MRF to single stream operation (\$29,000), several improvements to the Troy Transfer Station (\$23,000), a series of improvements to several of our rental homes in Rochester Hills (\$14,000) and the replacement of the axle of the Transfer Station loader (\$11,000). The loader and compost turner were financed over a several year period. The repairs to the fire damaged rental home were an insurable loss. The revenue from the insurance claim was recorded when it was received in 2014/15.

### **MAJOR PROJECTS**

#### **ELECTRONICS RECYCLING**

In early December, we were notified by our electronics recycling vendor that they were closing down their operations in Michigan and terminating all of their Michigan contracts. Poor commodity prices and the loss of revenue from the manufacturers of electronic equipment were given as the reasons for their decision. The vendor failed to provide the notice period required under our contract. Lucas Dean, our supervisor of the MRF and Transfer Stations, was able to quickly identify two local vendors that were able to continue our electronics recycling service. Lucas' timely response was important because December is the time of the year during which our electronics recycling peaks due to new electronics being purchased for the holiday season

and all the other electronics recyclers in Michigan were looking for outlets for their electronics. SOCRRA was able to provide continuous service to our residents during this period.

We entered into 3 month agreements with Great Lakes Electronics, located in Warren, and e-Cycle Opportunities, located in Southfield. e-Cycle Opportunities is a small electronics recycler run by Jewish Vocational Services as a means of providing employment for people with disabilities. Both vendors are registered with the State of Michigan. Great Lakes Electronics is certified by a third party organization as an electronics recycler and e-Cycle is in the process of becoming certified.

This change in vendors will turn our electronics recycling program from a producer of a small amount of revenue into an expense. The 3 month agreements will enable us to measure the performance of the new recyclers and to determine how much our electronics recycling program will cost in the future.

### **CONVERSION OF THE MRF TO SINGLE STREAM OPERATION**

Changing to single stream recycling using 65 gallon recycling carts has been part of SOCRRA's long term plan to improve service to our residents and to generate additional recyclable material. In order to do this, SOCRRA needs to revise our collection contracts to include single stream recycling, develop the ability to process the single stream material at our Materials Recovery Facility (MRF) and provide the 65 gallon recycling carts to all of the households in the 12 SOCRRA communities. Accomplishing all of this will result in significant expenditures.

For the first phase of this project, SOCRRA staff worked with Resource Recycling Systems (RRS) to develop a Request for Proposals for the conversion of our MRF to single stream recycling. This would enable SOCRRA to process the commingled recyclables that would be generated by our residents using the 65 gallon recycling carts. The RFP was sent out on September 21, 2015. The RFP offers 2 options for a single stream MRF, Design/Build or Design/Build/Operate and a third option to transfer of single stream recyclables to another location for processing. A total of 7 proposals were received in late December. The proposals were very thorough and provided SOCRRA with a large number of options to evaluate. SOCRRA staff and RRS are in the process of evaluating the proposals. We plan to ask Board approval of a specific proposal in early 2016.

### **MDEQ RECYCLING CART GRANTS**

The MDEQ has announced a \$450,000 grant program for the purchase of recycling carts. Grant applications are due by March 31 and a 50% local funding match is required. We are working with the member communities to prepare and submit a number of grant applications. I believe that the SOCRRA communities are well positioned to compete for these grants. While obtaining some grant funding from the MDEQ would be very helpful, SOCRRA would need about \$5 million to provide recycling carts to all 110,000 household in the 12 SOCRRA communities.

### **RECYCLED COMMODITY PRICES**

The prices that we receive for our recycled plastic and metal products have fallen to very low levels. Revenue from the sale of recyclables declined \$151,000 (25%) from last year. Prices have been consistently below the level used to prepare our budget. It appears that recycled commodity prices will remain low at least for the remainder of this fiscal year.

Our purchasers of recycled commodities have also become much more demanding regarding the quality of the recycled materials that we produce. This typically happens during times of low

commodity prices and costs us some additional labor at the MRF in order to meet the requirements of our purchasers.

### **PROCESSING MATERIALS FROM OTHER COMMUNITIES**

Car Trucking, Rizzo Services and Tringali Sanitation are continuing to bring us a significant amount of refuse from outside of the SOCRRA communities. The incremental revenue from Rizzo and Tringali helps us to offset the fixed costs of running the Troy Transfer Station.

### **STYROFOAM RECYCLING**

SOCRRA began accepting Styrofoam for recycling at our recycling drop-off center in Troy on December 1, 2014. Dart Industries, which is located in Mason, MI, is picking up the recycled Styrofoam on a no cost/no pay basis. This service has proven to be very popular with our residents. During 2015, we recycled 10 tons of Styrofoam, which required 25 truckloads of material being picked up by Dart. It appears that SOCRRA is their largest Styrofoam recycling location in Michigan. We will not be accepting Styrofoam as part of our curbside recycling program.

### **RECYCLING BIN BLITZ**

As part of our celebration of America Recycles Day, during the month of November SOCRRA and the member communities sold recycling bins at a reduced price of \$6. This is about half of the usual price. We are doing this in order to encourage more residents to recycle and to use more than one bin for recycling in order to recycle the full range of materials that can be collected through our curbside recycling program. We sold 747 recycling bins during the month of November which was about the same as the number of bins sold during November of 2014.

### **FALL LEAF SEASON**

The recently completed fall leaf season went very well. Our municipal crews and contractors were able to completely clean up the leaves before the middle of December. During the winter months, residents of the SOCRRA communities can bring in up to 10 kraft paper bags of yard waste to our Troy Transfer Station for disposal. We will be continuing this service until curbside pickup of yard waste begins again in April.

### **COLLECTION CONTRACTS**

SOCRRA's current collection and disposal contracts all expire on June 30, 2017. The SOCRRA Board has approved a plan of renegotiating the collection contracts with the current providers so that they include single stream recycling. SOCRRA General Counsel, Bob Davis, has developed a draft contract that simplifies the existing agreement and includes single stream recycling. This draft contract will be reviewed with the contractors during November. We plan to have final contracts ready for review by the SOCRRA Board in early 2016.

### **PENSION FUNDING**

The SOCRRA Board approved some additional funding for the MERS plan that provides pension benefits for the retired and active salaried employees that provide services to both SOCRRA and SOCWA. This pension plan is significantly underfunded and we plan to increase the funding level to about 100% over a five year period. This was the fourth year of incremental funding in that five year plan. We will include an additional contribution to this fund in our budget for 2016/17.

MERS has announced a series of changes to their actuarial assumptions, all of which will serve to increase our required pension contributions in the future. These changes will be phased in over the next 5 years. After we receive our December, 2015 pension actuarial report, which

should be in June of 2016, SOCRRA staff will work with the SOCRRA Audit Committee to develop a plan for addressing the increased pension contributions that will be required by MERS

**ANNUAL AUDIT**

The audit report for the 2014/15 fiscal year was completed by our auditors, Plante & Moran. This was the fifth audit performed by Plante & Moran under our five year agreement. The audit found the Authority to be in complete conformity with generally accepted accounting practices. The auditors concluded that the Authority's level of working capital decreased over the previous year to a level of 4.8% annual expenditures, which is below the goal level of 7.5%. The net assets of SOCRRA decreased by \$479,000 during 2014/15. The SOCRRA Board approved a new 5 year audit agreement with Plante & Moran in November Of 2015.

Respectfully submitted,

Jeffrey A. McKeen, P.E.  
General Manager

SOCRRA  
STATEMENT OF INCOME  
JULY 1, 2015 THROUGH DECEMBER 31, 2015

<u>REVENUES</u>	<u>ESTIMATED</u>	<u>ACTUAL</u>	<u>VARIANCES</u>
MEMBER SERVICES	\$8,370,690.00	\$8,481,962.46	\$111,272.46
NON-MEMBER REFUSE	346,000.00	782,986.03	436,986.03
NON MEMBER YARD WASTE	42,000.00	83,211.17	41,211.17
	<hr/> \$8,758,690.00	<hr/> \$9,348,159.66	<hr/> \$589,469.66

RECYCLING

NEWSPAPERS	\$255,000.00	\$182,850.18	(\$72,149.82)
BOXBOARD	88,000.00	80,971.70	(\$7,028.30)
CARDBOARD	22,500.00	21,124.75	(1,375.25)
PLASTIC	216,000.00	119,804.46	(96,195.54)
SCRAP METAL	32,500.00	15,726.97	(16,773.03)
TIN CANS	50,000.00	13,348.36	(36,651.64)
NON FERROUS METAL	7,500.00	4,239.55	(3,260.45)
GLASS	5,500.00	368.00	(5,132.00)
BATTERIES	1,600.00	1,940.00	340.00
USED ELECTRONICS	10,000.00	8,288.22	(1,711.78)
	<hr/> \$688,600.00	<hr/> \$448,662.19	<hr/> (\$239,937.81)

OTHER

REVENUES-COMPOST	\$23,000.00	\$49,430.43	\$26,430.43
INTEREST ON INVESTMENTS	10,000.00	9,136.99	(863.01)
RENTAL INCOME	43,000.00	40,017.57	(2,982.43)
GRANTS	0.00	0.00	0.00
MISC. INCOME	13,000.00	6,090.78	(6,909.22)
	<hr/> \$89,000.00	<hr/> \$104,675.77	<hr/> \$15,675.77

TOTAL REVENUES	<hr/> <hr/> \$9,536,290.00	<hr/> <hr/> \$9,901,497.62	<hr/> <hr/> \$365,207.62
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<u>EXPENSES</u>	<u>BUDGET APPROPRIATIONS</u>	<u>ACTUAL EXPENDITURES</u>	<u>VARIANCES</u>
MADISON HEIGHTS FACILITY	\$111,300.00	\$55,198.09	(\$56,101.91)
TROY TRANSFER FACILITY	1,175,278.00	1,389,658.11	214,380.11
MATERIAL RECOVERY FACILITY	641,784.00	630,339.06	(11,444.94)
HOUSEHOLD HAZARDOUS WASTE	144,400.00	132,207.21	(12,192.79)
COMPOST/LANDFILL FACILITY	254,950.00	217,883.18	(37,066.82)
ADMINISTRATIVE & GENERAL	680,765.00	549,503.34	(131,261.66)
COLLECTION FEES	4,670,894.00	4,236,309.25	(434,584.75)
COLLECTION & DISPOSAL FEES IN TRANSIT	1,828,834.00	2,143,161.13	314,327.13
	<hr/> \$9,508,205.00	<hr/> \$9,354,259.37	<hr/> (\$153,945.63)

REVENUES OVER EXPENSES	\$28,085.00	\$547,238.25	\$519,153.25
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NET INCOME BEFORE DEPRECIATION	<hr/> <hr/> \$28,085.00	<hr/> <hr/> \$547,238.25	<hr/> <hr/> \$519,153.25
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SOCRRA  
STATEMENT OF INCOME  
JULY 1, 2015 THROUGH DECEMBER 31, 2015

<u>REVENUE</u>	<u>TOTAL TONS</u>	<u>AMOUNT</u>
MEMBER SERVICES	55,460.29	\$8,481,962.46
NON-MEMBER REFUSE	18,985.05	782,986.03
<u>YARD WASTE</u>		
MEMBERS	31,563.39	0.00
OTHERS	1,000.06	83,211.17
<u>RECYCLABLES</u>		
MEMBERS	9,729.37	0.00
OTHERS	226.80	0.00
	116,964.96	\$9,348,159.66
<u>RECYCLING</u>		
NEWSPAPERS		\$182,850.18
BOXBOARD		80,971.70
CARDBOARD		21,124.75
PLASTIC		119,804.46
SCRAP METAL		15,726.97
TIN CANS		13,348.36
NON FERROUS METAL		4,239.55
GLASS		368.00
BATTERIES		1,940.00
USED ELECTRONICS		8,288.22
		\$448,662.19
<u>OTHER</u>		
COMPOST SALES		\$49,430.43
INTEREST ON INVESTMENTS		9,136.99
RENTAL INCOME		40,017.57
GRANTS		0.00
MISC. INCOME		6,090.78
		104,675.77
TOTAL REVENUE		\$9,901,497.62
<u>EXPENSES</u>		
MADISON HEIGHTS FACILITY		\$55,198.09
TROY TRANSFER FACILITY		1,389,658.11
MATERIAL RECOVERY FACILITY		630,339.06
HOUSEHOLD HAZARDOUS WASTE		132,207.21
COMPOST/LANDFILL FACILITY		217,883.18
ADMINISTRATIVE & GENERAL		549,503.34
COLLECTION CONTRACT EXPENSES		4,236,309.25
COLLECTION & DISPOSAL FEES IN TRANSIT		2,143,161.13
		\$9,354,259.37
NET INCOME BEFORE DEPRECIATION		\$547,238.25
DEPRECIATION		214,399.08
NET INCOME		\$332,839.17

SOCRRA  
STATEMENT OF REVENUES & EXPENDITURES  
COMPARED WITH TOTAL BUDGET  
JULY 1, 2015 THROUGH DECEMBER 31, 2015

<u>REVENUES</u>	TOTAL BUDGET 2015/16	ACTUAL 6 MONTHS	<u>BALANCE</u>	
MEMBERS SERVICES	\$17,067,700.00	\$8,481,962.46	\$8,585,737.54	50%
NON-MEMBER REFUSE	660,000.00	782,986.03	(122,986.03)	119%
<u>YARD WASTE</u>				
NON-MEMBERS	70,000.00	83,211.17	(13,211.17)	119%
<hr/>				
<u>RECYCLABLES</u>				
NEWSPAPERS	\$610,000.00	\$182,850.18	\$427,149.82	30%
BOXBOARD	210,000.00	80,971.70	129,028.30	39%
CARDBOARD	53,000.00	21,124.75	31,875.25	40%
PLASTIC	518,000.00	119,804.46	398,195.54	23%
SCRAP METAL	79,000.00	15,726.97	63,273.03	20%
TIN CANS	121,000.00	13,348.36	107,651.64	11%
NON FERROUS METAL	17,000.00	4,239.55	12,760.45	25%
GLASS	13,000.00	368.00	12,632.00	3%
BATTERIES	4,000.00	1,940.00	2,060.00	49%
USED ELECTRONICS	24,000.00	8,288.22	15,711.78	35%
<hr/>				
	\$1,649,000.00	\$448,662.19	\$1,200,337.81	27%
<u>OTHER</u>				
COMPOST SALES	\$60,000.00	\$49,430.43	\$10,569.57	82%
INTEREST ON INVESTMENTS	20,000.00	9,136.99	10,863.01	46%
RENTAL OF HOMES	90,000.00	40,017.57	49,982.43	44%
GRANTS	0.00	0.00	0.00	0%
MISC. INCOME	25,000.00	6,090.78	18,909.22	24%
<hr/>				
	\$195,000.00	\$104,675.77	\$90,324.23	54%
<hr/>				
TOTAL REVENUES	\$19,641,700.00	\$9,901,497.62	\$9,740,202.38	50%

SOCRRA  
 STATEMENT OF REVENUES & EXPENDITURES  
 COMPARED WITH TOTAL BUDGET  
 JULY 1, 2015 THROUGH DECEMBER 30, 2015

<u>EXPENSES</u>	<u>TOTAL BUDGET 2015/16</u>	<u>ACTUAL 6 MONTHS</u>	<u>BALANCE</u>	
MADISON HEIGHTS FACILITY	\$132,200.00	\$55,198.09	\$77,001.91	42%
TROY TRANSFER FACILITY	3,166,750.00	1,389,658.11	1,777,091.89	44%
MATERIAL RECOVERY FACILITY	1,286,400.00	630,339.06	656,060.94	49%
HOUSEHOLD HAZARDOUS WASTE	2,851,000.00	132,207.21	2,718,792.79	5%
COMPOST/LANDFILL FACILITY	446,700.00	217,883.18	228,816.82	49%
ADMINISTRATIVE & GENERAL	1,330,800.00	549,503.34	781,296.66	41%
COLLECTION & DISPOSAL FEES	12,089,000.00	4,236,309.25	7,852,690.75	35%
COLLECTION & DISPOSAL FEES IN TRANSIT	0.00	2,143,161.13	(2,143,161.13)	0%
	<u>\$21,302,850.00</u>	<u>\$9,354,259.37</u>	<u>\$11,948,590.63</u>	
TOTAL EXPENDITURES	<u>\$21,302,850.00</u>	<u>\$9,354,259.37</u>	<u>\$11,948,590.63</u>	44%
NET INCOME	<u>(\$1,661,150.00)</u>	<u>\$547,238.25</u>	<u>(\$2,208,388.25)</u>	-33%

S O C R R A  
 COMPARATIVE STATEMENT  
 JULY 1, 2015 THROUGH DECEMBER 31, 2015

	<u>2015/16</u>	<u>2014/15</u>	<u>VARIANCES</u>
<u>REVENUES</u>			
MEMBER SERVICES	\$8,481,962.46	\$11,531,408.48	(\$3,049,446.02)
NON MEMBER REFUSE	782,986.03	756,676.61	26,309.42
<u>YARD WASTE</u>			
MEMBERS	0.00	0.00	0.00
OTHERS	83,211.17	75,766.66	7,444.51
	<hr/>	<hr/>	<hr/>
	\$9,348,159.66	\$12,363,851.75	(\$3,015,692.09)
<u>RECYCLABLES</u>			
NEWSPAPERS	\$182,850.18	\$217,954.82	(\$35,104.64)
BOXBOARD	80,971.70	68,565.50	12,406.20
CARDBOARD	21,124.75	25,399.78	(4,275.03)
PLASTIC	119,804.46	195,574.84	(75,770.38)
SCRAP METAL	15,726.97	35,374.89	(19,647.92)
TIN CANS	13,348.36	36,956.40	(23,608.04)
NON FERROUS METAL	4,239.55	4,641.60	(402.05)
GLASS	368.00	1,133.50	(765.50)
BATTERIES	1,940.00	1,707.00	233.00
USED ELECTRONICS	8,288.22	12,334.17	(4,045.95)
	<hr/>	<hr/>	<hr/>
	\$448,662.19	\$599,642.50	(\$150,980.31)
<u>OTHER</u>			
COMPOST SALES	\$49,430.43	\$55,507.20	(\$6,076.77)
INTEREST ON INVESTMENTS	9,136.99	8,647.26	489.73
RENTAL OF HOMES	40,017.57	44,262.00	(4,244.43)
GRANTS	0.00	0.00	0.00
MISC. INCOME	6,090.78	11,296.92	(5,206.14)
	<hr/>	<hr/>	<hr/>
	\$104,675.77	\$119,713.38	(\$15,037.61)
TOTAL REVENUES	\$9,901,497.62	\$13,083,207.63	(\$3,181,710.01)
OPERATING EXPENSES	\$9,354,259.37	\$12,710,676.71	(\$3,356,417.34)
EXCESS	<hr/>	<hr/>	<hr/>
	\$547,238.25	\$372,530.92	\$174,707.33

SOCRRA  
TOTAL SERVICE CHARGES  
JULY 1, 2015 THROUGH SEPTEMBER 30, 2015

<u>MUNICIPALITY</u>	<u>TOTAL TONS</u>	<u>SERVICE CHARGES</u>
BERKLEY	5,359	\$459,489.38
BEVERLY HILLS	3,981	\$316,200.00
BIRMINGHAM	9,908	\$710,840.04
CLAWSON	4,433	\$388,668.32
FERNDALE	8,129	\$860,147.77
HAZEL PARK	4,868	\$545,940.00
HUNTINGTON WOODS	2,812	\$172,896.00
LATHRUP VILLAGE	1,861	\$142,542.98
OAK PARK	8,055	\$818,607.74
PLEASANT RIDGE	1,415	\$90,124.34
ROYAL OAK	22,420	\$1,859,063.54
TROY	23,511	\$2,117,442.35
	<hr/>	<hr/>
SUB-TOTAL	96,753	\$8,481,962.46
	<hr/>	<hr/>
OTHER CUSTOMERS	20,040	\$866,197.20
DROP OFF CENTERS	172	0.00
	<hr/>	<hr/>
TOTAL	116,965	\$9,348,159.66

SOCRRA  
IMPROVEMENT FUND  
JULY 1, 2015 THROUGH DECEMBER 31, 2015

FIXED ASSETS

EXPENDITURES

TS Cement	\$120,761.11
TS Wall	6,684.00
TS Loader Axle Replacement	10,576.41
TS Compactor Repair	11,213.65
TS Fence	5,200.00
CS SCARAB	39,284.76
John Deer Loader MRF	50,440.85
1670 School Rd	91,200.22
Rental Property Demolition and Repairs	13,788.28
Single Stream Conversion	29,227.05
MRF Baler Relining	32,730.60
TOTAL	<u>\$411,106.93</u>
	\$411,106.93



## CITY COUNCIL AGENDA ITEM

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Date: February 16, 2016

To: Brian Kischnick, City Manager

From: Mark F. Miller, Director of Economic and Community Development  
Steven J. Vandette, City Engineer  
Larysa Figol, Sr. Right-of-Way Representative

Subject: UPDATE: Sale of Surplus City Parcels

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City Council approved the sale of eleven (11) City owned remnant parcels on April 7, 2014. The development potential of the parcels fell into 2 categories: buildable and those whose development potential would best be realized if combined with an adjacent property.

### 5 BUILDABLE PARCELS

Of the 11 parcels, 5 were deemed buildable parcels and offered for sale to the public. Bid documents were upload to MITN.info with a bid deadline date of December 18, 2014. Four of the five properties received bids and City Council approved the highest bids at their January 12, 2015 meeting. Staff has closed on all four parcels that received bids.

Total sale amount for buildable parcels is \$357,500.

### 6 ASSEMBLAGE PARCELS

Staff sent letters to owners of properties that abut City owned parcels. Only one parcel has sold to date (598 E. Maple). A second Offer to Purchase is being presented to City Council for approval at their February 22, 2016 meeting.

Total sale amount for assemblage parcels is \$42,300.

Total proceeds from this phase of remnant parcel sales is \$399,800. Of these, \$177,500 are funds generated from properties originally acquired with federal funds for road widening projects. Overall the City of Troy has generated over \$3 million dollars from the sale of parcels that were originally acquired with federal funds.

According to MDOT and Federal Regulations, all proceeds from these sales are to be made available for other federally funded transportation projects, including land acquisition.

<b>DEVELOPMENT POTENTIAL</b>	<b>PIN</b>	<b>ADDRESS/LOCATION</b>	<b>ZONING</b>	<b>ACRE</b>	<b>APPRAISED AMOUNT</b>	<b>Highest Bid/Sale Amount</b>	<b>STATUS</b>
<b>Buildable</b>	88-20-03-126-006	6972 Donaldson	R-1B	0.95	\$55,000	\$107,500	Closed Deed recorded
<b>Buildable</b>	88-20-20-226-038	Engineering Field Office/Boulan Park	CF	0.56	\$80,000	\$130,000	Closed Deed recorded
<b>Buildable</b>	88-20-16-476-027	Livernois & Paragon	R-1B	0.42	\$45,000	\$65,000	Closed Deed recorded
<b>Buildable</b>	88-20-16-476-028	Livernois & Paragon	R-1B	0.42	\$45,000	\$55,000	Closed Deed recorded
<b>Buildable</b>	88-20-24-451-029	Big Beaver, West of Waterfall	R-1E	0.31	\$55,000		No bids received
Assemblage	88-20-10-101-018	Old Fire Station 2	O	0.34	\$59,000		Offer to purchase from one of adjoining property owners below appraised value
Assemblage	88-20-28-227-006	2995 Livernois	BB	0.18	\$40,000		No interest from adjoining property owner
Assemblage	88-20-22-358-028	Big Beaver & Frankton	BB	0.21	\$36,000	\$36,000	Offer to purchase to City Council for acceptance on 2-22-16
Assemblage	88-20-27-155-013	Hickory & Plum	R-1E	0.17	\$55,000		No interest from adjoining property owners
Assemblage	88-20-34-201-003	598 E. Maple	IB	0.14	\$6,200	\$6,300	Closed Deed recorded
Assemblage	88-20-26-483-053	John R & Maple	CB	0.39	\$70,000		No interest from adjacent property owner

**\$399,800**