



**CITY COUNCIL AGENDA**  
September 16, 2002 – 7:30 P.M.  
Council Board Room – City Hall  
500 West Big Beaver, Troy, Michigan 48084  
(248) 524-3300

**CALL TO ORDER**

**ROLL CALL**

Mayor Matt Pryor  
Robin Beltramini  
Cristina Broomfield  
David Eisenbacher

Martin F. Howrylak  
David A. Lambert  
Anthony N. Pallotta

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**1 State Telecommunications Policy (7:30 – 8:30)**

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**2 Signs in Easements for Non-Residential Areas (8:30 – 9:15)**

**BREAK (9:15 – 9:30)**

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**3 Street Interconnection (9:30 – 10:00)**

**PUBLIC COMMENT**

**ADJOURN**

Respectfully submitted,

John Szerlag, City Manager

*Any person not a member of the Council may address the Council with recognition of the Chair, after clearly stating the nature of his/her inquiry. No person not a member of the Council shall be allowed to speak more than twice or longer than five (5) minutes on any question, unless so permitted by the Chair. The Council may waive the requirements of this section by a majority of the Council Members. Consistent with Order of Business #11, the City Council will move forward the specific Business Items, which audience members would like to address. The Mayor shall announce the items which are to be moved forward and will ask the audience if there are any additional items which they would like to address. All Business Items that members of the audience would like to address will be brought forth and acted upon at this time. Items will be taken individually and members of the audience will address council prior to council discussion of the individual item.*

9/13/02

TO: MAYOR AND MEMBERS OF CITY COUNCIL

FROM: JOHN SZERLAG, CITY MANAGER  
JOHN LAMERATO, ASSISTANT CITY MANAGER/FINANCE  
GARY SHRIPKA, ASSISTANT CITY MANAGER/SERVICES  
DOUG SMITH, REAL ESTATE AND DEVELOPMENT DIRECTOR  
STEVE VANDETTE, CITY ENGINEER  
LORI GRIGG BLUHM, CITY ATTORNEY

RE: TELECOMMUNICATIONS

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On March 14, 2002, Governor Engler signed legislation that requires the City of Troy to evaluate our telecommunications ordinances and the new state law, the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (METRO). This evaluation should be conducted prior to November 1, 2002.

Richard F. English, a partner at Plante Moran, will provide some telecommunications background information at the study session. A copy of his power point presentation is included for your review. In addition, the City's telecommunications legal counsel, Neil Lehto, will also be present at the study session to answer additional questions. He has also provided a memorandum concerning METRO, which is also included.

Under METRO, all telecommunications providers must pay an annual fee of 5 cents per linear foot into the METRO Authority. The METRO Authority is responsible for determining the amounts due for telecommunication. From these amounts, the METRO Authority will give 75% of the proceeds to the cities, pursuant to the Act 51 formula. However, the cities are limited to spending this money exclusively on rights of way purposes, and must file an accounting to verify the expenditures. A copy of the estimated distribution of telecommunications fees is attached for your review. It is important to note that METRO precludes additional compensation for plan review and construction inspection for telecommunications.

On the other hand, the City of Troy could continue the existing permits. By choosing this option, we would forever preclude receiving money from the METRO Authority. This is true, even though the telecommunications providers may elect not to enter into new agreements with the City, or refuse to renew existing agreements when they expire. For your assistance, a chart demonstrating the amounts received by the City during the year 2000, 2001, and 2002 is attached. These amounts exclude the cable franchise fee, which may be detrimentally effected (approx. 20%) by an FCC ruling that is being appealed.

If you have additional questions, or require additional information, please let us know.

LinkMichigan

# Regional Telecommunications Planning



**Presented by:**  
**Richard F. English**  
**Partner**

**May 2002**

plante  
moran

# Agenda

- ▶ **History of Telecommunication Deregulation**
- ▶ **The Apparent Problem**
- ▶ **CLEC - ILEC Interconnection**
- ▶ **State of the Industry**
- ▶ **What is Broadband?**
- ▶ **LinkMichigan Initiative**
- ▶ **The Michigan Hi-Speed Internet Plan**
- ▶ **Closing Thoughts - Final Divestiture**



# Speaker

**Richard English**



- ▶ ***Partner - Plante & Moran's Communications & Networking practice***
- ▶ ***Over twenty years of experience in telecommunications and network design, configuration, implementation, and management***
- ▶ ***Member of Michigan Information Technology Advisory Group (MITAG) – advising the State of Michigan on IT initiatives for economic development***
- ▶ ***Member Detroit Regional Economic Partnership Technology Committee***
- ▶ ***Member of Society of Telecommunications Consultants***
- ▶ ***Member of Institute of Electrical & Electronics Engineers (IEEE)***
- ▶ ***Member of IEEE Communications Society***
- ▶ ***Member of Society for Information Management (SIM)***



# History of Telecommunications Deregulation

## 1968 – Carterphone Decision

- ⌘ Allowed acoustic coupling of data modems to AT&T Bell System Network
- ⌘ AT&T required interface devices to protect the Network

## Early 1970's – Emerging Long Distance Carriers

- ⌘ MCI, Sprint and others begin marketing LD service to metro areas

## 1984 – Breakup of the AT&T Bell System

- ⌘ Restructuring the Bell System into 7 Regional Bell Operating Companies (RBOC)
- ⌘ True competition from local service and long distance service
- ⌘ Local telephone service remains unchanged

## 1996 – Federal Telecommunications Act

- ⌘ First re-write of the Communications Act of 1934
- ⌘ Affected telecommunications, Internet, cable TV, radio and broadcasting
- ⌘ Provided for CLEC to “interconnect” with ILEC local “last mile” infrastructure

# Universal Service



***In the early years, AT&T agreed to provide cheap local phone service throughout the country to boost phone penetration (then at 40%). To subsidize this “Universal Service” they charged extra fees to consumers. This pricing system has not changed to date, and about 70% of local residential lines are still subsidized.***

**As a result of the Telecommunications Act of 1996:**

## **National Telecommunications and Information Agency**

- ⌚ Stressed the need for voice, data, & video communications availability everywhere in US**
- ⌚ Telecommunications infrastructure in place for universal access to broadband capabilities**
- ⌚ Cities & counties can play a pivotal role in franchising authority and right-of-way**

## **Economic Development**

- ⌚ All companies need non-toll access to the Internet**
- ⌚ Economic development potential is enhanced by having a range of telecom services**
- ⌚ Businesses want to operate in locations that possess alternative telecom infrastructure**

## **Universal Service Fund (e-Rate)**

- ⌚ Telecom Act of 1996 established to “encourage deployment of advanced telecom service”**
- ⌚ Discount rates to K-12 schools, libraries, rural health providers for USF eligibility**
- ⌚ Grant program to promote advanced telecom networks funded through your telephone bill**



# The Apparent Problem

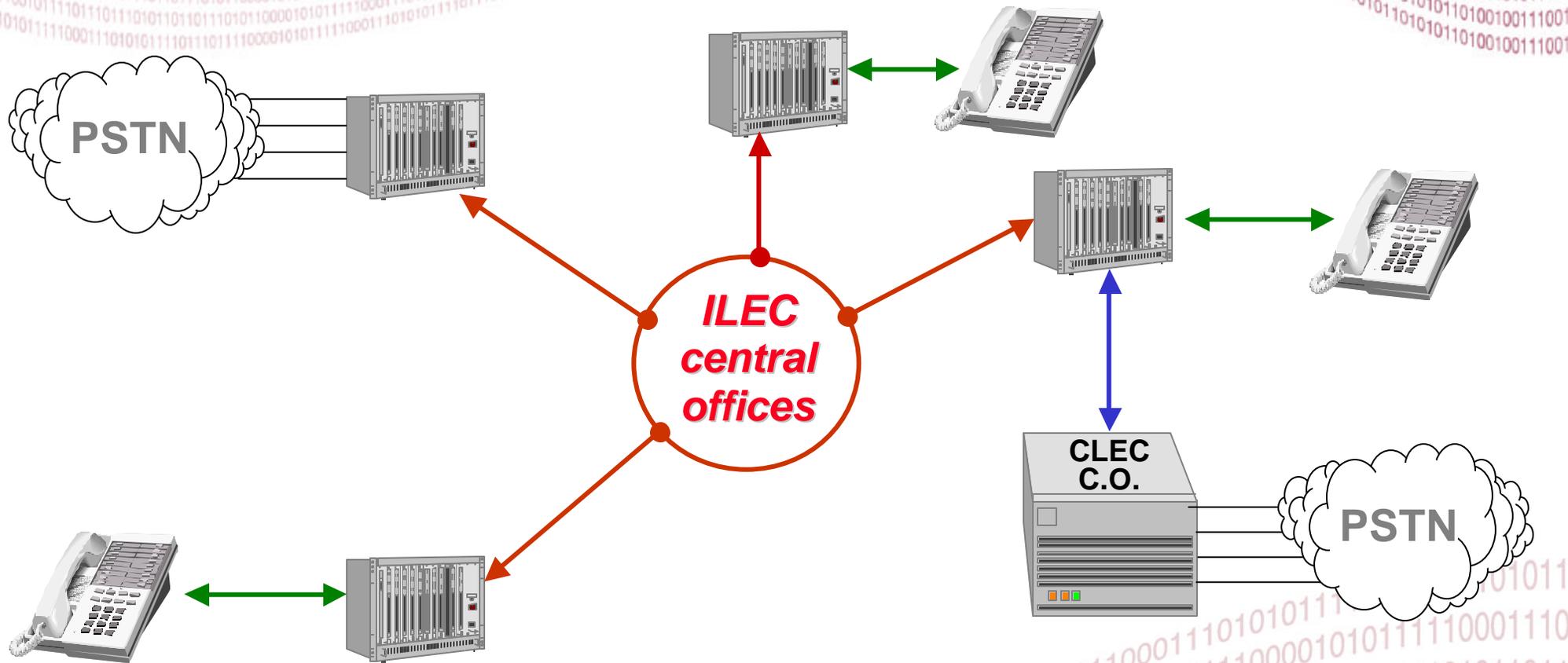
## Deregulation Provisions Have Not Worked Well

- ⌚ Further regulation would be required to protect against abuses by existing monopolies
- ⌚ Did not overcome the difficulties in the local loop
- ⌚ Why can't competition succeed in the local market as in the long distance market?

## The “Local Loop” or “Last Mile”

- ⌚ The connection from the ILEC central office to the business location
- ⌚ Delay and cost of using the “Last Mile” connection
- ⌚ Complications of co-location of facilities
- ⌚ Interaction with ILEC and CLEC regarding interconnection agreement

# CLEC - ILEC Interconnection





# Carrier Alternative Strategies

## Some Players:

Qwest  
Level 3  
Global Crossings  
(Fiber)

Young, next generation telecom firms developing new, national fiber-optic networks. High Speed Internet, emerging low-cost voice.

SBC/Ameritech  
GTE/Bell Atlantic - Verizon  
MCI-WorldCom  
(Fiber-Copper)

Last-mile is bottleneck – traditional ILEC infrastructure  
Traditional local and long distance companies are upgrading their networks to keep up. (Project Pronto)

XO Communications  
Winstar  
Teligent  
(Wireless)

Next generation carriers deploying high-speed wireless networks using satellite dishes and special antennas installed on rooftops in metro areas

AT&T  
Comcast  
(Broadband)

Upgrading Cable TV coax networks to fiber-optic backbones.  
Also, AT&T has been experimenting with fixed wireless (Project Angel) where cable network does not reach.

# State of the Industry



## The CLEC's collapse.....

- ⌚ **Within a few months of the federal Telecommunications Act of 1996, phone industry leaders were predicting a revolution in telecommunications.**
- ⌚ **The Telecom Act was the catalyst for a new industry, as 300 new companies (CLECs) began.**
- ⌚ **Five years later, the industry is in a state of flux**
- ⌚ **Since March of 2000, stock prices for telecommunications companies have dropped significantly, with many gone bankrupt and others quickly running out of cash.**
- ⌚ **One measure of competition is the percentage of phone lines served by competitors. The FCC estimates that currently 95% of the local residential lines are controlled by the ILECs**

# State of the Industry



## Why?

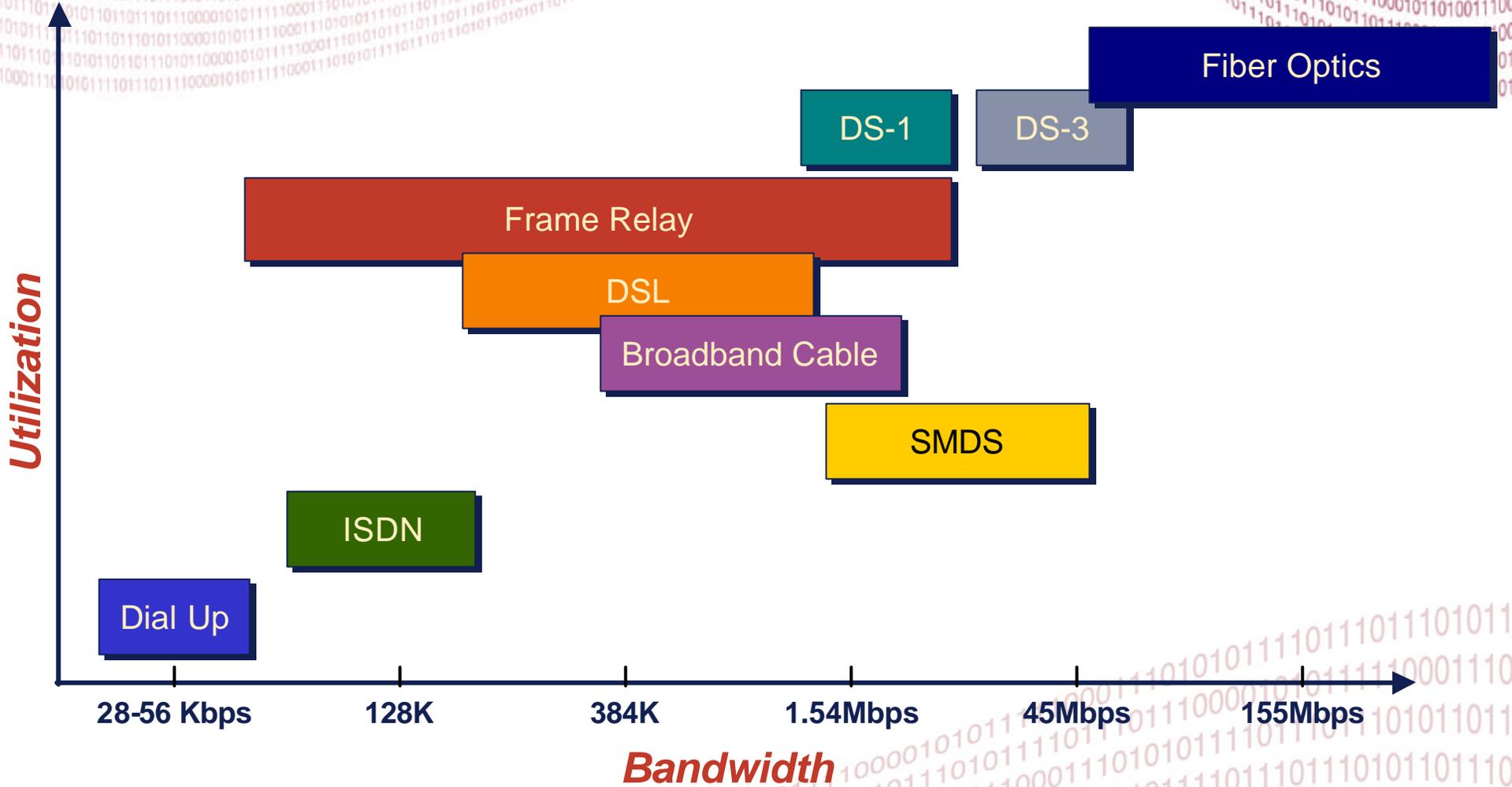
- ⌚ **The Bells dragged their feet on allowing the CLECs into the local loop - Bureaucratic processes**
- ⌚ **Competitors need parts of an incumbent phone company's network to do business. They say that state regulators, following FCC rules, set prices paid to these companies are too high. CLECs are also paying premium prices for right of way fees**
- ⌚ **The CLECs are spending significant amounts of money to install their own infrastructure, to bypass the last mile - capital intensive/financially draining**
- ⌚ **Legislation like the Tauzin/Dingell bill, which is currently up for a vote in the Senate, would have the effect of closing networks of incumbents to competitors who also want to offer high-speed services, further causing turmoil in the industry**

# What is Broadband?

- ⌚ **Broadband is not a specific technology - it simply describes the speed at which information can be passed from point-to-point (200 Kb/s or faster)**
- ⌚ **Broadband service can be delivered through cable modem, a Digital Subscriber Line (DSL), fiber optics, fixed wireless, or satellite technology**
- ⌚ **Broadband is vital to users who must send and receive multi-media information that can include voice, data, video and graphics via the Internet**



# Connectivity - Services and Performance



# Different Ways to Deliver Broadband Access



## 1. Cable TV

Cable Television companies have been upgrading their one-way broadcast networks to allow for sending and receiving information. This allows cable modem access for 1-Mb/s speeds on a shared neighborhood node.

## 2. Telephone Line

Using Digital Subscriber Line (DSL), phone companies can boost traditional copper telephone lines for high-speed Internet access. Speeds range from 10 to 17 times faster than traditional 56K modems.

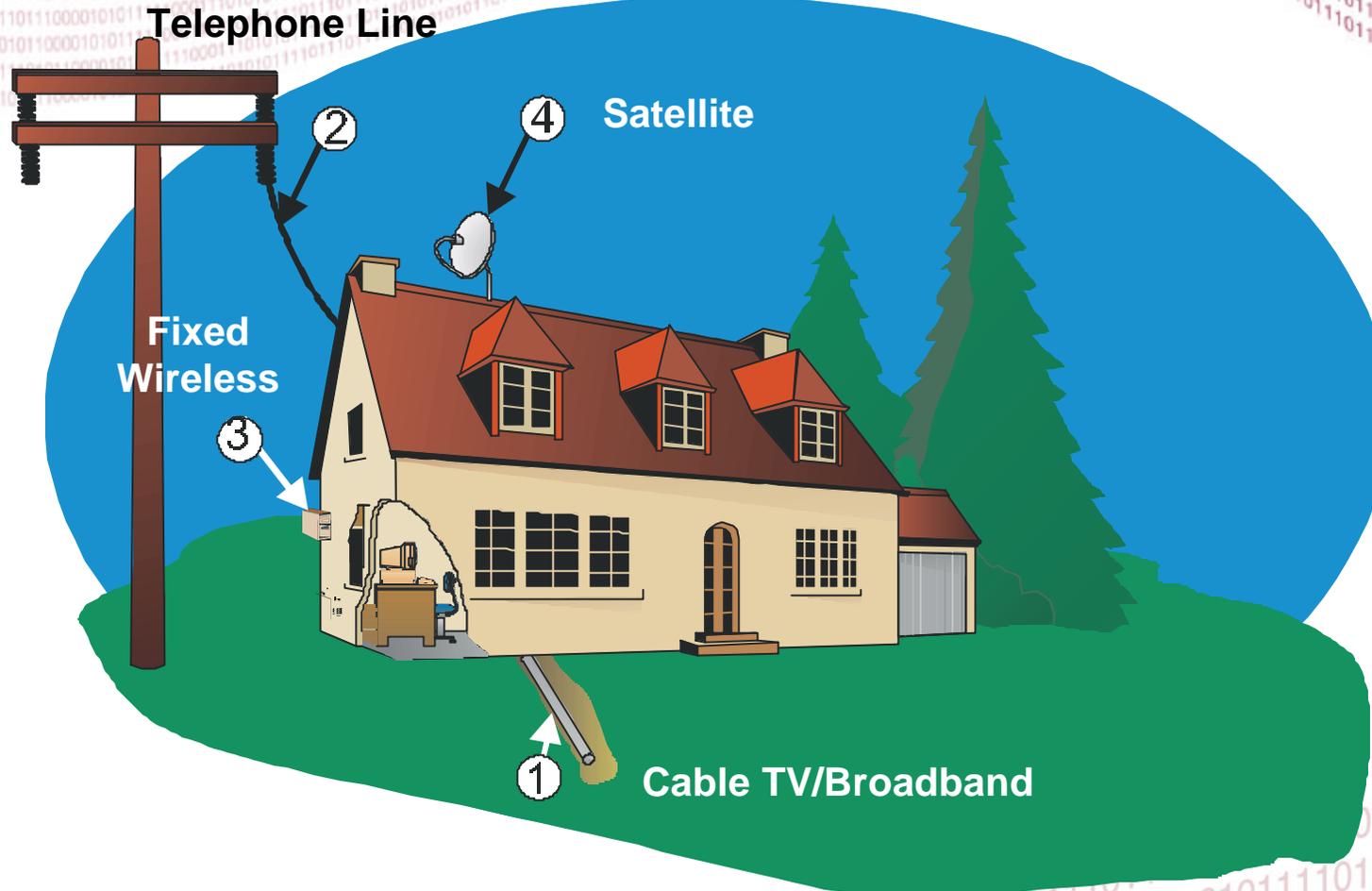
## 3. Fixed Wireless

AT&T, MCI/WorldCom and others are experimenting with wireless to overcome the dilemma associated with the local loop or “last mile.” Speeds range in the T-1/1.5 Mb/s) range. (AT&T has exit strategy).

## 4. Satellite

AOL/Time Warner, Hughes Electronics, WebTV, have an alliance to offer high-speed Internet access via satellite

# Internet Access





# Why is Broadband so Important to Michigan?

- ⌚ **The need for Broadband has become a central issue in economic development - companies deciding where to locate are demanding access to broadband**
- ⌚ **Broadband deployment has become critical in the event of a natural disaster or emergency**
- ⌚ **Broadband access is vital to municipalities, schools, and libraries in this information-driven age**
- ⌚ **Expected to create an additional 500,000 jobs in Michigan over the next 10 years\***
- ⌚ **High-speed Internet service is no longer a luxury - it is a necessity**

\* Gartner Report 2002

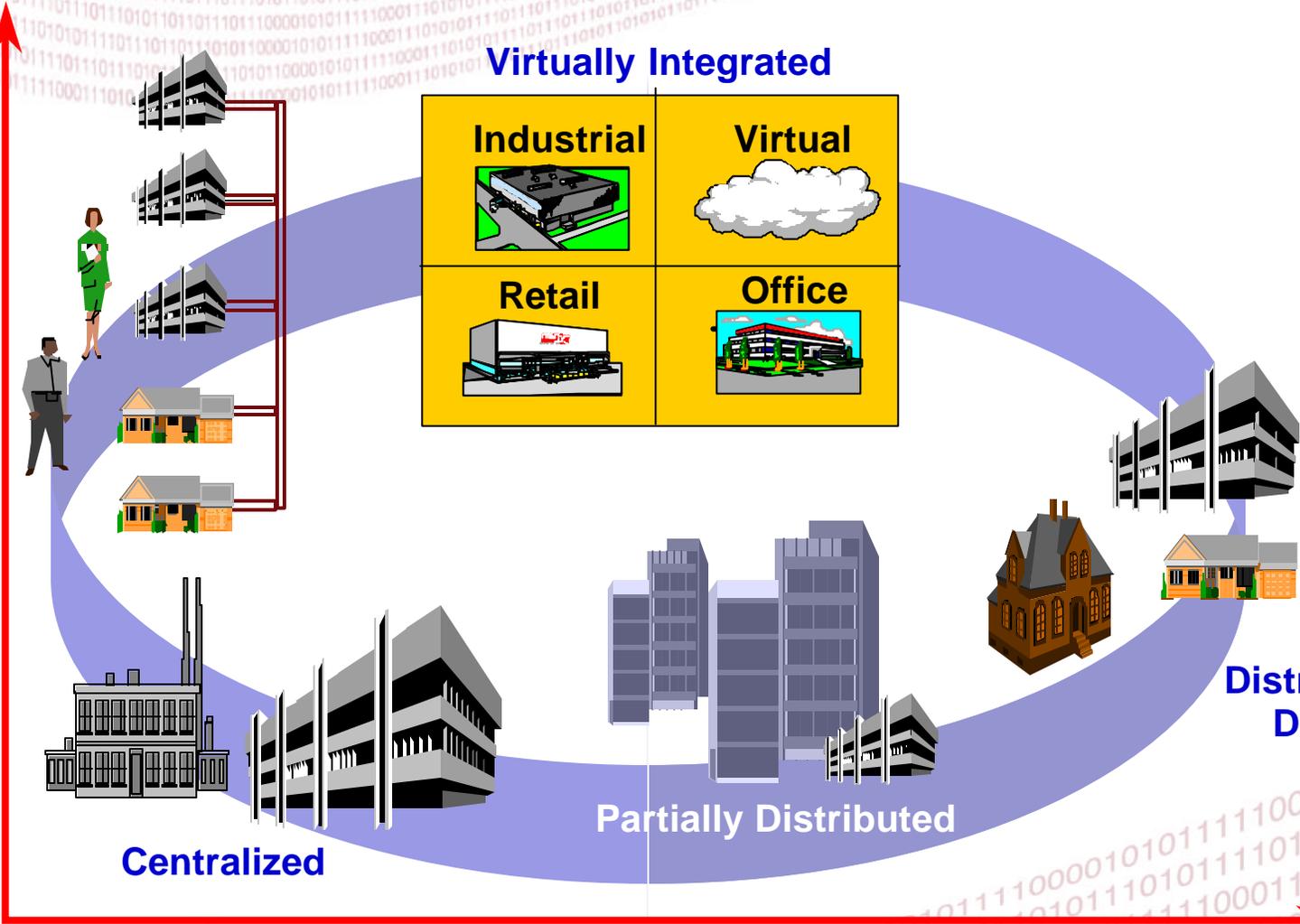


# Broadband Demands – Workplace Integration

## Virtually Integrated

<b>Industrial</b> 	<b>Virtual</b> 
<b>Retail</b> 	<b>Office</b> 

- Globally distributed
- Tightly aligned
- Partners and subcontractors
- Customers
- Knowledge-based workers
- Teleworkers



# Forces & Opportunities in the Broadband Economy



**Competition creates choices**  
*VoIP is a “disruptive” technology*

**Opportunity to transform traditional business models**  
*Supply chain portals*

**Market turbulence and increased competition**  
*Negative advertising*

**Integration of voice, data and video services creating economic value over the Internet**

# LinkMichigan Initiative



***Launched in May 2001, the LinkMichigan initiative is a four-step approach to expand Michigan’s telecommunications infrastructure. The four key action items are:***

- ⌚ Aggregate public sector telecommunications purchasing to leverage additional infrastructure investments***
- ⌚ Level the regulatory playing field for all broadband carriers by implementing tax and permit fairness to improve fair competition***
- ⌚ Create a system to provide better access to information about where and what telecommunications services are available around the state***
- ⌚ Provide community planning grants for “last mile” telecommunications regional planning***



# The Investment Facts & Problem

- ⌚ **Michigan is one of the lowest ranked states for the rate of high-speed telecommunications growth (FCC)**
- ⌚ **Michigan ranks last in capital investment in telecommunications infrastructure (FCC)**
- ⌚ **Conflicts between providers and cumbersome and lengthy permitting procedures delay broadband deployment**
- ⌚ **Infrastructure carriers have decided to “invest elsewhere” around the nation**

# The Solution



- ⌚ **Streamline regulations and level the regulatory playing field so telecommunications providers can more quickly access underserved markets**
- ⌚ **Provide a tax credit to encourage providers to invest in critical infrastructure**
- ⌚ **Create a new low cost financing option to make broadband service deployment statewide financially viable at an affordable cost to users**
- ⌚ **Increase competition among providers, give Internet users more options for high-speed service, and protect phone users from rate increases**

# The MI Hi-Speed Internet Plan



*From the LinkMichigan strategic planning report, legislation was introduced by Governor Engler and recently passed the House and Senate (Senate Bills 880, 881 and 999) to implement the LinkMichigan action items. This Michigan Hi-Speed Internet legislation will:*

-  **Create the Michigan Broadband Development Authority (MBDA) to provide low-interest loans to fund the deployment of broadband**
-  **Create a statewide right-of-way authority to administer fees**
-  **Provide tax credits to telecommunication providers who invest in new broadband infrastructure in Michigan**

# The Right of Way Authority



- ⌚ **SB 880 - The Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (“METRO Act”) - establishes common fees and rules for telecommunications carriers in the permitting system**
- ⌚ **Sets a uniform statewide rights-of-way annual maintenance fee of \$0.02 per foot in 2002 and \$0.05 per foot thereafter (including SBC/Ameritech and Verizon), which goes back to the municipalities**
- ⌚ **Current right-of-way fees must be amended by January 1, 2004**
- ⌚ **Requires a 45-day streamlined application procedure for requesting permits**
- ⌚ **Schools, community colleges and universities - along with municipal governments and electric and gas utilities - are exempt from the fee if used for private purposes**

# The Broadband Development Authority



- ⌚ **SB 881 creates the “Michigan Broadband Development Authority”**
- ⌚ **Provides low cost financing of high-speed broadband infrastructure build-out through utility-grade bonds**
- ⌚ **No state tax dollars will be used**
- ⌚ **Financing provided will be repaid from the revenues derived from broadband projects**

# Tax Credits



- ⌚ **SB 999 provides a tax credit against state property tax which will be available to telecommunications companies investing in new broadband infrastructure in the State of Michigan**
- ⌚ **Beginning in 2003 - companies can claim a credit equal to 6% of their expenditures buying and installing broadband infrastructure**
- ⌚ **An additional tax credit will be available to offset the rights-of-way fees paid by telecommunication providers**

# Regional Telecommunications Planning Grants



*One element of the LinkMichigan initiative is the Regional Telecommunications Planning Program. The primary objective of the Program is to help communities develop strategies for improving and expanding Michigan's telecommunications infrastructure in their region.*

## Program requirements:

- **Maximum grant for a single county project is \$100,000**
- **All proposed projects must be for county or multi-county efforts, not individual cities, villages or townships**
- **Planning efforts must be broad-based and address needs of many different organizations, which can include government, business, education, and health care**
- **Funding is for planning assistance, not detailed design or implementation**
- **Funding requirements for all projects are 75% state and 25% local**
- **Projects will qualify for funding based on job creation and economic development**

# Regional Telecommunications Planning Grants



## Step 1: Notice of Intent (NOI)

- Complete and submit to Michigan Economic Development Corporation (MEDC)
- Identify work plan approach and approximate costs
- NOI is reviewed and approved by MEDC

## Step 2: Submit an Application

- Verifies information on NOI
- Provides additional information on project activities and tasks



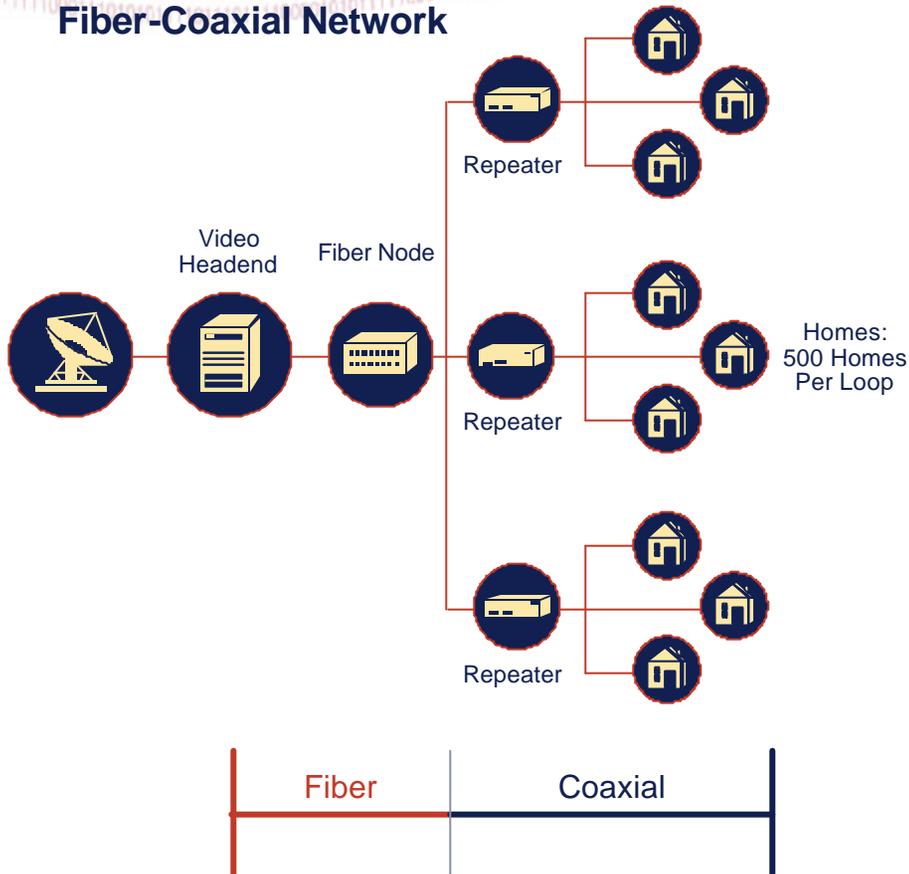
# Telecommunications Planning Approach

- ⌚ Identify stakeholders – *business, government, education, healthcare*
- ⌚ Develop a vision based on application requirements
- ⌚ Gather information:
  - ✎ Current infrastructure in the region
  - ✎ Current availability of advanced services by providers
  - ✎ Identify current and future needs based on application
- ⌚ Determine future performance requirements
- ⌚ Identify solutions and cost estimates based on technology and geographic reach

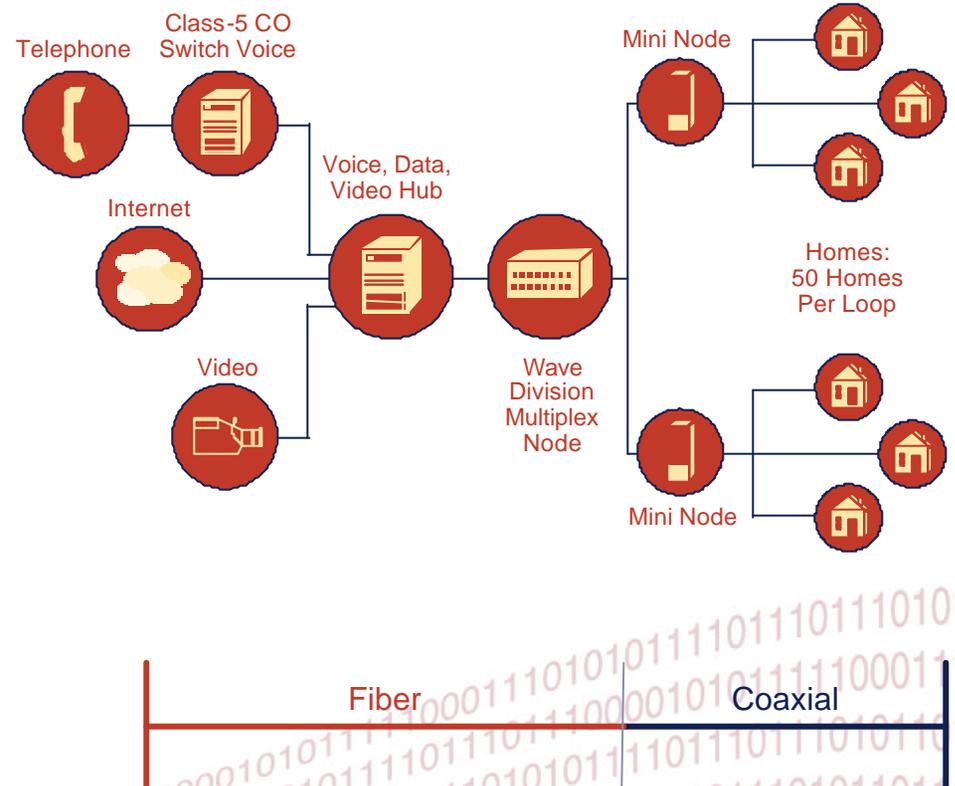
# Advanced Cable Planning Architecture



## Traditional Hybrid Fiber-Coaxial Network



## Advanced multi-media network



# Closing Thoughts - Final Divestiture



## AT&T - The Bell System

- ⌚ Bell Labs designs it, Western Electric builds it, and the Operating Companies install it!
- ⌚ The most reliable network in the world - *Universal Service at a Fair Price*
- ⌚ Voice network reliability unmatched - data network wasn't conceived
- ⌚ AT&T was forbidden, due to monopoly status, to manufacture computers
- ⌚ AT&T was determined to gain a presence in the 1980's computer industry
- ⌚ Cable TV companies were of little concern to The Bell System
- ⌚ Court ordered divestiture created the Baby Bells
- ⌚ A difficult struggle to merge NCR into AT&T to provide computing platforms
- ⌚ Data networking continues to evolve - the Internet "arrives"
- ⌚ A breakup once again - the formation of Lucent
- ⌚ AT&T continues in the "Long Lines" long-distance market
- ⌚ AT&T purchases a cellular network from McCaw
- ⌚ AT&T purchases a broadband cable network from TCI and Media-One
- ⌚ Their vision of end-to-end converged voice, data and video continued - Project LightWire
- ⌚ The recent announcement of a third divestiture of AT&T – selling cable division to Comcast

# Contact



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Richard.English@plantemoran.com



**Plante & Moran, LLP**  
**Communications & Network Consulting**



Richard English, Management Consulting Partner, Plante & Moran LLP  
Currently, Richard leads Plante & Moran's Communications & Networking practice.

**Areas of Expertise:** Telecommunications, local and wide area network (LAN/WAN), wireless and Internet planning, design, configuration, implementation, and management.

Richard joined Plante & Moran in 1991 and has more than 20 years of experience in designing and implementing voice, data, and video networks for clients.

Richard was recently selected to assist the State of Michigan in preparing an Advanced Blueprint for Communications in the 21<sup>st</sup> Century. This State-sponsored initiative, called ***LinkMichigan***, will develop grants that would help local governments plan and establish high speed broadband connections, which is a crucial element in Michigan's initiative to lure high-tech businesses to the state.

Richard is also a member of the Michigan IT Advisory Group (MiTAG), which is guiding the State of Michigan in the design and implementation of the State's IT strategy, and a member of the Detroit Regional Economic Partnership Technology Committee. This committee is evaluating how the nine counties in southeastern Michigan and the City of Detroit can attract technology companies to the region through technology-led economic development.

He is also active in many professional organizations and forums; he is a frequent speaker and author on numerous issues regarding telecommunication deregulation, unified messaging and e-business connectivity requirements.

Prior to joining Plante & Moran, Richard was president of Intellinet Incorporated, which provided network analysis and optimization. He also was responsible for the design of an FCC-compliance telecommunications interface for disaster recovery of telecommunications circuits.

**Professional Organizations:**

- Institute of Electrical and Electronics Engineers (IEEE)
- IEEE Communications Society
- Society of Telecommunications Consultants



Distribution of Telecomm Fees Under PA 48 of 2002

COUNTY	CITY OR VILLAGE	Ratio	Share of \$30M	Share of \$26M
ALCONA	HARRISVILLE	0.01276%	\$2,870.85	\$2,488.07
	LINCOLN	0.01589%	\$3,574.88	\$3,098.23
ALGER	CHATHAM	0.00993%	\$2,235.01	\$1,937.01
	MUNISING	0.06025%	\$13,556.01	\$11,748.54
ALLEGAN	ALLEGAN	0.09343%	\$21,022.48	\$18,219.48
	DOUGLAS	0.03130%	\$7,042.09	\$6,103.14
	FENNVILLE	0.02249%	\$5,060.83	\$4,386.05
	HOPKINS	0.01462%	\$3,289.27	\$2,850.70
	MARTIN	0.01155%	\$2,598.27	\$2,251.83
	OTSEGO	0.07551%	\$16,989.66	\$14,724.38
	PLAINWELL	0.07396%	\$16,640.31	\$14,421.60
	WAYLAND	0.02491%	\$5,603.68	\$4,856.52
		0.05526%	\$12,433.04	\$10,775.30
ALPENA	ALPENA	0.22214%	\$49,981.15	\$43,316.99
ANTRIM	BELLAIRE	0.02345%	\$5,277.01	\$4,573.41
	CENTRAL LAKE	0.02171%	\$4,885.01	\$4,233.67
	ELK RAPIDS	0.04271%	\$9,610.72	\$8,329.29
	ELLSWORTH	0.01688%	\$3,798.49	\$3,292.03
	MANCELONA	0.02941%	\$6,616.75	\$5,734.52
ARENAC	AU GRES	0.02135%	\$4,803.73	\$4,163.24
	OMER	0.00987%	\$2,221.02	\$1,924.88
	STANDISH	0.03320%	\$7,469.22	\$6,473.32
	STERLING	0.01934%	\$4,351.92	\$3,771.67
	TURNER	0.00799%	\$1,798.28	\$1,558.51
	TWINING	0.00633%	\$1,423.18	\$1,233.42
BARAGA	BARAGA	0.02721%	\$6,122.94	\$5,306.55
	L'ANSE	0.04669%	\$10,506.05	\$9,105.24
BARRY	FREEPORT	0.01443%	\$3,245.71	\$2,812.95
	HASTINGS	0.13613%	\$30,628.38	\$26,544.60
	MIDDLEVILLE	0.03946%	\$8,878.75	\$7,694.92
	NASHVILLE	0.03467%	\$7,801.71	\$6,761.48
	WOODLAND	0.00918%	\$2,065.19	\$1,789.83
BAY	AUBURN	0.03664%	\$8,243.55	\$7,144.41
	BAY CITY	0.78898%	\$177,519.77	\$153,850.47
	ESSEXVILLE	0.07170%	\$16,133.24	\$13,982.14
	PINCONNING	0.02834%	\$6,376.33	\$5,526.16
BENZIE	BENZONIA	0.01463%	\$3,291.87	\$2,852.95
	BEULAH	0.01266%	\$2,848.29	\$2,468.52
	ELBERTA	0.00955%	\$2,149.05	\$1,862.51

Distribution of Telecomm Fees Under PA 48 of 2002

	FRANKFORT	0.03648%	\$8,207.85	\$7,113.47
	HONOR	0.00883%	\$1,986.63	\$1,721.74
	LAKE ANN	0.00917%	\$2,062.81	\$1,787.77
	THOMPSONVILLE	0.01675%	\$3,769.35	\$3,266.77
BERRIEN	BARODA	0.01462%	\$3,290.43	\$2,851.70
	BENTON HARBOR	0.23552%	\$52,992.91	\$45,927.19
	BERRIEN SPRINGS	0.03596%	\$8,089.94	\$7,011.28
	BRIDGMAN	0.04478%	\$10,075.05	\$8,731.71
	BUCHANAN	0.10039%	\$22,588.31	\$19,576.53
	COLOMA	0.03538%	\$7,961.21	\$6,899.72
	EAU CLAIRE	0.01345%	\$3,025.19	\$2,621.83
	GALIEN	0.01430%	\$3,217.91	\$2,788.86
	GRAND BEACH	0.01471%	\$3,308.76	\$2,867.59
	MICHIANA	0.01329%	\$2,991.13	\$2,592.31
	NEW BUFFALO	0.05843%	\$13,146.32	\$11,393.48
	NILES	0.22852%	\$51,417.56	\$44,561.89
	SHOREHAM	0.01052%	\$2,366.06	\$2,050.59
	ST. JOSEPH	0.15822%	\$35,600.03	\$30,853.36
	STEVENSVILLE	0.03007%	\$6,766.19	\$5,864.03
	THREE OAKS	0.03204%	\$7,207.94	\$6,246.89
	WATERVLIET	0.03569%	\$8,030.94	\$6,960.14
BRANCH	BRONSON	0.04783%	\$10,762.50	\$9,327.50
	COLDWATER	0.19474%	\$43,817.37	\$37,975.06
	QUINCY	0.03061%	\$6,888.04	\$5,969.63
	SHERWOOD	0.01058%	\$2,381.22	\$2,063.72
	UNION CITY	0.03696%	\$8,315.06	\$7,206.39
CALHOUN	ALBION	0.19323%	\$43,476.07	\$37,679.26
	ATHENS	0.02163%	\$4,866.92	\$4,218.00
	BATTLE CREEK	1.35865%	\$305,695.37	\$264,935.98
	BURLINGTON	0.00659%	\$1,483.86	\$1,286.01
	HOMER	0.03488%	\$7,848.71	\$6,802.22
	MARSHALL	0.13702%	\$30,829.43	\$26,718.84
	SPRINGFIELD	0.12087%	\$27,196.52	\$23,570.32
	TEKONSHA	0.02297%	\$5,168.23	\$4,479.13
CASS	CASSOPOLIS	0.03663%	\$8,240.95	\$7,142.16
	DOWAGIAC	0.12593%	\$28,333.97	\$24,556.11
	EDWARDSBURG	0.02111%	\$4,750.04	\$4,116.70
	MARCELLUS	0.02157%	\$4,853.86	\$4,206.68
	VANDALIA	0.01002%	\$2,255.54	\$1,954.80
CHARLEVOIX	BOYNE CITY	0.08721%	\$19,623.01	\$17,006.61
	BOYNE FALLS	0.00963%	\$2,166.12	\$1,877.31
	CHARLEVOIX	0.06957%	\$15,653.53	\$13,566.39
	EAST JORDAN	0.04992%	\$11,231.87	\$9,734.29
CHEBOYGAN	CHEBOYGAN	0.11963%	\$26,916.16	\$23,327.34
	WOLVERINE	0.01369%	\$3,080.33	\$2,669.62
			\$0.00	\$0.00

Distribution of Telecomm Fees Under PA 48 of 2002

CHIPPEWA	DETOUR VILLAGE	0.01815%	\$4,083.85	\$3,539.33
	SAULT STE. MARIE	0.28721%	\$64,623.09	\$56,006.68
CLARE	CLARE	0.06045%	\$13,602.33	\$11,788.68
	FARWELL	0.01973%	\$4,438.25	\$3,846.49
	HARRISON	0.04263%	\$9,592.13	\$8,313.18
CLINTON	DEWITT	0.07194%	\$16,187.12	\$14,028.83
	EAGLE	0.00368%	\$828.13	\$717.71
	ELSIE	0.02178%	\$4,901.08	\$4,247.60
	FOWLER	0.01768%	\$3,978.24	\$3,447.81
	MAPLE RAPIDS	0.01419%	\$3,192.77	\$2,767.07
	OVID	0.02944%	\$6,624.04	\$5,740.83
	ST. JOHNS	0.13491%	\$30,354.76	\$26,307.46
	WESTPHALIA	0.01694%	\$3,812.51	\$3,304.18
CRAWFORD	GRAYLING	0.04011%	\$9,025.45	\$7,822.06
DELTA	ESCANABA	0.27282%	\$61,385.49	\$53,200.76
	GARDEN	0.00557%	\$1,252.26	\$1,085.29
	GLADSTONE	0.10710%	\$24,097.51	\$20,884.51
DICKINSON	IRON MOUNTAIN	0.18778%	\$42,250.91	\$36,617.46
	KINGSFORD	0.12353%	\$27,794.90	\$24,088.91
	NORWAY	0.08274%	\$18,615.73	\$16,133.64
EATON	BELLEVUE	0.02793%	\$6,285.05	\$5,447.04
	CHARLOTTE	0.13825%	\$31,105.75	\$26,958.32
	DIMONDALE	0.02302%	\$5,178.43	\$4,487.98
	EATON RAPIDS	0.09205%	\$20,711.75	\$17,950.19
	GRAND LEDGE	0.11903%	\$26,782.84	\$23,211.79
	MULLIKEN	0.01281%	\$2,881.51	\$2,497.31
	OLIVET	0.03041%	\$6,842.70	\$5,930.34
	POTTERVILLE	0.02715%	\$6,107.83	\$5,293.46
	SUNFIELD	0.01315%	\$2,959.64	\$2,565.02
VERMONTVILLE	0.01917%	\$4,313.55	\$3,738.41	
EMMET	ALANSON	0.01590%	\$3,576.61	\$3,099.72
	HARBOR SPRINGS	0.04091%	\$9,204.99	\$7,977.66
	MACKINAW CITY	0.03403%	\$7,656.06	\$6,635.25
	PELLSTON	0.01976%	\$4,446.99	\$3,854.06
	PETOSKEY	0.11216%	\$25,234.94	\$21,870.28
GENESEE	BURTON	0.49016%	\$110,285.47	\$95,580.74
	CLIO	0.04430%	\$9,966.58	\$8,637.70
	DAVISON	0.08622%	\$19,398.75	\$16,812.25
	FENTON	0.15748%	\$35,432.56	\$30,708.22
	FLINT	2.84944%	\$641,123.35	\$555,640.24
	FLUSHING	0.14610%	\$32,872.63	\$28,489.61
	GAINES	0.01268%	\$2,853.59	\$2,473.11
	GOODRICH	0.02036%	\$4,580.69	\$3,969.93
	GRAND BLANC	0.13075%	\$29,418.86	\$25,496.35

Distribution of Telecomm Fees Under PA 48 of 2002

	LINDEN	0.04668%	\$10,503.53	\$9,103.06
	MONTROSE	0.03232%	\$7,271.37	\$6,301.86
	MT. MORRIS	0.05735%	\$12,903.69	\$11,183.20
	OTISVILLE	0.01618%	\$3,640.31	\$3,154.93
	SWARTZ CREEK	0.08914%	\$20,056.96	\$17,382.70
GLADWIN	BEAVERTON	0.02393%	\$5,383.43	\$4,665.64
	GLADWIN	0.06059%	\$13,632.88	\$11,815.17
GOGEBIC	BESSEMER	0.06730%	\$15,141.47	\$13,122.61
	IRONWOOD	0.16500%	\$37,124.72	\$32,174.76
	WAKEFIELD	0.08154%	\$18,347.23	\$15,900.93
GRAND TRAVERSE	FIFE LAKE	0.01213%	\$2,728.49	\$2,364.69
	KINGSLEY	0.01699%	\$3,822.68	\$3,312.99
	TRAVERSE CITY	0.28820%	\$64,844.69	\$56,198.73
GRATIOT	ALMA	0.15715%	\$35,359.18	\$30,644.62
	ASHLEY	0.01384%	\$3,113.42	\$2,698.30
	BRECKENRIDGE	0.02730%	\$6,142.64	\$5,323.62
	ITHACA	0.06744%	\$15,174.75	\$13,151.45
	PERRINTON	0.01069%	\$2,404.97	\$2,084.31
	ST. LOUIS	0.07919%	\$17,817.60	\$15,441.92
HILLSDALE	ALLEN	0.00304%	\$684.25	\$593.01
	CAMDEN	0.01163%	\$2,617.04	\$2,268.10
	HILLSDALE	0.15821%	\$35,597.28	\$30,850.97
	JONESVILLE	0.04637%	\$10,433.43	\$9,042.30
	LITCHFIELD	0.02885%	\$6,490.31	\$5,624.93
	MONTGOMERY	0.01458%	\$3,279.49	\$2,842.23
	NORTH ADAMS	0.01167%	\$2,626.46	\$2,276.26
	READING	0.02215%	\$4,983.71	\$4,319.22
	WALDRON	0.01532%	\$3,447.63	\$2,987.95
HOUGHTON	CALUMET	0.01739%	\$3,911.68	\$3,390.12
	COPPER CITY	0.00518%	\$1,164.82	\$1,009.51
	HANCOCK	0.08617%	\$19,387.72	\$16,802.69
	HOUGHTON	0.12705%	\$28,587.16	\$24,775.54
	LAKE LINDEN	0.02475%	\$5,569.74	\$4,827.11
	LAURIUM	0.04049%	\$9,109.52	\$7,894.92
	SOUTH RANGE	0.01293%	\$2,908.20	\$2,520.44
HURON	BAD AXE	0.06208%	\$13,968.71	\$12,106.22
	CASEVILLE	0.02014%	\$4,531.91	\$3,927.66
	ELKTON	0.01809%	\$4,069.99	\$3,527.33
	HARBOR BEACH	0.04042%	\$9,093.76	\$7,881.26
	KINDE	0.01159%	\$2,608.84	\$2,260.99
	OWENDALE	0.00955%	\$2,149.38	\$1,862.80
	PIGEON	0.02491%	\$5,604.76	\$4,857.46
	PORT AUSTIN	0.01784%	\$4,013.22	\$3,478.13
	PORT HOPE	0.00901%	\$2,026.98	\$1,756.71
	SEBAWAING	0.03916%	\$8,810.79	\$7,636.01

Distribution of Telecomm Fees Under PA 48 of 2002

	UBLY	0.01708%	\$3,843.43	\$3,330.98
INGHAM	DANSVILLE	0.00899%	\$2,023.74	\$1,753.91
	EAST LANSING	0.76218%	\$171,490.85	\$148,625.40
	LANSING	2.47996%	\$557,990.66	\$483,591.90
	LESLIE	0.04388%	\$9,872.15	\$8,555.86
	MASON	0.11648%	\$26,207.63	\$22,713.28
	STOCKBRIDGE	0.02154%	\$4,847.36	\$4,201.05
	WEBBERVILLE	0.02857%	\$6,427.53	\$5,570.53
	WILIAMSTON	0.05112%	\$11,502.29	\$9,968.65
IONIA	BELDING	0.11907%	\$26,789.99	\$23,217.99
	CLARKSVILLE	0.00935%	\$2,104.79	\$1,824.15
	HUBBARDSTON	0.01420%	\$3,194.31	\$2,768.40
	IONIA	0.12161%	\$27,362.86	\$23,714.48
	LAKE ODESSA	0.04295%	\$9,663.81	\$8,375.30
	LYONS	0.02244%	\$5,049.74	\$4,376.44
	MUIR	0.01525%	\$3,430.99	\$2,973.52
	PEWAMO	0.01492%	\$3,357.61	\$2,909.93
	PORTLAND	0.07727%	\$17,385.76	\$15,067.66
	SARANAC	0.02821%	\$6,348.01	\$5,501.61
IOSCO	EAST TAWAS	0.06763%	\$15,215.76	\$13,186.99
	TAWAS CITY	0.04748%	\$10,682.03	\$9,257.76
	WHITTEMORE	0.01096%	\$2,466.26	\$2,137.42
IRON	ALPHA	0.01010%	\$2,273.29	\$1,970.19
	CASPIAN	0.03222%	\$7,250.53	\$6,283.79
	CRYSTAL FALLS	0.04911%	\$11,048.63	\$9,575.48
	GAASTRA	0.01778%	\$4,000.32	\$3,466.94
	IRON RIVER	0.06408%	\$14,417.16	\$12,494.87
	MINERAL HILLS	0.01326%	\$2,982.77	\$2,585.06
	STAMBAUGH	0.03291%	\$7,403.83	\$6,416.65
ISABELLA	LAKE ISABELLA	0.00630%	\$1,416.51	\$1,227.64
	MT. PLEASANT	0.36637%	\$82,433.90	\$71,442.71
	ROSEBUSH	0.00975%	\$2,194.00	\$1,901.47
	SHEPHERD	0.02873%	\$6,464.97	\$5,602.97
JACKSON	BROOKLYN	0.02162%	\$4,863.98	\$4,215.45
	CONCORD	0.02509%	\$5,644.99	\$4,892.33
	GRASS LAKE	0.02328%	\$5,238.76	\$4,540.26
	HANOVER	0.01316%	\$2,961.37	\$2,566.52
	JACKSON	0.74588%	\$167,822.00	\$145,445.74
	PARMA	0.01622%	\$3,649.23	\$3,162.67
	SPRINGPORT	0.01317%	\$2,964.25	\$2,569.02
KALAMAZOO	AUGUSTA	0.02121%	\$4,771.70	\$4,135.47
	CLIMAX	0.01542%	\$3,468.66	\$3,006.17
	GALESBURG	0.03083%	\$6,936.56	\$6,011.69
	KALAMAZOO	1.54535%	\$347,704.43	\$301,343.84
	PARCHMENT	0.03641%	\$8,193.16	\$7,100.74

Distribution of Telecomm Fees Under PA 48 of 2002

	PORTAGE	0.86585%	\$194,817.24	\$168,841.61
	RICHLAND	0.00883%	\$1,985.96	\$1,721.16
	SCHOOLCRAFT	0.03526%	\$7,932.80	\$6,875.10
	VICKSBURG	0.05157%	\$11,603.36	\$10,056.25
KALKASKA	KALKASKA	0.04919%	\$11,067.70	\$9,592.01
KENT	CALEDONIA	0.01849%	\$4,161.29	\$3,606.45
	CEDAR SPRINGS	0.04853%	\$10,920.30	\$9,464.26
	EAST GRAND RAPIDS	0.18903%	\$42,532.45	\$36,861.46
	GRAND RAPIDS	3.57173%	\$803,639.83	\$696,487.85
	GRANDVILLE	0.27367%	\$61,576.06	\$53,365.92
	KENT CITY	0.01891%	\$4,255.16	\$3,687.81
	KENTWOOD	0.65953%	\$148,393.41	\$128,607.63
	LOWELL	0.06813%	\$15,328.44	\$13,284.65
	ROCKFORD	0.06533%	\$14,700.33	\$12,740.29
	SAND LAKE	0.01306%	\$2,939.56	\$2,547.62
	SPARTA	0.06426%	\$14,459.34	\$12,531.43
	WALKER	0.35014%	\$78,781.08	\$68,276.93
	WYOMING	1.18775%	\$267,242.71	\$231,610.35
KEWEENAW	AHMEEK	0.00437%	\$983.41	\$852.29
LAKE	BALDWIN	0.02379%	\$5,353.68	\$4,639.85
	LUTHER	0.01787%	\$4,021.00	\$3,484.86
LAPEER	ALMONT	0.03828%	\$8,613.82	\$7,465.31
	CLIFFORD	0.01356%	\$3,050.93	\$2,644.14
	COLUMBIAVILLE	0.02032%	\$4,572.12	\$3,962.50
	DRYDEN	0.01445%	\$3,250.94	\$2,817.48
	IMLAY CITY	0.06474%	\$14,567.31	\$12,625.01
	LAPEER	0.14240%	\$32,039.67	\$27,767.72
	METAMORA	0.01062%	\$2,389.83	\$2,071.19
	NORTH BRANCH	0.01966%	\$4,422.58	\$3,832.91
	OTTER LAKE	0.01313%	\$2,954.25	\$2,560.35
LEELANAU	EMPIRE	0.01011%	\$2,275.87	\$1,972.42
	NORTHPORT	0.01807%	\$4,065.40	\$3,523.35
	SUTTONS BAY	0.01534%	\$3,451.28	\$2,991.11
LENAWEE	ADDISON	0.01574%	\$3,542.44	\$3,070.11
	ADRIAN	0.36553%	\$82,244.09	\$71,278.21
	BLISSFIELD	0.06148%	\$13,833.16	\$11,988.74
	BRITTON	0.01249%	\$2,809.16	\$2,434.61
	CEMENT CITY	0.01354%	\$3,047.51	\$2,641.18
	CLAYTON	0.01081%	\$2,431.99	\$2,107.73
	CLINTON	0.04192%	\$9,431.89	\$8,174.31
	DEERFIELD	0.02008%	\$4,517.61	\$3,915.26
	HUDSON	0.05213%	\$11,729.44	\$10,165.51
	MORENCI	0.04591%	\$10,329.99	\$8,952.66
	ONSTED	0.01731%	\$3,895.31	\$3,375.94
	TECUMSEH	0.14633%	\$32,924.26	\$28,534.36

Distribution of Telecomm Fees Under PA 48 of 2002

LIVINGSTON	BRIGHTON	0.10426%	\$23,458.09	\$20,330.34
	FOWLerville	0.04882%	\$10,985.28	\$9,520.58
	HOWELL	0.13898%	\$31,270.47	\$27,101.07
	PINCKNEY	0.03147%	\$7,081.81	\$6,137.57
LUCE	NEWBERRY	0.04006%	\$9,014.18	\$7,812.29
MACKINAC	MACKINAC ISLAND	0.01278%	\$2,876.20	\$2,492.71
	ST. IGNACE	0.06026%	\$13,559.29	\$11,751.38
MACOMB	ARMADA	0.02677%	\$6,023.90	\$5,220.71
	CENTER LINE	0.13131%	\$29,544.05	\$25,604.84
	EASTPOINTE	0.53849%	\$121,159.51	\$105,004.91
	FRASER	0.20158%	\$45,356.59	\$39,309.05
	MEMPHIS	0.02357%	\$5,304.02	\$4,596.82
	MT. CLEMENS	0.28228%	\$63,514.04	\$55,045.50
	NEW BALTIMORE	0.08747%	\$19,681.16	\$17,057.00
	NEW HAVEN	0.04049%	\$9,110.26	\$7,895.56
	RICHMOND	0.06841%	\$15,392.14	\$13,339.86
	ROMEO	0.05074%	\$11,417.19	\$9,894.89
	ROSEVILLE	0.84898%	\$191,020.95	\$165,551.49
	ST. CLAIR SHORES	1.05917%	\$238,312.61	\$206,537.60
	STERLING HEIGHTS	1.87701%	\$422,328.26	\$366,017.82
	UTICA	0.07699%	\$17,322.70	\$15,013.01
WARREN	2.36759%	\$532,708.84	\$461,680.99	
MANISTEE	BEAR LAKE	0.00791%	\$1,780.30	\$1,542.93
	COPEMISH	0.01074%	\$2,415.69	\$2,093.60
	EASTLAKE	0.01609%	\$3,620.55	\$3,137.81
	KALEVA	0.01909%	\$4,294.63	\$3,722.01
	MANISTEE	0.14934%	\$33,601.50	\$29,121.30
	ONEKAMA	0.01238%	\$2,785.66	\$2,414.24
MARQUETTE	ISHPEMING	0.13596%	\$30,591.82	\$26,512.91
	MARQUETTE	0.37929%	\$85,339.77	\$73,961.13
	NEGAUNEE	0.09785%	\$22,015.38	\$19,080.00
MASON	CUSTER	0.00961%	\$2,162.72	\$1,874.36
	FOUNTAIN	0.00958%	\$2,155.11	\$1,867.76
	FREESOIL	0.00832%	\$1,871.80	\$1,622.23
	LUDINGTON	0.16157%	\$36,352.55	\$31,505.54
	SCOTTVILLE	0.02936%	\$6,605.31	\$5,724.60
MECOSTA	BARRYTON	0.00842%	\$1,894.55	\$1,641.94
	BIG RAPIDS	0.20027%	\$45,060.25	\$39,052.21
	MECOSTA	0.01259%	\$2,832.14	\$2,454.52
	MORLEY	0.01317%	\$2,963.08	\$2,568.00
	STANWOOD	0.00483%	\$1,085.85	\$941.07
MENOMINEE	CARNEY	0.00803%	\$1,807.63	\$1,566.62
	DAGGETT	0.01174%	\$2,641.38	\$2,289.20

Distribution of Telecomm Fees Under PA 48 of 2002

	MENOMINEE	0.19610%	\$44,122.39	\$38,239.41
	POWERS	0.01379%	\$3,102.13	\$2,688.51
	STEPHENSON	0.02510%	\$5,647.24	\$4,894.28
MIDLAND	COLEMAN	0.03198%	\$7,194.76	\$6,235.46
	MIDLAND	0.92749%	\$208,684.64	\$180,860.02
	SANFORD	0.02082%	\$4,683.61	\$4,059.13
MISSAUKEE	LAKE CITY	0.02044%	\$4,598.41	\$3,985.29
	MCBAIN	0.01849%	\$4,159.51	\$3,604.91
MONROE	CARLETON	0.03793%	\$8,534.53	\$7,396.59
	DUNDEE	0.04535%	\$10,203.47	\$8,843.00
	ESTRAL BEACH	0.01374%	\$3,091.41	\$2,679.22
	LUNA PIER	0.02821%	\$6,346.74	\$5,500.51
	MAYBEE	0.01359%	\$3,057.02	\$2,649.42
	MONROE	0.39281%	\$88,381.76	\$76,597.52
	PETERSBURG	0.02524%	\$5,679.73	\$4,922.43
	SOUTH ROCKWOOD	0.02838%	\$6,385.73	\$5,534.30
MONTCALM	CARSON CITY	0.02752%	\$6,192.62	\$5,366.93
	EDMORE	0.02738%	\$6,160.83	\$5,339.39
	GREENVILLE	0.16229%	\$36,515.39	\$31,646.67
	HOWARD CITY	0.04123%	\$9,276.56	\$8,039.69
	LAKEVIEW	0.02763%	\$6,217.46	\$5,388.46
	MCBRIDE	0.00545%	\$1,226.88	\$1,063.30
	PIERSON	0.00659%	\$1,483.75	\$1,285.92
	SHERIDAN	0.01684%	\$3,788.85	\$3,283.67
	STANTON	0.02970%	\$6,682.37	\$5,791.39
MONTMORENCY	HILLMAN	0.01649%	\$3,710.82	\$3,216.04
MUSKEGON	CASNOVIA	0.01102%	\$2,478.64	\$2,148.15
	FRUITPORT	0.02844%	\$6,399.65	\$5,546.36
	LAKEWOOD CLUB	0.02454%	\$5,522.06	\$4,785.78
	MONTAGUE	0.06086%	\$13,693.13	\$11,867.38
	MUSKEGON	0.84567%	\$190,276.52	\$164,906.32
	MUSKEGON HEIGHTS	0.24717%	\$55,614.10	\$48,198.89
	NORTH MUSKEGON	0.07617%	\$17,138.43	\$14,853.31
	NORTON SHORES	0.47204%	\$106,208.65	\$92,047.50
	RAVENNA	0.02831%	\$6,369.49	\$5,520.22
	ROOSEVELT PARK	0.06247%	\$14,055.66	\$12,181.57
	WHITEHALL	0.07218%	\$16,240.57	\$14,075.16
NEWAYGO	FREMONT	0.08083%	\$18,187.03	\$15,762.09
	GRANT	0.01626%	\$3,658.69	\$3,170.86
	NEWAYGO	0.04242%	\$9,543.64	\$8,271.15
	WHITE CLOUD	0.03358%	\$7,555.16	\$6,547.80
OAKLAND	AUBURN HILLS	0.29522%	\$66,425.40	\$57,568.68
	BERKLEY	0.26128%	\$58,787.39	\$50,949.07
	BEVERLY HILLS	0.18232%	\$41,022.33	\$35,552.68

Distribution of Telecomm Fees Under PA 48 of 2002

	BINGHAM FARMS	0.01684%	\$3,788.28	\$3,283.18
	BIRMINGHAM	0.33282%	\$74,884.82	\$64,900.18
	BLOOMFIELD HILLS	0.08961%	\$20,161.66	\$17,473.44
	CLAWSON	0.20373%	\$45,840.34	\$39,728.30
	FARMINGTON	0.15370%	\$34,583.41	\$29,972.29
	FARMINGTON HILLS	1.41334%	\$318,002.29	\$275,601.98
	FERNDALE	0.40462%	\$91,040.09	\$78,901.41
	FRANKLIN	0.05805%	\$13,060.57	\$11,319.16
	HAZEL PARK	0.30891%	\$69,505.51	\$60,238.10
	HOLLY	0.09022%	\$20,300.24	\$17,593.54
	HUNTINGTON WOODS	0.10096%	\$22,715.44	\$19,686.71
	KEEGO HARBOR	0.04266%	\$9,598.78	\$8,318.94
	LAKE ANGELUS	0.00360%	\$810.54	\$702.47
	LAKE ORION	0.04725%	\$10,632.22	\$9,214.59
	LATHRUP VILLAGE	0.08376%	\$18,845.50	\$16,332.76
	LEONARD	0.01117%	\$2,512.40	\$2,177.41
	MADISON HEIGHTS	0.51415%	\$115,684.62	\$100,260.00
	MILFORD	0.09254%	\$20,822.23	\$18,045.93
	NOVI	0.59731%	\$134,394.97	\$116,475.64
	OAK PARK	0.46342%	\$104,269.30	\$90,366.72
	ORCHARD LAKE VILLAGE	0.04074%	\$9,167.27	\$7,944.97
	ORTONVILLE	0.02488%	\$5,597.85	\$4,851.47
	OXFORD	0.05641%	\$12,693.17	\$11,000.74
	PLEASANT RIDGE	0.04473%	\$10,064.88	\$8,722.90
	PONTIAC	1.31519%	\$295,916.93	\$256,461.34
	ROCHESTER	0.11760%	\$26,460.09	\$22,932.08
	ROCHESTER HILLS	1.10388%	\$248,372.02	\$215,255.75
	ROYAL OAK	1.17526%	\$264,433.26	\$229,175.49
	SOUTH LYON	0.09246%	\$20,803.91	\$18,030.05
	SOUTHFIELD	1.44563%	\$325,265.93	\$281,897.14
	SYLVAN LAKE	0.03133%	\$7,050.25	\$6,110.22
	TROY	1.30179%	\$292,902.01	\$253,848.41
	VILLAGE OF CLARKSTON	0.01618%	\$3,640.38	\$3,154.99
	WALLED LAKE	0.09184%	\$20,664.79	\$17,909.49
	WIXOM	0.13471%	\$30,308.89	\$26,267.70
	WOLVERINE LAKE	0.07354%	\$16,545.46	\$14,339.40
OCEANA	HART	0.03885%	\$8,741.18	\$7,575.69
	HESPERIA	0.02440%	\$5,490.08	\$4,758.07
	NEW ERA	0.01242%	\$2,793.49	\$2,421.03
	PENTWATER	0.02861%	\$6,436.59	\$5,578.37
	ROTHBURY	0.01263%	\$2,841.26	\$2,462.43
	SHELBY	0.03690%	\$8,302.47	\$7,195.48
	WALKERVILLE	0.01128%	\$2,537.74	\$2,199.37
OGEMAW	PRESCOTT	0.01429%	\$3,215.67	\$2,786.91
	ROSE CITY	0.01901%	\$4,276.19	\$3,706.03
	WEST BRANCH	0.04274%	\$9,616.01	\$8,333.88
ONTONAGON	ONTONAGON	0.04938%	\$11,110.17	\$9,628.81
OSCEOLA	EVART	0.04222%	\$9,500.14	\$8,233.46

Distribution of Telecomm Fees Under PA 48 of 2002

	HERSEY	0.01214%	\$2,732.61	\$2,368.26
	LEROY	0.01325%	\$2,981.65	\$2,584.10
	MARION	0.02401%	\$5,401.42	\$4,681.23
	REED CITY	0.04817%	\$10,838.26	\$9,393.16
	TUSTIN	0.00742%	\$1,669.44	\$1,446.85
OTSEGO	GAYLORD	0.07082%	\$15,933.83	\$13,809.32
	VANDERBILT	0.01951%	\$4,390.65	\$3,805.23
OTTAWA	COOPERSVILLE	0.06949%	\$15,635.93	\$13,551.14
	FERRYSBURG	0.06476%	\$14,570.74	\$12,627.97
	GRAND HAVEN	0.22750%	\$51,188.34	\$44,363.23
	HOLLAND	0.65574%	\$147,541.97	\$127,869.71
	HUDSONVILLE	0.10972%	\$24,687.90	\$21,396.18
	SPRING LAKE	0.04693%	\$10,560.21	\$9,152.19
	ZEELAND	0.10511%	\$23,648.84	\$20,495.66
PRESQUE ISLE	MILLERSBURG	0.01013%	\$2,279.89	\$1,975.90
	ONAWAY	0.02579%	\$5,802.42	\$5,028.77
	POSEN	0.00828%	\$1,863.39	\$1,614.94
	ROGERS CITY	0.07455%	\$16,773.51	\$14,537.04
ROSCOMMON	ROSCOMMON	0.02345%	\$5,276.96	\$4,573.36
SAGINAW	BIRCH RUN	0.02606%	\$5,864.50	\$5,082.57
	CHESANING	0.05486%	\$12,343.95	\$10,698.09
	FRANKENMUTH	0.08560%	\$19,259.91	\$16,691.93
	MERRILL	0.01729%	\$3,890.48	\$3,371.75
	OAKLEY	0.01070%	\$2,407.08	\$2,086.14
	SAGINAW	1.48739%	\$334,661.90	\$290,040.31
	ST. CHARLES	0.04578%	\$10,300.58	\$8,927.17
	ZILWAUKEE	0.03414%	\$7,682.22	\$6,657.92
SANILAC	APPLEGATE	0.01014%	\$2,282.33	\$1,978.02
	BROWN CITY	0.02620%	\$5,894.67	\$5,108.72
	CARSONVILLE	0.01374%	\$3,092.30	\$2,679.99
	CROSWELL	0.05264%	\$11,843.04	\$10,263.96
	DECKERVILLE	0.02282%	\$5,134.53	\$4,449.93
	FORESTVILLE	0.00764%	\$1,717.97	\$1,488.91
	LEXINGTON	0.01541%	\$3,467.99	\$3,005.59
	MARLETTE	0.03869%	\$8,705.02	\$7,544.35
	MELVIN	0.00826%	\$1,857.98	\$1,610.25
	MINDEN CITY	0.00833%	\$1,873.26	\$1,623.49
	PECK	0.01058%	\$2,379.51	\$2,062.24
	PORT SANILAC	0.01429%	\$3,216.15	\$2,787.33
	SANDUSKY	0.04726%	\$10,632.95	\$9,215.22
SCHOOLCRAFT	MANISTIQUE	0.06943%	\$15,622.32	\$13,539.34
SHIAWASSE	BANCROFT	0.01583%	\$3,562.16	\$3,087.21
	BYRON	0.01371%	\$3,085.39	\$2,674.01
	CORUNNA	0.06105%	\$13,737.02	\$11,905.42

Distribution of Telecomm Fees Under PA 48 of 2002

	DURAND	0.07187%	\$16,171.24	\$14,015.08
	LAINGSBURG	0.02703%	\$6,081.93	\$5,271.00
	LENNON	0.01000%	\$2,249.22	\$1,949.33
	MORRICE	0.01804%	\$4,058.39	\$3,517.27
	NEW LOTHROP	0.01360%	\$3,059.23	\$2,651.33
	OWOSSO	0.28775%	\$64,742.72	\$56,110.36
	PERRY	0.03581%	\$8,057.57	\$6,983.22
	VERNON	0.02020%	\$4,544.47	\$3,938.54
ST. CLAIR	ALGONAC	0.07711%	\$17,348.83	\$15,035.66
	CAPAC	0.03024%	\$6,804.33	\$5,897.08
	EMMETT	0.01066%	\$2,397.73	\$2,078.03
	MARINE CITY	0.07773%	\$17,489.74	\$15,157.77
	MARYSVILLE	0.15764%	\$35,468.54	\$30,739.40
	PORT HURON	0.67044%	\$150,849.94	\$130,736.62
	ST. CLAIR	0.09585%	\$21,565.58	\$18,690.17
	YALE	0.03290%	\$7,402.79	\$6,415.76
ST. JOSEPH	BURR OAK	0.02134%	\$4,802.26	\$4,161.96
	CENTREVILLE	0.02880%	\$6,479.23	\$5,615.34
	COLON	0.02790%	\$6,278.20	\$5,441.11
	CONSTANTINE	0.04390%	\$9,878.14	\$8,561.05
	MENDON	0.02147%	\$4,830.41	\$4,186.35
	STURGIS	0.19423%	\$43,701.46	\$37,874.60
	THREE RIVERS	0.14158%	\$31,854.46	\$27,607.20
	WHITE PIGEON	0.02957%	\$6,654.26	\$5,767.03
TUSCOLA	AKRON	0.01094%	\$2,460.77	\$2,132.66
	CARO	0.07761%	\$17,461.16	\$15,133.00
	CASS CITY	0.05089%	\$11,451.32	\$9,924.48
	FAIRGROVE	0.01203%	\$2,707.53	\$2,346.52
	GAGETOWN	0.01244%	\$2,799.15	\$2,425.93
	KINGSTON	0.00929%	\$2,089.30	\$1,810.72
	MAYVILLE	0.02209%	\$4,970.28	\$4,307.57
	MILLINGTON	0.02018%	\$4,541.17	\$3,935.68
	REESE	0.03089%	\$6,951.24	\$6,024.41
	UNIONVILLE	0.01250%	\$2,813.33	\$2,438.22
	VASSAR	0.05546%	\$12,479.03	\$10,815.16
VAN BUREN	BANGOR	0.04374%	\$9,841.39	\$8,529.20
	BLOOMINGDALE	0.01466%	\$3,298.33	\$2,858.56
	BREEDSVILLE	0.00860%	\$1,935.32	\$1,677.28
	DECATUR	0.03649%	\$8,209.66	\$7,115.04
	GOBLES	0.01832%	\$4,120.89	\$3,571.44
	HARTFORD	0.04751%	\$10,689.56	\$9,264.29
	LAWRENCE	0.02401%	\$5,401.26	\$4,681.09
	LAWTON	0.04123%	\$9,277.07	\$8,040.13
	MATTAWAN	0.05688%	\$12,797.39	\$11,091.07
	PAW PAW	0.06070%	\$13,658.29	\$11,837.18
	SOUTH HAVEN	0.11818%	\$26,590.57	\$23,045.16
WASHTENAW	ANN ARBOR	1.97463%	\$444,291.89	\$385,052.97

Distribution of Telecomm Fees Under PA 48 of 2002

	BARTON HILLS VILLAGE	0.00367%	\$825.36	\$715.31
	CHELSEA	0.06816%	\$15,337.11	\$13,292.16
	DEXTER	0.03517%	\$7,912.64	\$6,857.62
	MANCHESTER	0.03729%	\$8,389.90	\$7,271.25
	MILAN	0.07615%	\$17,133.54	\$14,849.07
	SALINE	0.11987%	\$26,971.69	\$23,375.47
	YPSILANTI	0.36718%	\$82,616.06	\$71,600.59
WAYNE	ALLEN PARK	0.51997%	\$116,993.95	\$101,394.76
	BELLEVILLE	0.05006%	\$11,263.23	\$9,761.46
	DEARBORN	1.66581%	\$374,806.94	\$324,832.68
	DEARBORN HEIGHTS	0.95153%	\$214,093.54	\$185,547.74
	DETROIT	18.86047%	\$4,243,605.43	\$3,677,791.37
	ECORSE	0.18203%	\$40,957.76	\$35,496.73
	FLAT ROCK	0.10947%	\$24,631.03	\$21,346.89
	GARDEN CITY	0.50384%	\$113,364.80	\$98,249.49
	GIBRALTAR	0.06446%	\$14,503.88	\$12,570.03
	GROSSE POINTE	0.09103%	\$20,480.83	\$17,750.05
	GROSSE POINTE FARMS	0.16536%	\$37,205.38	\$32,244.66
	GROSSE POINTE PARK	0.19613%	\$44,128.30	\$38,244.53
	GROSSE POINTE SHORES	0.04952%	\$11,141.79	\$9,656.22
	GROSSE POINTE WOODS	0.26567%	\$59,776.37	\$51,806.18
	HAMTRAMCK	0.27249%	\$61,310.22	\$53,135.52
	HARPER WOODS	0.21937%	\$49,358.20	\$42,777.10
	HIGHLAND PARK	0.32150%	\$72,338.60	\$62,693.45
	INKSTER	0.46905%	\$105,536.60	\$91,465.06
	LINCOLN PARK	0.69340%	\$156,014.77	\$135,212.80
	LIVONIA	1.76905%	\$398,036.91	\$344,965.33
	MELVINDALE	0.16049%	\$36,110.80	\$31,296.03
	NORTHVILLE	0.09958%	\$22,405.65	\$19,418.23
	PLYMOUTH	0.14750%	\$33,186.95	\$28,762.02
	RIVER ROUGE	0.16579%	\$37,301.67	\$32,328.12
	RIVERVIEW	0.19140%	\$43,065.27	\$37,323.24
	ROCKWOOD	0.04603%	\$10,355.81	\$8,975.03
	ROMULUS	0.41067%	\$92,401.17	\$80,081.01
	SOUTHGATE	0.46556%	\$104,751.30	\$90,784.46
	TAYLOR	1.16730%	\$262,642.28	\$227,623.31
	TRENTON	0.30045%	\$67,601.46	\$58,587.93
	WAYNE	0.29584%	\$66,564.59	\$57,689.31
	WESTLAND	1.29794%	\$292,036.91	\$253,098.65
	WOODHAVEN	0.15701%	\$35,327.70	\$30,617.34
	WYANDOTTE	0.49488%	\$111,347.09	\$96,500.82
WEXFORD	BUCKLEY	0.01470%	\$3,307.05	\$2,866.11
	CADILLAC	0.20225%	\$45,507.11	\$39,439.50
	HARRIETTA	0.00785%	\$1,767.09	\$1,531.48
	MANTON	0.02551%	\$5,739.23	\$4,974.00
	MESICK	0.01253%	\$2,818.78	\$2,442.94
	TOTALS	100.00000%	\$22,500,000.00	\$19,500,000.00

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MEMORANDUM

TO: Michigan Municipal Telecommunications & Cable Television Clients

FROM: Neil J. Lehto, Esq.

RE: Metropolitan Extension Telecommunications Rights-of-Way Oversight Act

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Governor Engler's broadband legislation will dramatically change the system of local government regulation, right-of-way permit and franchise fees for telecommunications and cable television companies beginning November 1, 2002. In significant ways, I differ with some Treasury Department officials, other telecommunications lawyers and accountants over how this legislation should be interpreted and how it affects municipalities. In this memorandum I will try to point out those areas for your own study and conclusion. The oddly-titled "Metropolitan Extension Telecommunications Rights-of-Way Oversight ("Metro") Act, Act No. 48 of the Public Acts of 2002, will:

- Create a new, autonomous state agency called the Metropolitan Extension Telecommunications Rights-of-Way Authority, headed by a director appointed by the governor to a four-year term, to oversee the assessment and collection of a new statewide right-of-way fee. This so-called metropolitan intergovernmental agency and the constitutionality of the Metro Act are subject to an advisory ruling being sought from the Michigan Supreme Court by the State Legislature promised by its November 1, 2002, effective date. I expect the Supreme Court to uphold the Metro Act.
- Require Ameritech, Verizon and all other local exchange carriers doing business in Michigan by April 31, 2002, subject to a possible 6-month

extension for good cause, to file with all local governments where they have any wires overhead or underground telecommunications permit applications and route maps, for new local telecommunications permits despite claims to having perpetual statewide franchises granted dating back in some cases more than 100 years.

- Require Ameritech and likely all other telecommunications providers to file with the new state agency by February 1, 2003, a good faith estimate of the route miles of wire they've installed in county and local roads, highways, streets, alleys, easements and waterways.<sup>1</sup>

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<sup>1</sup>. One of the unheralded achievements of the municipal negotiators who participated in drafting the Metro Act is the little-noticed fact that alleys and easements were included in the legislative definition of "public right-of-way". Including "easement" is especially significant.

First, very clearly, private easements for public utilities are included. In 1952, the Michigan Supreme Court held that private easements dedicated for use of public utilities on subdivision plats are within the meaning of the important state constitution provision conferring on cities, villages and townships the reasonable control of highways, streets, alleys and other public places. *Detroit Edison Company v. City of Detroit*, 332 Mich. 348 (1952). What this means for some of the estimates being made regarding expected right-of-way fee payments by Ameritech and Verizon is unclear because I do not know how estimates of fees were made by the Michigan Public Service Commission (MPSC), telecommunications companies or legislative advisors in drafting and approving this legislation. I suspect that they may not have added into their calculations the many thousands of miles of backyard wires in southeastern Michigan suburban neighborhoods. This could be very valuable to urban townships such as Canton, Plymouth and Ypsilanti if they take an active role in identifying and reporting wires to the new state agency. In this regard, of particular interest is the flexible deadline requirements of Section 15(1) of the Metro Act for municipal officials acting on applications for a permit "involving an easement or public place". Rarely do the competitive telecommunications providers seek access to public utility easements but this may be important in dealing with cable television operators and competitive overbuilders.

Second, the definition's exception for private right-of-way probably means that thousands of miles of wire installed in easements obtained by utilities across farmer's fields, through-out apartment, condominium and mobile home parks, etc., cannot be taken into account in calculating right-of-way fees. Some other observations about the definition given to public right-of-way:

What including "waterways" means for footage calculations is unclear. The definition of public right-of-way specifically encompasses the "area on below, or over a public roadway, highway, street, alley, easement, or waterway." Any wire crossing a waterway

Information about wires installed in federal and state highways and private right-of-way is not required because these wires are not counted in calculating right-of-way fees.

- Require cable television operators offering telecommunications services to report to the new state agency all wire located in public right of way used to provide any kind of telecommunications service as defined by state law, which, in my opinion includes cable modem service,<sup>2</sup> despite the ruling recently made by the Federal Communications Commission that cable modem service is not a telecommunications service under the U.S. Telecommunications Act of 1996. This could grow into a controversial problem in a very few years because of the Metro Act's limitation on right-of-way fees paid by cable television operators offering telecommunications service to 1 cent per foot subject to exemption discussed later.
- Require municipal officials to cooperate with the new state agency in reporting what they know about locally installed wires. Township officials will likely find it very valuable to file whatever information they know about wires installed locally since accurate right-of-way fee payments to townships may depend on the new state agency getting locally-generated data.
- Exempt from a \$500 application fee otherwise payable locally, Ameritech, Verizon and other telecommunications companies currently using the public right of way without a local telecommunications permit. This provisions seem to grandfather and protect companies doing so illegally. I think that the law was not intended to protect from trespass and damage actions telecommunications companies which have already installed lines<sup>3</sup> in flagrant violation of state and law permit requirements but it remains to be litigated.
- Require only companies not currently occupying public right of way and not holding an existing permit to pay the new application fee. It is not clear

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must be counted in calculating fee payments. Because there are so many telecommunications companies using them, in my opinion, wires located in railroad lines should be counted in making right-of-way fee payments where they cross public right of way.

<sup>2</sup>. See Subsection 102(i), 102(dd) and Section 401(1) of Act No. 179 of the Public Acts of 1991, as amended.

<sup>3</sup>. For example, I know that a Toronto-based company has wires in railroad right-of-way from Pontiac to Detroit intersecting numerous roads for which no telecommunications permits were obtained. Please call me for details.

whether a company holding an existing permit can be required to pay the new application fee when extending its network locally. I think they can.

- Require cities, villages and townships to grant telecommunications permits within 45 days of receiving applications using permit forms approved by the MPSC and to notify the Commission when it grants or denies a permit, the date it did so and the application date.
- Preempt all other existing local fees for construction, plan review and inspection applicable to telecommunications companies. How this applies to construction by cable television operators is unclear and almost certainly will result in litigation unless resolved by legislation.
- Require all telecommunications companies, including Ameritech and Verizon, to pay into a statewide right-of-way pool what the Metro Act calls an annual maintenance fee of from, perhaps .083 cents or lower the first year to a maximum 5 cents per linear foot <sup>4</sup> every year later of wire located overhead or underground in any public right of way - state and federal highways are not counted.
- Require that funds in the statewide pool generally be distributed by May 31 each year without legislative appropriation. Seventy-five percent of funds collected will be paid to cities and villages and 25 percent to townships each of which decide before December 31, 2003, to be bound by the right-of-way fee and other limitations of the Metro Act.
- Contrary to the view of others interpreting the Metro Act, strictly speaking, the Metro Act does not require every community to engage in a detailed series of actions in order to "opt in" but only (1) to adopt a resolution announcing that they will not "enact, maintain or enforce any ordinance, local law, or other legal requirement . . . that is inconsistent with this act or that assesses fees or requires other considerations for access to or use of the public rights-of-way that are in addition to the fee required under this act" and (2) to send a copy of the resolution to all local telecommunications providers and cable television operators. Subsections 4 (1) & 13(4) of the Metro Act should be carefully reviewed.
- Protect fee payment to municipalities which in good faith violate the Metro Act's fee limitations and which rebate any fees received in excess of those allowed. Subsection 13(3). See *a/so* Subsections 4(1) and 10(3) of the Metro Act which provides that "a municipality is considered to be in

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<sup>4</sup>. See footnote 6 for a discussion of why there is uncertainty over the amount of the first right-of-way maintenance fee.

compliance with this act unless the authority finds to the contrary in a proceeding against the municipality affording due process initiated by a provider, the [Michigan Public Service Commission] or the attorney general."

- Impose on all telecommunications companies a right-of-way fee of from .083 or lower to 2 cents per foot for the period November 1, 2002 to March 31, 2003, which is due by April 29, 2003, and payable to participating communities by May 31, 2003.<sup>5</sup>
- Impose on all telecommunications companies a right-of-way fee of 5 cents per foot for the period April 1, 2003 to March 31, 2004, which in my opinion, is also due by April 29, 2003, and also payable to participating communities by May 31, 2003, and annually in subsequent years.<sup>6</sup>

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<sup>5</sup>. The language of Subsection 8(3) will need interpretation by the new state agency or the courts. In pertinent part it says: "[F]or the period November 1, 2002 to March 31, 2003, a provider shall pay an initial *annual* maintenance fee to the authority on April 29, 2003 of 2 cents per each linear foot of public right-of-way occupied by the provider's facilities with a metropolitan area, *prorated for the period specified in this subsection.*" (Emphasis added.) The issue is whether the payment due is for the full amount of 2 cents or whether the payment due is for .083 cents as prorated over five months. Treasury Department officials and some prominent municipal telecommunications lawyers, including Nick Miller of the Washington, D.C., law firm of Miller & VanEaton, conclude that the 2 cent payment can be prorated. I disagree.

First, the initial period of November 1, 2002 to March 31, 2003 is obviously not an "annual" period. This is sloppy draftsmanship. Second, as made clear by revenue estimates set forth in the opening sentence of the House Fiscal Agency analysis of the bill more fully discussed in footnote 9, I believe that the Legislature intended the fee to be 2 cents because that is a mathematically correct approximation of prorating the otherwise applicable 5 cent annual maintenance fee over a five-month period. ( $5 \times 5/12 = 2.083$  appropriately rounded down to 2 cents.) Third, the language should be interpreted as merely allowing telecommunications providers having wires in the right-of-way for only part of the five-month period to prorate the amount due.

Whether and how future annual maintenance fees should be prorated for new companies and new installations will also need to be decided by the new state agency or the courts.

<sup>6</sup>. Treasury Department officials say this payment is not due until April 29, 2004. Again, the Act will need interpretation. My conclusion that the second payment is due April 29, 2003, is based on a literal reading of Subsections 8(2), (3) & (4) of the Metro Act.

The Metro Act is very specific about the due date for the first payment. Section 8(3)

- Require that the 75 percent going to cities and villages be distributed in the same proportion as Act 51 highway funds.
- Require that the 25 percent going to townships be distributed based on each township's proportionate share of the total feet of county road right of way occupied by telecommunications companies in all townships. This puts a premium on townships – especially those in southeastern Michigan and other urban areas – taking an active role in finding and reporting to the new state agency wires located in their communities. Methods of doing so

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of the Metro Act says the payment due date for the period November 1, 2002 to March 31, 2003 is April 29, 2003. However, no due date for disbursement to local government is specified in Section 8(3). The due date for disbursement is found in Subsection 8(4) which broadly requires the new state agency to disburse annual fees to local government on or before the last day of the month following the month of receipt of the fees by the authority, *i.e.*, if a company pays earlier or later, the new state agency would disburse by the last day of the month following the month of receipt. Therefore, any payments timely made by the statutory due date of April 29, 2003 must be disbursed to local government no later than May 31, 2003. There is no doubt that the due date for the November 1, 2002 to March 31, 2003 payment was delayed until April 29, 2003 because the new state agency will need time to gather a vast amount of data concerning route miles of wire in the public right of way. It is apparent that April 29 was picked at least, in part, because that is the due date for all other payments of annual maintenance fees. That explains the due dates for the first payment.

Otherwise, Subsection 8(2) generally provides that April 1 to March 31 is the period covered by the second and all future payments. It sets the annual due date for them as April 29. Treasury Department officials claim the language is ambiguous and argue that Subsection 8(2) gives the new state agency authority to administer the schedule of payments. Subsection 8(2) does allow the new state agency to "prescribe the schedule for the *allocation* and *disbursement* of the fees under this act." (Emphasis added.) First, this language gives the new state agency no authority over the *collection* deadline. It is already specifically set forth in the Metro Act as April 29 each year. Second, while the agency has authority under Subsection 3(5) to promulgate rules for administration of the Metro Act, the literal language of Subsection 8(2) requires no statutory or administrative interpretation. It sets a very specific April 29 deadline for paying annual maintenance fees covering the annual period of April 1 to March 31. The first full annual period after the Act goes into effect is April 1, 2003 to March 31, 2004, and the first deadline is April 29, 2003. All language in a statute should be given its full meaning and effect. Letting the April 29 deadline pass in 2003 means all payments will be made in arrears violating long-accepted principles of statutory interpretation. I expect a legal challenge to be made to any contrary agency action.

include searching local personal property tax filings, building and planning records, annual membership filings by Miss Dig with county clerks, records of the MPSC and doing an audit of pole attachments throughout the community.

- Allow any city or village which agrees to be bound by the Metro Act's fee limitations by December 31, 2003, to collect from the statewide pool regardless of whether or not any telecommunications companies are locally using the public right of way.<sup>7</sup> All communities in counties over 10,000 population are members. Communities in counties with a population of 10,000 or less – Alger, Baraga, Keweenaw, Luce, Ontonagon, Oscoda and Schoolcraft – will have to affirmatively pass a resolution to join the statewide pool.
- Townships may only collect from the statewide pool their proportionate share of the 25 percent pool for miles of wire actually located in their communities.
- Allow the waiver fee payments from telecommunications companies in underserved areas may be waived if two-thirds of affected communities agree. Population is not a consideration.
- Generate total fees estimated by the House Fiscal Agency of between \$9 and \$14 million the first partial year of implementation<sup>8</sup> and \$24 - 36 million per year thereafter. Fees in excess of \$30 million would be distributed under

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<sup>7</sup>. In my opinion, this is one of the Metro Act's dumbest mistakes. The explanation offered by one of the municipal negotiators representing cities and villages was that nobody wanted to and nobody knew how to count route miles of wire on a community-by-community basis so Act 51 was picked as a convenient means of approximately getting to the same result. However, communities such as Auburn Hills, Dearborn, Grand Rapids, Troy, Southfield, Sterling Heights and Warren, which wrestled mightily over the last seven years with numerous competitive telecommunications companies over the installation of many miles of conduit and fiber optic wire overhead and underground clogging right of way and hacking up the streets time and time again, are seriously short-changed by the Act 51 formula. Moreover, the explanation offered ignores the fact that township funding under the Metro Act requires counting route miles of wire on a community-by-community basis and the disbursement formula further requires companies to separately report overhead and underground lines.

<sup>8</sup>. The House bill analysis estimate of \$9-\$14 million buttresses my argument in footnotes 5 that 2 cents rather than .083 cents is due for the period November 1, 2002, to March 31, 2003 for which the lower estimate of \$4.1 million was made by accountant Frank W. Audia of Plante & Moran, LLP, and attorney John W. Pestle of Varnum, Riddering, Schmidt & Howlett, at a June 2002 presentation for the Michigan Municipal League.

a complicated formula weighed for cities and villages against townships by favoring the amount of underground wire and communities with a population greater than 5,000.

- Cap the per foot right-of-way fee payable by smaller telephone companies offering local exchange service at the same amount of the per access line fee payable by Ameritech and cap the right-of-way fee payable by all others at the amount of the per access line fee payable by the incumbent local exchange carrier. This may give special incentive to arguments over the broad definition given to public right of way because the Ameritech's "last mile" plant is so vast – raising and, perhaps, nullifying the cap.
- Prohibit telecommunications companies from passing-thru to customers the cost of right-of-way fees but allowing credit against property taxes paid by them to the state. The effect on state revenue sharing has not be calculated.
- Preempt local cable television franchise agreements which require franchise fee payments to include revenues generated by new high speed Internet or cable modem service in communities joining the statewide pool. All cable operators have already stopped paying franchise fees on cable modem since a March 2002 ruling by the Federal Communications Commission.
- Allow cable television operators with cable television franchises requiring insurance<sup>9</sup> to offer local telecommunications service without obtaining any other telecommunications permit.
- Exempt public educational institutions from any mapping requirement or paying any right-of-way fee. How this applies to construction, permits requirements and inspections is unclear. Whether they can still be required to apply for a local telecommunications permit is also unclear because the language of Section 18 specifically requires a permit only if an educational institution offers services beyond that allowed by Section 307 of the Michigan Telecommunications Act.

Here are some important observations and recommendations on the impact of the Metro Act on (1) existing local telecommunications ordinances and permits, (2) construction permit, overhead and underground plan review and construction inspection fees, (3) franchise fee revenues derived by local government from new high speed Internet or cable modem service and (4) the provision of telecommunications services by public educational institutions and cable television operators:

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<sup>9</sup>. Franchises in most areas do require insurance coverage. I have seen some in rural small towns which don't.

- Communities which adopted telecommunications ordinances should repeal them because the Metro Act gives preemptory control of application forms and permit terms to the MPSC. Leaving them on the books will require amending and, perhaps, frequent and costly updating.
- All new permits required for construction by telecommunications companies must use MPSC-approved forms and comply with limits on right-of-way fees.
- Communities with pre-existing telecommunications permits have been advised to make a painstaking review and comparison of the financial implications of joining or staying out of the statewide pool. I don't think so. First, permits which require payments of less than 5 cents per foot or nothing at all can and will be enforced by the companies involved. More on what this means later. Second, permits which require payment of more than 5 cents per foot issued since 1995 when the State imposed a "fixed and variable cost" ceiling on right-of-way fees can, maybe, be enforced by the community. However, the telecommunications industry will continue to challenge them in costly proceeding before the MPSC and they have won every single case so far. Communities shouldn't try enforcing such permits unless local officials get very good legal and financial advise because doing so means permanently giving up any payments from the statewide pool even if the permits are struck down in expensive litigation or, inevitably, expire.<sup>10</sup> Finally, permits issued before 1995 requiring payment of more than 5 cents per foot probably are not subject to legal challenge. Communities with such permits could compare the total of what they're getting under them with what they'll get under the Metro Act but payments under the Metro Act will always be higher because the decision to forego payments from the statewide pool is permanent.
- As already mentioned above, one of the quirks of the new Metro Act required by constitutional law is that telecommunications companies paying right-of-way fees of less than 5 cents per foot or nothing at all under pre-existing permits can demand and probably will enforce those contractual limitations. What does this mean? Well, first, they will continue to pay whatever was locally required directly to the affected municipality until the permit expires. (I don't think the Metro Act allows expired permits to be extended without bringing them under the Act.) Second, therefore, the footage involved certainly will be excluded from the company's total subject to the state fee -- they can't required to pay both locally and into the state pool. What's especially interesting about this is that it will have no discernible impact on right-of-way fees paid by the new state agency to those affected cities or

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<sup>10</sup>. Article VII, section 30 of the Michigan's Constitution provides that [n]o franchise or license shall be granted by township, city or village for a period longer than 30 years."

villages because Act 51 is used to calculate payments under the Metro Act, in effect, rewarding cities and villages, albeit in a very small way, which assessed fees lower than 5 cents per foot. Third, however, if the footage involved is excluded from a company's total for all purposes – calculating not only payments due from companies but disbursements -- affected townships will be treated differently from cities and villages. They will lose overall right-of-way fees because their share is based on the local proportion of footage compared to the statewide total in all townships. A related issue is whether the footage of cable operators also offering telecommunications services will be excluded from township and statewide totals because they are exempt from paying the 1 cent per foot fee. Nothing in the Act deals with excluded or exempt footage in calculating disbursements to townships where it matters.

- The Metro Act grandfathers existing local telecommunications permits. I am not persuaded as some municipal telecommunications attorneys seem to be that this requires communities deciding to accept payments from the statewide pool to renegotiate at least their fee provisions. While I accept their legal argument, as a practical matter, the companies involved are not going to complain if they don't have to send teams of lawyers to hundreds of communities to argue over existing permits. Moreover, the Act requires use of the MPSC-approved permit form so there's nothing to argue about.
- Communities qualifying for the state right-of-way fee pool must notify all local telecommunications companies either that they're complying with the Metro Act's fee limitations or that they've adopted a resolution or ordinance effective no later than December 31, 2003 modifying local fees charged to telecommunication providers after November 1, 2002 consistent with the Metro Act's \$500 application fee, 2 cent and 5 cent ceilings on annual maintenance fees and eliminated any construction, plan review and inspection fees.<sup>11</sup> Such a resolution or ordinance could be adopted anytime before December 31, 2003, subject to local publication requirements and other procedures, after a thorough review of existing permits, fee schedules and applicable ordinances. Whether any state filing will be required remains to be decided.

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<sup>11</sup>. It should be noted that if fees in excess of the Metro Act's limitations are charged between November 1, 2002 and December 31, 2003, telecommunications companies get a credit for that amount against fees due to the state agency and the state agency will deduct that amount from fees due the affected municipality. This gives telecommunications companies an easy way to recoup right-of-way and construction-related fees. There is an obvious tension between the requirements of Subsection 4(1) which prohibits charging fees in excess of the Metro Act's limitations after November 1, 2002, and the December 31, 2003, deadline for actually doing so.

- Failing to do so permanently bars communities from ever joining the state right-of-way fee pool and losing out on receiving fees from the big telecommunications companies which until now have never paid them -- Ameritech, Verizon and the other incumbent local exchange carriers.
- Unless the Metro Act is wrongly interpreted by the new state agency to exclude from payments communities not otherwise taking some affirmative step, there is no need to weigh financial options because the Metro Act specifically presumes that all communities are qualified to receive funds, requires the new state agency to hold payments in escrow for non-qualifying communities, gives companies a credit for payments made in excess of the statewide fee and deducts that amount from payments due locally.
- Therefore, all cities, villages and townships should take any necessary action qualifying them to participate in the state maintenance fee pool effective by the deadline of December 31, 2003. Until then, communities can legally charge the full amounts due under any existing construction, plan and inspection fee schedules, telecommunications permits and cable television franchises. I make this recommendation for a variety of reasons:
  1. If the first payment is for .083 cents or less and the second payment is not due until April 29, 2004, most communities with existing permits may get more dollars with fewer strings by making local action effective December 31, 2003.
  2. The Metro Act requires participating communities to repeal all local construction, engineering, plan review and inspection fees on telecommunications companies and educational institutions building networks. Doing so before the deadline could be immediately costly to communities with any construction underway or possible before December 31, 2003. However, with the glut of fiber optic lines already installed and so many telecommunications companies in or teetering over bankruptcy, there is little likelihood of major construction activity in the next few years.<sup>12</sup>
  3. The Metro Act requires that fees received from the statewide pool be used solely for right-of-way related purposes but not necessarily to those permissible under Act 51. In the short term, this could be disruptive to local government budgets because existing right-of-way

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<sup>12</sup>. Dealing with existing telecommunications companies still in bankruptcy when the Metro Act takes effect could be tricky. The Metro Act relieves municipal officials of most worry, however, because fee collection duties are assigned to the new state agency.

fees can be used for any purpose. Additionally, communities with a population of 10,000 or more are required to file an annual report with the new state agency explaining how they're using the funds subject to audit. The agency will issue a report form.

4. Collecting cable television franchise fees on high-speed Internet or cable modem service is prohibited in communities joining the statewide pool. Delaying until the last minute, maximizes the possible receipt of cable modem-derived revenues if the recent FCC ruling is overturned in the courts. Oral arguments on a pending appeal will be heard in January 2003. In any communities where they were being paid, they amounted to, perhaps, as much as 20 percent of the total and cable operators won't enjoy a credit if required to pay those accruing before the November 1, 2002 effective date of the Metro Act. Fees accruing after the effective date of the Metro Act cannot be recovered.

5. Furthermore, by joining the state right-of-way pool sooner than December 31, 2003, communities financing public, educational or government access channels with franchise fees by contract with a non-profit corporation or otherwise might suffer an unnecessary loss of the right to recover cable modem-derived revenues. As earlier pointed out, all cable operators have stopped including them in payments to local government. Communities joining the state right-of-way pool early will lose any leverage they may have to enforce payment because the Metro Act prohibits communities joining the statewide pool from enforcing payment of franchise fees on cable modem revenues.

- Educational institutions and most cable television operators, as a practical matter, cannot be required to pay application or annual maintenance fees on their telecommunications networks. Cable operators who can show their capital investment in the state since January 1, 1996 exceeds what a 1 cent per foot fee would have generated are exempt from paying it. The Michigan Cable Television Association believes all cable operators in the state currently qualify. How this provision is supposed to work in future years is unclear but it appears possible that once they certify, they continue to be exempt even if subsequent maintenance fees exceed capital investment and it opens a loophole under which a telecommunications company could buy a small cable television system and try to qualify for reduced fees.
- Unwisely, a last-minute amendment to the legislation, while educational institution can still be required to obtain construction permits, the Metro Act specifically exempts them from being required to provide route or as-built maps. Whether they can be required in as a part of construction plan review

is unclear.

- Cable television operators with a franchise requiring insurance are exempt from obtaining a separate telecommunications permit for new telecommunications services. What this means is unclear under developing federal law. Also, the status of some few existing telecommunications permits held by cable television operators are uncertain except that fee requirements are preempted.

**CITY OF TROY  
TELECOMMUNICATIONS FEES AND CASH DEPOSITS  
2000-2002**

<b>YEAR</b>	<b>ENGINEERING</b>		<b>CASH DEPOSIT</b>	
	<b>PLAN REVIEW</b>	<b>CONSTRUCTION INSPECTION</b>	<b>FOR RESTORATION*</b>	<b>TELECOM/ROW FEE</b>
2000	\$ 2,050.52	\$ 29,137.06	\$ 119,000.00	\$ 57,404.00
2001	\$ 643.15	\$ 9,401.08	\$ 49,100.00	\$ 87,897.00
2002	\$ 347.04	\$ 3,778.80	\$ 53,127.88	\$ 4,749.00
<b>TOTALS</b>	<b>\$ 3,040.71</b>	<b>\$ 42,316.94</b>	<b>\$ 221,227.88</b>	<b>\$ 150,050.00</b>

\* Refunded less damage or restoration costs incurred by city

DATE: September 12, 2002

TO: The Honorable Mayor and City Council

FROM: John Szerlag, City Manager  
Gary A. Shripka, Assistant City Manager/Services  
Lori Grigg-Bluhm, City Attorney  
Mark Stimac, Director of Building and Zoning

SUBJECT: Proposed Signs in Easements

The building department has received numerous requests for the installation of signs within easements platted as part of subdivision development. The City of Troy has consistently denied sign permits for signs when the location proposed is within public utility easements. Section 7.01.01 of Chapter 78 of the City Code, the Sign Ordinance, prohibits the location of any sign in a public easement. The Land Division Act of the State of Michigan further states, in Paragraph C of Section 190 (MCL 560.190), that permanent structures may not be erected within public utility easements. Although the Land Division Act does not define structures, the Construction Code Act does. A copy of Paragraph Z of Section 2a (MCL 125.1502a) with the definition of a structure is enclosed for your reference. We have also enclosed the definition of structure from Black's Law Dictionary.

In order to be allowed to place a sign in an area covered by a platted public utility easement, at least a portion of this easement must be vacated. In accordance with Section 226 of the Land Division Act (MCL 560.226), this vacation must be processed through the Circuit Court. Many of the utility companies may oppose the vacation of easements in court if their equipment is already installed within the area.

With regards to easements that are recorded outside of a plat slightly different conditions would apply. The provisions of the Troy Sign Ordinance would still prohibit the placement of a sign in an easement since there is no differentiation between platted and un-platted easements. However the provisions of the Land Division Act would not be applicable. The grantee of the easement could by agreement with the owner permit a sign to be installed in the easement. In the case of easements granted just to the City of Troy (water main, sanitary sewer, storm sewer) the City would be the only party that would have to give approval. In cases when the easement is granted as an easement for public utility, all public utilities would have to agree to the structure. The City has no authority to allow for an encroachment into the easement rights held by another entity.

The potential for all public utilities to grant approval for a structure in their easement are certainly slim.

In general it is the staff's position that we should not encourage the placement of signs in easements. With the ongoing need to install, maintain, and service water and sewer lines, access to those areas becomes a critical need. The interference with that access, even if we are not responsible for repairing a structure, has cost implications regarding time, equipment, and manpower needed to remove, or work around obstructions.

Another item that we have been approached on is an identification sign proposed to be located in the median of the entrance boulevard of the Sandalwood Condominium development. This portion of Sandalwood Drive, just west of Rochester Road, is a public street. We cannot permit the development sign in the public right of way under the subdivision entranceway provisions of the sign ordinance because the development is not a subdivision. Staff feels however that a development of this type should be allowed to have the same potential for signage as the subdivisions do. We are proposing to modify Section 7.01.01 of the Sign Ordinance to substitute the term "residential development " for the current text of "subdivision". Once revised, we would be able to review and approve these types of requests the same way as subdivision entranceways.

We will be happy to provide any additional information that you desire regarding this matter.

## Chapter 78 - Signs

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6.02.03 Concealed Work: In cases where fastenings are to be installed and enclosed in such a manner that the Building Inspector cannot easily remove material to see the fastenings and material used, the sign erector must advise the Building Inspector so that the inspection may be made before concealment.

6.02.04 Removal of Signs: Should any sign be found unsafe, insecure, improperly constructed or not in accordance with the requirements of this Chapter, the erector and/or owner shall be required to make the sign safe, secure and otherwise in compliance with the requirements of this Chapter within 30 days of notice. Failure to comply shall result in an order to remove the sign within 48 hours from the time of notification in writing.

Exception: Existing signs determined to be unsafe and an immediate hazard to health or safety shall be removed or repaired at the owner's expense within 48 hours of notification.

6.03 Illuminated Signs:

6.03.01 Illumination: No sign shall be illuminated by other than approved electrical devices and shall be installed in accordance with the requirements of the regulations adopted by the City of Troy. No open spark of flame may be used for display purposes unless specifically approved by the Building Inspector.

6.03.02 Shielding from Residential Districts: Any lighting for the illumination of signs shall be directed away from and shall be shielded from any adjacent residential zoning districts and shall not adversely affect driver visibility on adjacent public thoroughfares.

7.00 Regulations for Permitted Signs

General Provisions: The following conditions shall apply to all signs erected or located in any zoning district.

7.01.01 Signs in Right-of-Way: No sign shall be located in, project into, or overhang a public right-of-way or dedicated public easement.

Exceptions:

A) Signs established and maintained by the City, County, State, or Federal Governments.

B) Banners, advertising civic events may be permitted on lighting poles within the median of Big Beaver Road, between Rochester Road and Cunningham Drive, for a period not to exceed thirty days, subject to the approval of the City Manager.

(Rev. 07-17-00)

C) Subdivision identification signs not more than five feet in height and not more than 50 square feet in area located within the median of boulevard entrance streets subject to City Council approval of design and materials and further subject to the execution of an agreement with the City of Troy covering liability and maintenance of the sign. The height of such signs shall further be subject to the corner clearance requirements of Figure 7.01.01.

**LAND DIVISION ACT (EXCERPT)**  
**Act 288 of 1967**

**560.190 Public utility easements.**

Sec. 190. The proprietor shall provide public utility easements in accordance with the provisions of section 139. The following shall apply to all public utility easements included in a subdivision:

(a) Easements intended for use of public utilities shall not be deemed to be dedicated to the public but shall be private easements for public utilities and shall be equitably shared among such utilities.

(b) The public utilities first using an easement shall be reimbursed by later users for all rearrangement or relocation costs.

(c) Permanent structures may not be erected within easement limits by the owner of the fee but he shall have the right to make any other use of the land not inconsistent with the rights of public utilities, or the other uses as noted on the plat.

(d) The public utilities shall have the right to trim or remove trees that interfere with their use of easements.

(e) Nothing in this act shall be construed to limit any regulatory powers possessed by municipalities with respect to public utilities.

**History:** 1967, Act 288, Eff. Jan. 1, 1968.

**Popular name:** Plat Act

**Popular name:** Subdivision Control

**THE STILLE-DEROSSETT-HALE SINGLE STATE CONSTRUCTION CODE ACT**  
**(EXCERPT)**  
**Act 230 of 1972**

**125.1502a Additional definitions.**

Sec. 2a. (1) As used in this act:

(a) "Agricultural or agricultural purposes" means of, or pertaining to, or connected with, or engaged in agriculture or tillage which is characterized by the act or business of cultivating or using land and soil for the production of crops for the use of animals or humans, and includes, but is not limited to, purposes related to agriculture, farming, dairying, pasturage, horticulture, floriculture, viticulture, and animal and poultry husbandry.

(b) "Application for a building permit" means an application for a building permit submitted to an enforcing agency pursuant to this act and plans, specifications, surveys, statements, and other material submitted to the enforcing agency together or in connection with the application.

(c) "Barrier free design" means design complying with legal requirements for architectural designs which eliminate the type of barriers and hindrances that deter persons with disabilities from having access to and free mobility in and around a building or structure.

(d) "Board of appeals" means the construction board of appeals of a governmental subdivision provided for in section 14.

(e) "Boards" means the state plumbing, board of mechanical rules, and electrical administrative boards and the barrier free design board created in section 5 of 1966 PA 1, MCL 125.1355.

(f) "Building" means a combination of materials, whether portable or fixed, forming a structure affording a facility or shelter for use or occupancy by persons, animals, or property. Building does not include a building, whether temporary or permanent, incidental to the use for agricultural purposes of the land on which the building is located if it is not used in the business of retail trade. Building includes the meaning "or part or parts of the building and all equipment in the building" unless the context clearly requires a different meaning.

(g) "Building envelope" means the elements of a building which enclose conditioned spaces through which thermal energy may be transferred to or from the exterior.

(h) "Business day" means a day of the year, exclusive of a Saturday, Sunday, or legal holiday.

(i) "Chief elected official" means the chairperson of the county board of commissioners, the city mayor, the village president, or the township supervisor.

(j) "Code" means the state construction code provided for in section 4 or a part of that code of limited application and includes a modification of or amendment to the code.

(k) "Commission" means the state construction code commission created by section 3.

(l) "Construction" means the construction, erection, reconstruction, alteration, conversion, demolition, repair, moving, or equipping of buildings or structures.

(m) "Construction regulation" means a law, act, rule, regulation, or code, general or special, or compilation thereof, enacted or adopted before or after January 1, 1973, by this state including a department, board, bureau, commission, or other agency thereof, relating to the design, construction, or use of buildings and structures and the installation of equipment in the building or structure. Construction regulation does not include a zoning ordinance or rule issued pursuant to a zoning ordinance and related to zoning.

(n) "Cost-effective", in reference to section 4(3)(f) and (g), means, using the existing energy efficiency standards and requirements as the base of comparison, the economic benefits of the proposed energy efficiency standards and requirements will exceed the economic costs of the requirements of the proposed rules based upon an incremental multiyear analysis. All of the following provisions apply:

(i) The analysis shall take into consideration the perspective of a typical first-time home buyer.

(ii) The analysis shall consider benefits and costs over a 7-year time period.

(iii) The analysis shall not assume fuel price increases in excess of the assumed general rate of inflation.

(iv) The analysis shall assure that the buyer of a home who qualifies to purchase the home before the addition of the energy efficient standards would still qualify to purchase the same home after the additional cost of the energy-saving construction features.

(v) The analysis shall assure that the costs of principal, interest, taxes, insurance, and utilities will not be greater after the inclusion of the proposed cost of the additional energy-saving construction features required by the proposed energy efficiency rules as opposed to the provisions of the existing energy efficiency rules.

(o) "Department" means the department of consumer and industry services.

(p) "Director" means the director of the department or an authorized representative of the director.

(q) "Energy conservation" means the efficient use of energy by providing building envelopes with high thermal resistance and low air leakage, and the selection of energy efficient mechanical, electrical service, and illumination systems, equipment, devices, or apparatus.

(r) "Enforcing agency" means the enforcing agency, in accordance with section 8a or 8b, which is responsible for administration and enforcement of the code within a governmental subdivision, except for the purposes of section 19 enforcing agency means the agency in a governmental unit principally responsible for the administration and enforcement of applicable construction regulations.

(s) "Equipment" means plumbing, heating, electrical, ventilating, air conditioning, and refrigerating equipment.

(t) "Governmental subdivision" means a county, city, village, or township which in accordance with section 8 has assumed responsibility for administration and enforcement of this act and the code within its jurisdiction.

(u) "Mobile home" means a vehicular, portable structure built on a chassis pursuant to the national manufactured housing construction and safety standards act of 1974, title VI of the housing and community development act of 1974, Public Law 93-383, 42 U.S.C. 5401 to 5426, and designed to be used without a permanent foundation as a dwelling when connected to required utilities and which is, or is intended to be, attached to the ground, to another structure, or to a utility system on the same premises for more than 30 consecutive days.

(v) "Other laws and ordinances" means other laws and ordinances whether enacted by this state or by a county, city, village, or township and the rules issued under those laws and ordinances.

(w) "Owner" means the owner of the freehold of the premises or lesser estate in the premises, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, lessee, or any other person, sole proprietorship, partnership, association, or corporation directly or indirectly in control of a building, structure, or real property or his or her duly authorized agent.

(x) "Person with disabilities" means an individual whose physical characteristics have a particular relationship to that individual's ability to be self-reliant in the individual's movement throughout and use of the building environment.

(y) "Premanufactured unit" means an assembly of materials or products intended to comprise all or part of a building or structure, and which is assembled at other than the final location of the unit of the building or structures by a repetitive process under circumstances intended to insure uniformity of quality and material content. Premanufactured unit includes a mobile home.

(z) "Structure" means that which is built or constructed, an edifice or building of any kind, or a piece of work artificially built up or composed of parts joined together in some definite manner. Structure does not include a structure incident to the use for agricultural purposes of the land on which the structure is located and does not include works of heavy civil construction including, but not limited to, a highway, bridge, dam, reservoir, lock, mine, harbor, dockside port facility, an airport landing facility and facilities for the generation or transmission, or distribution of electricity. Structure includes the meaning "or part or parts of the structure and all equipment in the structure" unless the context clearly requires a different meaning.

(2) Unless the context clearly indicates otherwise, a reference to this act, or to this act and the code, means this act and rules promulgated pursuant to this act including the code.

**History:** Add. 1999, Act 245, Imd. Eff. Dec. 28, 1999.

**Compiler's note:** Enacting section 1 of Act 245 of 1999 provides: "Enacting section 1. The title and sections 2a, 3a, 8a, 8b, and 9b of the state construction code act of 1972, 1972 PA 230, the title as amended and sections 2a, 3a, 8a, 8b, and 9b as added by this amendatory act, are

LENCE (2). 3. A failure or disadvantage, as by a criminal conviction <a strike on one's record>.

**strike, vb.** 1. (Of an employee or union) to engage in a strike <the flight attendants struck to protest the reduction in benefits>. 2. To remove (a prospective juror) from a jury panel by a peremptory challenge or a challenge for cause <the prosecution struck the panelist who indicated an opposition to the death penalty>. See *peremptory challenge* under CHALLENGE. 3. To expunge, as from a record <motion to strike the prejudicial evidence>.

**strikebreaker.** See SCAB.

**strike down.** To invalidate (a statute); to declare void.

**strike fund.** A union fund that provides benefits to its members who are on strike, esp. for subsistence while the members are not receiving wages.

**strike off.** 1. (Of a court) to order (a case) removed from the docket. 2. (Of an auctioneer) to announce, usu. by the falling of the hammer, that an item has been sold.

**strike price.** See PRICE.

**strike suit.** See SUIT.

**striking a jury.** The selecting of a jury out of all the candidates available to serve on the jury; esp., the selecting of a special jury. See *special jury* (1) under JURY.

**striking off the roll.** See DISBARMENT.

**striking price.** See *strike price* under PRICE.

**strip, n.** 1. The act of separating and selling a bond's coupons and corpus separately. 2. The act of a tenant who, holding less than the entire fee in land, spoils or unlawfully takes something from the land.

**STRIP** (strip). *abbr.* SEPARATE TRADING OF REGISTERED INTEREST AND PRINCIPAL OF SECURITIES.

**strip search.** See SEARCH.

**strong-arm clause.** A provision of the Bankruptcy Code allowing a bankruptcy trustee to avoid a security interest that is not perfected

when the bankruptcy case is filed. 11 USCA § 544(a)(1).

**strongly corroborated.** (Of testimony) supported from independent facts and circumstances that are powerful, satisfactory, and clear to the court and jury.

**strong mark.** See TRADEMARK.

**strong market.** See *bull market* under MARKET.

**strong trademark.** See TRADEMARK.

**struck jury.** See JURY.

**structural alteration.** See ALTERATION.

**structural unemployment.** See UNEMPLOYMENT.

**structure.** 1. Any construction, production, or piece of work artificially built up or composed of parts purposefully joined together <a building is a structure>. 2. The organization of elements or parts <the corporate structure>. 3. A method of constructing parts <the loan's payment structure was a financial burden>.

**structured security.** See SECURITY.

**structured settlement.** See SETTLEMENT.

**study release.** A program that allows a prisoner to be released for a few hours at a time to attend classes at a nearby college or technical institution. — Also termed *study furlough*.

**stuff gown.** 1. The professional robe worn by barristers of the outer bar who have not been appointed Queen's Counsel. 2. A junior barrister. Cf. SILK GOWN.

**stultify, vb.** 1. To make (something or someone) appear stupid or foolish <he stultified opposing counsel's argument>. 2. To testify about one's own lack of mental capacity. 3. To contradict oneself, as by denying what one has already alleged.

**stultiloquium** (stul-ti-loh-kwee-əm). [fr. Latin *stultus* "foolish" + *loqui* "to speak"] *Hist.* A frivolous pleading punishable by fine. • This may have been the origin of the beaupleader. See BEAUPLEADER.

**LAND DIVISION ACT (EXCERPT)**  
**Act 288 of 1967**

**560.226 Trial and hearing; order to vacate, correct, or revise recorded plat; exceptions; plat recording resulting in loss of public access to lake or stream; reservation of easement; operation and maintenance of property by state or local unit; effect of noncompliance with subsection (4); closure of road ending; proceedings.**

Sec. 226. (1) Upon trial and hearing of the action, the court may order a recorded plat or any part of it to be vacated, corrected, or revised, with the following exceptions:

(a) A part of a state highway or federal aid road shall not be vacated, corrected, or revised except by the state transportation department.

(b) A part of a county road shall not be vacated, corrected, or revised except by the county road commission having jurisdiction pursuant to chapter IV of Act No. 283 of the Public Acts of 1909, being sections 224.1 to 224.32 of the Michigan Compiled Laws.

(c) A part of a street or alley under the jurisdiction of a city, village, or township and a part of any public walkway, park, or public square or any other land dedicated to the public for purposes other than pedestrian or vehicular travel shall not be vacated, corrected, or revised under this section except by both a resolution or other legislative enactment duly adopted by the governing body of the municipality and by court order. However, neither this section nor any other section shall limit or restrict the right of a municipality under sections 256 and 257 to vacate the whole or any part of a street, alley, or other land dedicated to the use of the public.

(2) If a circuit court determines pursuant to this act that a recorded plat or any part of it that contains a public highway or portion of a public highway that borders on, crosses, is adjacent to, or ends at any lake or the general course of any stream, should be vacated or altered in a manner that would result in a loss of public access, it shall allow the state and, if the subdivision is located in a township, the township to decide whether it wants to maintain the property as an ingress and egress point. If the state or township decides to maintain the property, the court shall order the official or officials to either relinquish control to the state or township if the interest is nontransferable or convey by quitclaim deed whatever interest in the property that is held by the local unit of government to the state or township. The township shall have first priority to obtain the property or control of the property as an ingress and egress point. If the township obtains the property or control of the property as an ingress and egress point and later proposes to transfer the property or control of the property, it shall give the department of natural resources first priority to obtain the property or control of the property. If the state obtains the property or control of the property under this subsection, the property shall be under the jurisdiction of the department of natural resources. The state may retain title to the property, transfer title to a local unit of government, or deed the property to the adjacent property owners. If the property was purchased from restricted fund revenue, money obtained from sale of the property shall be returned to that restricted fund.

(3) A judgment under this section vacating, correcting, or revising a highway, road, street, or other land dedicated to the public and being used by a public utility for public utility purposes shall reserve an easement therein for the use of public utilities, and may reserve an easement in other cases.

(4) If interest in the property is conveyed or control over the property is relinquished to a local unit or this state under subsection (2), the local unit or this state, as applicable, shall operate and maintain the property so as to prevent and eliminate garbage and litter accumulation, unsanitary conditions, undue noise, and congestion as necessary.

(5) If a person shows substantial noncompliance with the requirements of subsection (4), the circuit court may order the local unit or this state to close the road ending in a manner to prevent ingress and egress to the body of water for a period of up to 30 days.

(6) If a person shows substantial noncompliance with the requirements of subsection (4) and the circuit court has previously closed the road ending for up to 30 days under subsection (5), the circuit

court may order the local unit or this state to close the road ending in a manner to prevent ingress and egress to the body of water for 90 days.

(7) If a person shows substantial noncompliance with the requirements of subsection (4) and the circuit court has previously closed the road ending for 90 days under subsection (6), the circuit court may order the local unit or this state to close the road ending in a manner to prevent ingress and egress to the body of water for 180 days.

(8) If a person shows substantial noncompliance with the requirements of subsection (4) and the circuit court has previously closed the road ending for 180 days under subsection (7), the circuit court shall order the local unit or this state to show cause why the road ending should not be permanently closed in a manner to prevent ingress and egress to the body of water. Subject to subsection (9), the circuit court shall permanently close the road ending unless the local unit or this state shows cause why the road ending should not be closed.

(9) After a road ending is closed under subsection (8), and unless the property has been conveyed or relinquished to the adjacent landowners under subsection (10), the local unit or this state may petition the circuit court to reopen the road ending. The circuit court may order the road ending reopened if the local unit or this state presents a management plan to and posts a performance bond with the circuit court, and the circuit court finds that the management plan and performance bond are adequate to ensure compliance with subsection (4).

(10) After a road ending is closed by the circuit court under subsection (8), 1 or more of the adjacent landowners may petition the circuit court to order the local unit or this state to convey any interest in the property that the local unit or this state holds to the adjacent landowners, or, if the interest is nontransferable, to relinquish control over the property to the adjacent landowners.

(11) Proceedings under subsection (5), (6), (7), or (8) shall be initiated by application of 7 owners of record title of land in the local unit who own land within 1 mile of the road ending to the circuit court for the county in which the road ending is located. The applicants in proceedings under subsection (5), (6), (7), (8), (9), or (10) shall give the persons described in section 224a notice of the application by registered mail.

**History:** 1967, Act 288, Eff. Jan. 1, 1968;—Am. 1978, Act 367, Imd. Eff. July 22, 1978;—Am. 1978, Act 556, Imd. Eff. Dec. 22, 1978;—Am. 1996, Act 219, Imd. Eff. May 28, 1996.

**Popular name:** Plat Act

**Popular name:** Subdivision Control



**SANDALWOOD SOUTH LLC**  
**46600 ROMEO PLANK ROAD**  
**STE 5**  
**MACOMB, MI 48044**

46600 Romeo Plank Road  
Suite 5  
Macomb, MI 48044

Phone (810) 263-1203  
Fax: (810) 263-5903  
www.mjccompanies.com

July 3, 2002

Troy City Council  
500 W. Big Beaver  
Troy, MI 48084

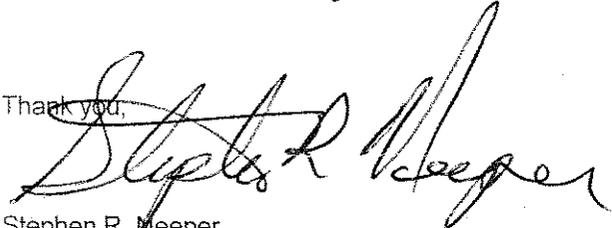
Dear Council Members:

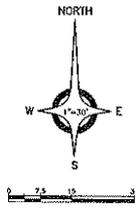
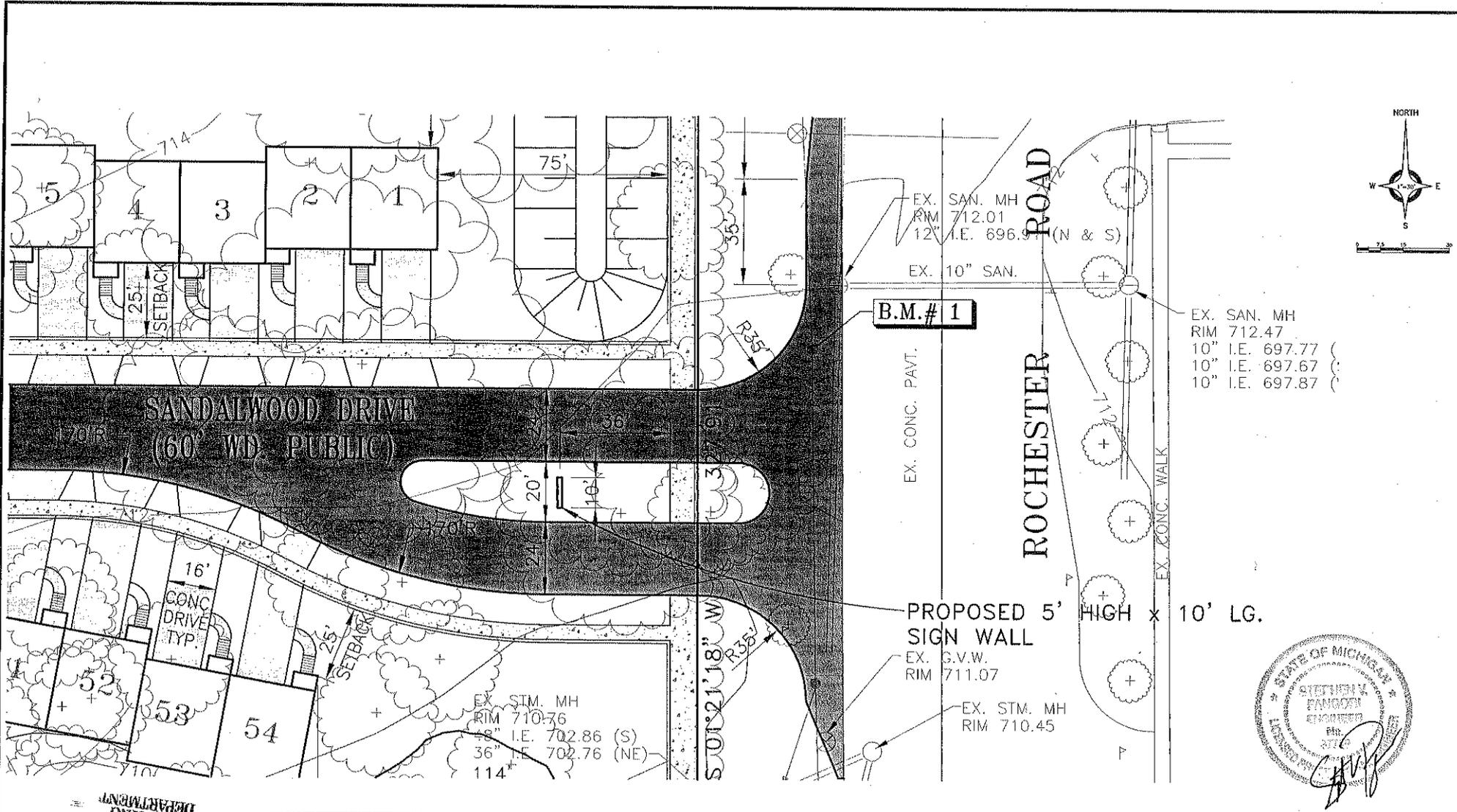
Sandalwood South of Troy LLC would ask the council to please have the city ordinance, chapter 78 sec. 701.01 that allows residential subdivision to have a sign in the public road right of way changed to include other zoning classification such as condominium sites, specifically R-1-T which is what Sandalwood South's zoning is presently.

We feel that our condominium site, and perhaps others should be able to have the same identification for the development that a residential subdivision has seeing that a condominium site is also a residential development only with a different zoning classification.

Sandalwood South would like to build its condominium identification sign in the entrance boulevard and can only do so if the ordinance is changed.

Thank you,

  
Stephen R. Keeper  
Project Manager  
Sandalwood South of Troy LLC



RECEIVED  
JUL 11 2002  
BUILDING DEPARTMENT

**SANDALWOOD SOUTH CONDOMINIUMS**  
TROY, MICHIGAN



**ANDERSON, ECKSTEIN AND WESTRICK, INC.**  
Civil Engineers • Surveyors • Architects  
51301 Schoenherr Road, Shelby Township, Michigan 48315  
Phone 586-726-1234 Fax 586-726-8780



PROPOSED REVISION TO CHAPTER 78  
RELATING TO IDENTIFICATION SIGNS IN CONDOMINIUM DEVELOPMENTS

7.01.01 Signs in Right-of-Way: No sign shall be located in, project into, or overhang a public right-of-way or dedicated public easement.

Exceptions:

- A) Signs established and maintained by the City, County, State, or Federal Governments.
- B) Banners, advertising civic events may be permitted on lighting poles within the median of Big Beaver Road, between Rochester Road and Cunningham Drive, for a period not to exceed thirty days, subject to the approval of the City Manager.  
(Rev. 07-17-00)
- C) ~~Subdivision-Residential development~~ identification signs not more than five feet in height and not more than 50 square feet in area located within the median of boulevard entrance streets subject to City Council approval of design and materials and further subject to the execution of an agreement with the City of Troy covering liability and maintenance of the sign. The height of such signs shall further be subject to the corner clearance requirements of Figure 7.01.01.

September 13, 2002

To: Honorable Mayor and City Council

From: John Szerlag, City Manager  
Gary Shripka, Assistant City Manager/Services  
John Abraham, Traffic Engineer  
Mark Stimac, Building and Zoning Director  
Bill Nelson, Fire Chief  
Steve Vandette, City Engineer  
Mark F. Miller, Planning Director

Subject: Street Inter-Connection

Street inter-connection in relation to subdivision and site condominium proposals is presenting challenges to the Planning Commission, City Management and City Council. Recent experience demonstrates that the City is moving into an infill urban development mode, that is quite different from the suburban greenfield development that created the City. Attached to this memorandum is the Planning Commission's policy statement, the Fire Department's policy regarding street closures and barricades, and a list of advantages and disadvantages of street inter-connection.

The Planning Department utilizes the Zoning Ordinance and the Subdivision Control Ordinance to review subdivision and site condominium proposals. It is the goal of the City to have single family home developments, look and function identically. Section 4.05.2 of the Subdivision Control Ordinance states, "*The street layout shall provide for the continuation of streets adjoining the subdivision or for the proper protection of streets when the adjoining property is not subdivided or conform to a plan for a neighborhood unit adopted by the Plan Commission.*" City Management believes that street inter-connection should continue and the basis of development review process is valid. In addition, the Fire Department's opinion regarding the necessary emergency access is invaluable in determining the needed street inter-connection.

Therefore, City Management will work with developers and/or Planning Department staff to present street layout alternatives for the Planning Commission and City Council when street inter-connection may not be desirable.

## CITY OF TROY PLANNING COMMISSION

### STREET INTER-CONNECTION POLICY

The planning process dictates that residential streets should generally be interconnected whenever possible and provide stub roads to abutting or adjacent properties. However, each development proposal has different circumstances and existing conditions. An analysis to identify factors to determine the appropriateness of inter-connection, will identify the negative impact of cut-through traffic, pedestrian safety, emergency access, major thoroughfare curb-cuts and future development opportunities. There should also be a clear distinction between vehicular and pedestrian inter-connection.

The following recent development proposals demonstrate where street inter-connection is not valuable:

1. The Estates at Cambridge  
The subject property is located on Beach Road, a collector street. If the proposed subdivision connected to Prestick Drive, significant traffic impact would occur to the residents located on Prestwick Drive, from vehicles of residents of Green Trees East No. 2 and River Meadows Subdivisions. In addition, the proposed subdivision, with 10 lots and cul-de-sac length of less than 600 feet, will not pose an emergency services problem. A public walkway to Prestwick Drive is necessary to allow pedestrians inter-connection.
2. Crestwood Site Condominiums  
If Tallman Drive connects to the development and access is provided to Wattles Road, substantial cut-traffic would occur on Leetonia and Randall Streets. Pedestrian connection is necessary, via a public walkway. In addition, Leetonia Street does not have sidewalks, therefore, increased traffic poses increased safety concerns for pedestrians and bicyclists.



# ***Troy Fire Department***

500 West Big Beaver Road, Troy, Michigan 48084  
248-524-3419

DATE: May 1, 1998  
TO: All Interested Parties  
FROM: Troy Fire Department Administration  
SUBJECT: Position Regarding Closure of Streets or Placement of Street Barricades

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The Fire Department has been consulted many times over the years about the placement of barricades on streets to effect a road closure. Most often the intent of these barricades is to prohibit through traffic on a particular street or in a particular subdivision. Proponents of barricades must understand the possibility, although perhaps remote, that a single access road to a subdivision may become blocked for various reasons. When such a situation occurs and an alternate means of access is blocked, i.e., a barricade, a timely response to an emergency cannot be expected.

The Troy Fire Department's position on road closures and street barricades is as follows:

- The Fire Department prefers two separate entry points to and from a subdivision. This allows emergency vehicles access in the event of a road closure due to accident, construction, or other unforeseen circumstance.
- The Fire Department does not support emergency access gates because of the following reasons:
  - Time delay for the emergency vehicle driver to stop, locate a key, get out of the vehicle, unlock and open a gate.
  - Key inventory, distribution, and accountability.
  - Lack of maintenance, allowing overgrowth of vegetation as well as rust to locks and hinges.
  - Accumulation of snow limiting or prohibiting vehicle access.
  - Additionally, "crash" style gates or barricades have not yet proven to be effective. Such an arrangement presents a hazard of entanglement and damage to fire apparatus and fire fighters' personal vehicles as well as damage to police and EMS vehicles.
- If a street is not continuous, the Fire Department prefers a cul-de-sac versus a dead end with a barricade.
- Where street(s) have a barricade or otherwise do not connect or are not continuous, the Fire Department desires that this be reflected clearly on the City street maps and in the Computer Aided Dispatch system so that this information may be readily available to emergency responders.

**CURRENT CITY OF TROY POLICY AND ORDINANCE THAT REQUIRE INTER-CONNECTION OF SUBDIVISIONS AND SITE CONDOMINIUMS**

<u>ADVANTAGES</u>	<u>DISADVANTAGES</u>
<ul style="list-style-type: none"> <li>• <b>ALLOWS FOR EFFICIENT DEVELOPMENT OF ADJACENT PROPERTIES</b></li> <li>• <b>ALLOWS FOR "LOOPED" WATER MAINS</b></li> <li>• <b>REDUCES NUMBER OF CURB CUTS ONTO MAJOR THOROUGHFARES. MORE DRIVEWAYS UNDERMINE THE SAFETY AND EFFICIENCY OF THOROUGHFARES.</b></li> <li>• <b>PROVIDES ALTERNATE ROUTE FOR POLICE AND FIRE RESPONSE</b></li> <li>• <b>CAN REDUCE RESPONSE TIMES FOR POLICE, FIRE AND EMS</b></li> <li>• <b>CITY COUNCIL APPROVED A TRAFFIC HARMONIZATION PROGRAM TO ADDRESS NEIGHBORHOOD TRAFFIC PROBLEMS</b></li> <li>• <b>PEDESTRIANS AND BICYCLISTS HAVE CONNECTION TO ADJACENT NEIGHBORHOODS</b></li> <li>• <b>RESIDENTS DO NOT HAVE TO USE ALREADY CONGESTED MAJOR THOROUGHFARES TO GET TO THE NEXT SUBDIVISION, SCHOOL, PARK OR PLAYGROUND</b></li> <li>• <b>REDUCES NEED FOR SCHOOL DISTRICTS TO BUS MORE CHILDREN (HEALTH, SAFETY BENEFITS)</b></li> </ul>	<ul style="list-style-type: none"> <li>• <b>ALLOWS FOR "CUT-THROUGH" AUTO TRIPS</b></li> <li>• <b>GENERALLY, EXISTING RESIDENTS DO NOT WANT THEIR NEIGHBORHOODS CONNECTED TO NEW SUBDIVISIONS OR SITE CONDOS</b></li> <li>• <b>CREATES DEAD-END STUB STREETS THAT REMAIN UNTIL ADJACENT PROPERTY IS DEVELOPED</b></li> <li>• <b>PROVIDES MULTIPLE ROUTES FOR AUTOS BEING PURSUED BY POLICE</b></li> </ul>