

# AGENDA

Meeting of the

## CITY COUNCIL OF THE CITY OF TROY

JANUARY 26, 2009

CONVENING AT 7:30 P.M.

Submitted By  
The City Manager

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**NOTICE:** Persons with disabilities needing accommodations for effective participation in this meeting should contact the City Clerk at (248) 524-3316 or via e-mail at [clerk@troymi.gov](mailto:clerk@troymi.gov) at least two working days in advance of the meeting. An attempt will be made to make reasonable accommodations.

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TO: The Honorable Mayor and City Council  
Troy, Michigan

FROM: Phillip L. Nelson, City Manager

SUBJECT: Background Information and Reports

Ladies and Gentlemen:

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

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

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

### **Outcome Statements**

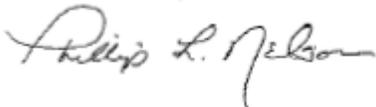
I. Troy enhances the health and safety of the community

II. Troy adds value to properties through maintenance or upgrades of infrastructure and quality of life venues

III. Troy is rebuilding for a healthy economy reflecting the values of a unique community in a changing and interconnected world

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

Respectfully submitted,



Phillip L. Nelson, City Manager

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**CITY COUNCIL**

**AGENDA**

**January 26, 2009 – 7:30 PM  
Council Chambers  
City Hall - 500 West Big Beaver  
Troy, Michigan 48084  
(248) 524-3317**

**CALL TO ORDER: 1**

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**INVOCATION & PLEDGE OF ALLEGIANCE: 1**

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**ROLL CALL 1**

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**CERTIFICATES OF RECOGNITION: 1**

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- A-1 Presentations: 1
  - a) On behalf of the City of Troy Employees' *Casual for a Cause* Program (November), Community Affairs Director Cindy Stewart will present a check in the amount of \$535.01 to Senior Home Assistance Repair Program (SHARP) ... 1
  - b) Trails Committee Project Update..... 1

**CARRYOVER ITEMS: 1**

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- B-1 No Carryover Items 1

**PUBLIC HEARINGS: 1**

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- C-1 Rezoning Application – Proposed Sonic Restaurant, East Side of John R, North of Fourteen Mile Road, Section 36 – B-2 to H-S (File Number Z-735) 1
  
- C-2 Rezoning Application – Proposed Animal Advocates Veterinary Hospital, North Side of Long Lake, East of Rochester Road, Section 11, B-2 to B-3 (File Number Z-734) 2

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**CALL TO ORDER:****INVOCATION & PLEDGE OF ALLEGIANCE:****ROLL CALL**

- (a) Mayor Louise E. Schilling  
Robin Beltramini  
Cristina Broomfield  
David Eisenbacher  
Wade Fleming  
Mayor Pro Tem Martin Howrylak  
Mary Kerwin
- (b) Excuse Absent Council Members

**CERTIFICATES OF RECOGNITION:****A-1 Presentations:**

- a) On behalf of the City of Troy Employees' *Casual for a Cause* Program (November), Community Affairs Director Cindy Stewart will present a check in the amount of \$535.01 to Senior Home Assistance Repair Program (SHARP)
- b) Trails Committee Project Update

**CARRYOVER ITEMS:**

- B-1 No Carryover Items**

**PUBLIC HEARINGS:**

- C-1 Rezoning Application – Proposed Sonic Restaurant, East Side of John R, North of Fourteen Mile Road, Section 36 – B-2 to H-S (File Number Z-735)**

Suggested Resolution

Resolution #2009-01-

Moved by

Seconded by

WHEREAS, The City is in receipt of a rezoning request, from B-2 to H-S, File Number Z-735, as demonstrated by the Ordinance to amend Chapter 39 of the Code of the City of Troy and as illustrated in the attached Certificate of Survey;

THEREFORE, BE IT RESOLVED, That Troy City Council hereby **APPROVES** the proposed rezoning from B-2 to H-S; and

BE IT FINALLY RESOLVED, That Troy City Council hereby **AMENDS** the Zoning District Map.

Yes:

No:

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**C-2 Rezoning Application – Proposed Animal Advocates Veterinary Hospital, North Side of Long Lake, East of Rochester Road, Section 11, B-2 to B-3 (File Number Z-734)**

Suggested Resolution

Resolution #2009-01-

Moved by

Seconded by

WHEREAS, The City is in receipt of a rezoning request, from B-2 to B-3, File Number Z-734, as demonstrated by the Ordinance to amend Chapter 39 of the Code of the City of Troy and as illustrated in the attached Certified Survey;

THEREFORE, BE IT RESOLVED, That Troy City Council hereby **APPROVES** the proposed rezoning from B-2 to B-3; and

BE IT FINALLY RESOLVED, That Troy City Council hereby **AMENDS** the Zoning District Map.

Yes:

No:

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**C-3 Street Vacation – Myrtle Avenue (Originally Platted as Melita Avenue), East of Kilmer, North of Big Beaver, Section 22 (File Number: SV 163-C)**

Suggested Resolution

Resolution #2009-01-

Moved by

Seconded by

WHEREAS, A request has been received for the vacation Myrtle Avenue (originally platted as Melita Avenue), approximately 272.73 feet long by 50 feet wide, located east of Kilmer and north of Big Beaver Road, in Section 22;

WHEREAS, The portion of Myrtle Avenue proposed to be vacated is described in the attached Sketch of Vacation;

WHEREAS, The property which shall benefit from this requested vacation is lots 19, 20, 21 and 22 of Burgess Bungalow Subdivision to the north (City of Troy Tax Parcels 20-22-382-012) and part of lot 135 of the Replat of Outlot A, Big Beaver Subdivision and lots 1 through 3 of Supervisor's Plat No. 9 Subdivision to the south (City of Troy Tax Parcels 20-22-383-001, 002, 003 and 006); and

WHEREAS, City Management and the Planning Commission have recommended that this street vacation be granted;

THEREFORE, BE IT RESOLVED, That Troy City Council hereby **CONCURS** in the recommendations of City Management and the Planning Commission, and hereby **VACATES** the Myrtle Avenue right-of-way.

Yes:

No:

## POSTPONED ITEMS:

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### D-1 No Postponed Items

### PUBLIC COMMENT: Limited to Items Not on the Agenda

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

### REGULAR BUSINESS:

*Persons interested in addressing the City Council on items, which appear on the printed Agenda, will be allowed to do so at the time the item is discussed upon recognition by the Chair in accordance with the Rules of Procedure of the City Council, Article 16, during the Public Comment section under item 10“E” of the agenda. Other than asking questions for the purposes of gaining insight or clarification, Council shall not interrupt or debate with members of the public during their comments. Once discussion is brought back to the Council table, persons from the audience will be permitted to speak only by invitation by Council, through the Chair. Council requests that if you do have a question or concern, to bring it to the attention of the appropriate department(s) whenever possible. If you feel that the matter has not been resolved satisfactorily, you are encouraged to bring it to the attention of the City Manager, and if still not resolved satisfactorily, to the Mayor and Council.*

*NOTE: Any item selected by the public for comment from the Regular Business Agenda shall be moved forward before other items on the regular business portion of the agenda have been heard. Public comment on Regular Agenda Items will be permitted under Agenda Item 10 “E”.*

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### E-1 Appointments to Boards and Committees: a) Mayoral Appointments: Planning Commission b) City Council Appointments: Cable Advisory Committee; Election Commission; and Municipal Building Authority

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

The appointment of new members to all of the listed Board and Committee vacancies will require only one motion and vote by City Council. Council members submit nominations for appointment at the meeting prior to consideration. Whenever the number of submitted names exceeds the number of vacancies, a separate motion and roll call vote will be required to

confirm the nominee receiving the greatest number of votes in the Council polling process (current process of appointing). Remaining vacancies will automatically be carried over to the next Regular City Council Meeting Agenda for consideration.

**(a) Mayoral Appointments**

Suggested Resolution

Resolution #2009-01-

Moved by

Seconded by

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

**Planning Commission**

Appointed by Mayor (9 Regular) 3 Year Term

Lon Ullmann

Term Expires 12/31/2011

Yes:

No:

**(b) City Council Appointments**

Suggested Resolution

Resolution #2009-01-

Moved by

Seconded by

RESOLVED, That Troy City Council hereby **APPOINTS** the following persons to serve on the Boards and Committees as indicated:

**Cable Advisory Committee**

Appointed by (7 Regular) 3 Year Term

W. Kent Voigt

Term Expires 02/28/2012

**Election Commission**

Appointed by Council (2-Regular; 1-Charter) - 3-Year Terms

Timothy Dewan – Democrat Rep.

Term Expires 01/31/2010

**Municipal Building Authority**

Appointed by Council (5 Regular) 3-Year Term

John M. Lamerato - Asst City Mgr/Finance & Administration

Term Expires 01/31/2012

Yes:

No:

**E-2 Nominations for Appointments to Boards and Committees: (a) Mayoral Nominations: Board of Review (b) City Council Nominations: Board of Zoning Appeals; Cable Advisory Committee; Election Commission; Historic District Study Committee; Liquor Advisory Committee; Municipal Building Authority; and Traffic Committee**

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

The nomination of applicants to the following listed Board and Committee vacancies will be moved forward to the next Regular City Council Meeting for consideration of appointment.

**(a) Mayoral Nominations**

Suggested Resolution

Resolution #2009-01-

Moved by

Seconded by

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

**Board of Review**

Appointed by Mayor (3-Regular) – 3-Year Terms

Term Expires 01/31/2012

Yes:

No:

**(b) City Council Nominations**

Suggested Resolution

Resolution #2009-01

Moved by

Seconded by

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

**Board of Zoning Appeals**

Appointed by Council (7 Regular) 3-Year Term

Lon Ullmann – Planning Commission Rep.\* Term Expires 01/31/2010

Philip Sanzica – Planning Commission Alt. Rep.\* Term Expires 01/31/2010

\*NOTE: Planning Commission recommendation received – refer to agenda item J-9

**Cable Advisory Committee**

Appointed by (7 Regular) 3 Year Term

Term Expires 02/28/2012

**Election Commission**

Appointed by Council (2-Regular; 1-Charter) - 3-Year Terms

Term Expires 01/31/2010

**Historic District Study Committee**

Appointed by Council (7-Regular) Ad Hoc; (2) Historic District Commission; (1) Local Historic Preservation Organization

Ad Hoc

**Liquor Advisory Committee**

Appointed by Council ( 7-Regular) 3-Year Term

Term Expires 01/31/2012 or 01/31/2010

Term Expires 01/31/2012

Term Expires 01/31/2012

Term Expires 01/31/2012

**Municipal Building Authority**

Appointed by Council (5 Regular) 3-Year Term

Term Expires 01/31/2012

**Traffic Committee**

Appointed by Council (7 Regular) 3-Year Term

Term Expires 01/31/2012 or 01/31/2010 or 01/31/2013

Term Expires 01/31/2012 or 01/31/2010 or 01/31/2013

Term Expires 01/31/2012

Term Expires 01/31/2012

Yes:

No:

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**E-3 Standard Resolutions 1, 2 & 3 for Paving of Florence – Section 9, Special Assessment District (SAD) #08.108.1**

**(a) Standard Resolution #1**

Suggested Resolution

Resolution #2009-01-

Moved by

Seconded by

RESOLVED, That Troy City Council hereby **ADOPTS** Standard Resolution #1 to direct the preparation of plans and costs estimates for the Special Assessment to pay all or part of the cost of Asphalt Paving of Florence in Section 9, Project No. 08.108.1, all pursuant to Sections 1.1 and 1.2 of Chapter 5 of the Code of the City of Troy.

Yes:

No:

**(b) Standard Resolution #2**

Suggested Resolution

Resolution #2009-01-

Moved by

Seconded by

RESOLVED, That Troy City Council hereby **ADOPTS** Standard Resolution #2 to approve plans and cost estimates for a Special Assessment to pay all or part of the cost of Asphalt Paving of Florence, in Section 9, Project No. 08.108.1, all pursuant to Sections 1.1 and 1.2 of Chapter 5 of the Code of the City of Troy:

Total Estimated Cost	\$162,800.00
Assessment	<u>77,400.00</u>
City's Share	\$85,400.00; and

BE IT FURTHER RESOLVED, That Troy City Council hereby **ORDERS** and **DIRECTS** the City Assessor to prepare a Special Assessment Roll in accordance with Chapter 5 of the Code of the City of Troy.

Yes:

No:

**(c) Standard Resolution #3**

Suggested Resolution

Resolution #2009-01-

Moved by

Seconded by

RESOLVED, That Troy City Council hereby **ADOPTS** Standard Resolution #3 to set a Public Hearing date on the Special Assessment roll for Asphalt Paving of Florence, in Section 9, Project No. 08.108.1, all pursuant to Chapter 5 of the Code of the City of Troy, with said Public Hearing to be established for February 16, 2009.

Yes:

No:

#### **E-4 Kendricks Lawsuit**

##### Suggested Resolution

Resolution #2009-01-

Moved by

Seconded by

RESOLVED, That Troy City Council hereby **AUTHORIZES** and **DIRECTS** the City Attorney to represent the City of Troy defendants in any and all claims for damages in the matter of *Kendricks v Moore, et al*, United States District Court for the Eastern District of Michigan Court case number 2:08-cv-15193; and

BE IT FURTHER RESOLVED, That Troy City Council hereby **AUTHORIZES** the City Attorney to pay necessary costs and expenses and to retain any necessary expert witnesses to adequately represent the City of Troy defendants.

Yes:

No:

#### **E-5 Proposed Reconsideration of Resolution #2009-01-006-F-10 (Item F-10) – Mon Jin Lau Annual Fireworks Use Request**

##### Suggested Resolution

Resolution #2009-01-

Moved by

Seconded by

RESOLVED, That Troy City Council hereby **RECONSIDERS** Resolution #2009-01-006-F-10, Moved by Eisenbacher and Seconded by Beltramini as it appears below:

*RESOLVED, That Troy City Council hereby **ISSUES** a fireworks permit to Mon Jin Lau, located at 1515 East Maple Rd., for the use of fireworks at its annual Chinese New Year celebration on January 27<sup>th</sup> and January 28<sup>th</sup>, 2009; and*

*BE IT FURTHER RESOLVED, That Troy City Council hereby **DIRECTS** the Fire Prevention Division personnel to inspect the fireworks to be used along with the site to assure compliance with applicable codes and standards for such a fireworks display.*

Yes:      *Kerwin, Schilling, Beltramini, Broomfield, Eisenbacher, Fleming*

No: None  
Absent: Howrylak

Yes:  
No:

**Proposed Resolution to Amend Reconsidered Resolution #2009-01-006-F-10**

Suggested Resolution  
Resolution #2009-01-  
Moved by  
Seconded by

RESOLVED, That Troy City Council hereby **AMENDS** Resolution #2009-01-006-F-10, *Mon Jin Lau Annual Fireworks Use Request* by **STRIKING** “January 27<sup>th</sup> and January 28<sup>th</sup>” and **INSERTING** “February 3<sup>rd</sup> and February 4<sup>th</sup>”.

Yes:  
No:

**Proposed Resolution for Mon Jin Lau Annual Fireworks Use Request as Amended**

Resolution #2009-01-006-F-10  
Moved by Eisenbacher  
Seconded by Beltramini

RESOLVED, That Troy City Council hereby **ISSUES** a fireworks permit to Mon Jin Lau, located at 1515 East Maple Rd., for the use of fireworks at its annual Chinese New Year celebration on February 3<sup>rd</sup> and February 4<sup>th</sup>, 2009; and

BE IT FURTHER RESOLVED, That Troy City Council hereby **DIRECTS** the Fire Prevention Division personnel to inspect the fireworks to be used along with the site to assure compliance with applicable codes and standards for such a fireworks display.

Yes:  
No:

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**E-6 Library Café Space Renovation**

Suggested Resolution  
Resolution #2009-01-  
Moved by  
Seconded by

RESOLVED, That Troy City Council hereby **AUTHORIZES** City Management to renovate the café space vacated by Steamers Café, for an estimated total project cost of \$47,000.00 as detailed in Appendix A, using in-house personnel, approved contracts and standard purchasing procedures.

Yes:

No:

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**E-7 Amendment to Chapter 10 of Troy City Code – Employees Retirement System**

Suggested Resolution

Resolution #2009-01-

Moved by

Seconded by

RESOLVED, That Troy City Council hereby **ADOPTS** an ordinance amendment to Chapter 10 of the Troy City Code (Employees Retirement System) to add Section 61 – Voluntary Separation Program for Retirement, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

Yes:

No:

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**E-8 Preliminary Site Condominium Review – Adams Road Site Condominium, East Side of Adams, South of South Boulevard, Section 6 – R-1A**

Suggested Resolution

Resolution #2009-01-

Moved by

Seconded by

RESOLVED, That Troy City Council hereby **APPROVES** the Preliminary Site Condominium Plan, as submitted under Section 34.30.00 of the Zoning Ordinance (Unplatted One-Family Residential Development) for the development of a One-Family Residential Site Condominium, One-Family Cluster Option, known as Adams Road Site Condominium, located on the east side of Adams, south of South Boulevard, in Section 6, including 5 home sites, within the R-1A zoning district, being 4.98 acres in size.

Yes:

No:

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**E-9 Preliminary Site Condominium Review – Oak Forest Site Condominium, South Side of Square Lake Road, between Willow Grove and John R Road, Section 11 – R-1C**

Suggested Resolution

Resolution #2009-01-

Moved by

Seconded by

RESOLVED, That Troy City Council hereby **APPROVES** the Preliminary Site Condominium Plan, as submitted under Section 34.30.00 of the Zoning Ordinance (Unplatted One-Family Residential Development) for the development known as Oak Forest Site Condominium,

located on the south side of Square Lake Road, between Willow Grove and John R Road, in Section 11, including 76 units on 39.23 acres within the R-1C zoning district.

Yes:

No:

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**E-10 Preliminary Site Condominium Review – Oak Forest South Site Condominium, East Side of Willow Grove, South of Square Lake Road, Section 11 – R-1C**

Suggested Resolution

Resolution #2009-01-

Moved by

Seconded by

RESOLVED, That Troy City Council hereby **APPROVES** the Preliminary Site Condominium Plan, as submitted under Section 34.30.00 of the Zoning Ordinance (Unplatted One-Family Residential Development) for the development known as Oak Forest South Site Condominium, located on the east side of Willow Grove, south of Square Lake Road, in Section 11, including 25 units on 10.03 acres within the R-1C zoning district.

Yes:

No:

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**E-11 Oakland County Lane Drain Drainage District – Approval of the Contract for the Transfer of Surplus Construction Funds from the Nelson and Brotherton Drainage Districts to the Lane Drainage District and Execution of Petition for the Cleaning, Widening, Deepening, Straightening and Extending of the Lane Drain – Project No. 07.303.5**

(a) **Approval of the Contract for the Transfer of Surplus Construction Funds from the Nelson and Brotherton Drainage Districts to the Lane Drainage District, Project No. 07.303.5**

Suggested Resolution

Resolution #2009-01-

Moved by

Seconded by

RESOLVED, That Troy City Council hereby **APPROVES** the Contract for the Transfer of Surplus Construction Funds from the Nelson and Brotherton Drainage Districts to the Lane Drainage District, Project No. 07.303.5, and hereby **AUTHORIZES** the Mayor and City Clerk to execute the documents, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

Yes:

No:

(b) **Execution of Petition for the Cleaning, Widening, Deepening, Straightening and Extending of the Lane Drain, Project No. 07.303.5**

Suggested Resolution

Resolution #2009-01-

Moved by

Seconded by

WHEREAS, Pursuant to Chapter 8 of Act 40 of the Public Acts of 1956, as amended, MCL 280.191, et seq., the undersigned public corporation petitions the Water Resources Commissioner of the County of Oakland for the cleaning, widening, deepening, straightening and extending of the drain known and designated as the Lane Drain located and established in the City of Troy in the County of Oakland, State of Michigan;

WHEREAS, The proposed maintenance of and improvements to the Lane Drain are necessary for the public health of the City and will consist of removing sediment, repairing the existing control structure (concrete weir), replacing two sets of twin culverts, creating a sediment forebay, stabilizing five streambank failures, creating a landscape buffer and making accommodation for future trails and park amenities; and

WHEREAS, The City has entered into a Contract for the Transfer of Surplus Construction Funds for the transfer of approximately Two Million Thirty Six Hundred (\$2,036,000.00) Dollars for the transfer of surplus construction funds from the Brotherton Drainage District and the Nelson Drainage District to the Lane Drainage District for the purpose of alleviating drainage problems in the Lane Drain;

THEREFORE, BE IT RESOLVED, That Troy City Council hereby **AUTHORIZES** the Mayor and City Clerk to execute the petition for and on behalf of the City and to file the same with the Water Resources Commissioner of the County of Oakland, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

Yes:

No:

**CONSENT AGENDA:**

*The Consent Agenda includes items of a routine nature and will be approved with one motion. That motion will approve the recommended action for each item on the Consent Agenda. Any Council Member may ask a question regarding an item as well as speak in opposition to the recommended action by removing an item from the Consent Agenda and have it considered as a separate item. Any item so removed from the Consent Agenda shall be considered after other items on the consent portion of the agenda have been heard. Public comment on Consent Agenda Items will be permitted under Agenda Item 12 "F".*

---

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

Suggested Resolution

Resolution #2009-01-  
Moved by  
Seconded by

RESOLVED, That all items as presented on the Consent Agenda are hereby **APPROVED** as presented with the exception of Item(s) \_\_\_\_\_, which **SHALL BE CONSIDERED** after Consent Agenda (F) items, as printed.

Yes:  
No:

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**F-1b Address of “F” Items Removed for Discussion by City Council and/or the Public**

---

**F-2 Approval of City Council Minutes**

Suggested Resolution  
Resolution #2009-01-

RESOLVED, That Troy City Council hereby **APPROVES** the Minutes of the 7:30 PM Regular City Council Meeting of January 5, 2009 as submitted.

---

**F-3 Proposed City of Troy Proclamation(s): None Submitted**

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**F-4 Standard Purchasing Resolutions**

**a) Standard Purchasing Resolution 4: Western Tel-Com State Contract – Purchase of Cable Materials and Installation Services – Carport Data Drops**

Suggested Resolution  
Resolution #2009-01-

RESOLVED, That Troy City Council hereby **APPROVES** a contract to purchase cable materials and installation services for carport network connectivity from Western Tel-Com Inc of Livonia, MI, through the State of Michigan MiDEAL program for an estimated total cost of \$12,025.00; and

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

**b) Standard Purchasing Resolution 8: Best Value Award – New Automation System for Troy Public Library**

Suggested Resolution  
Resolution #2009-01-

RESOLVED, That Troy City Council hereby **AWARDS** a contract to provide an integrated library system solution for the Troy Public Library to the highest rated bidder, Polaris Library

Systems of Syracuse, NY, as a result of a best value process, for an estimated total system cost of \$202,375.00 with ongoing annual maintenance, support, subscription and licensing fees; and

BE IT FURTHER RESOLVED, That Troy City Council hereby **APPROVES** the purchase of server hardware and software through the Regional Education Media Center (REMC) or other competitively bid contracts at an estimated cost of \$30,270.00; and hereby **REJECTS** Option #2 for hardware purchases through Polaris; and

BE IT FINALLY RESOLVED, That Troy City Council hereby **AUTHORIZES** the Mayor and City Clerk to execute the contract when in acceptable form, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

**c) Standard Purchasing Resolution 3: Exercise Renewal Option – Community Center Catering**

Suggested Resolution  
Resolution #2009-01-

WHEREAS, On February 26, 2007, a contract to provide two-year requirements of Catering Services at the Troy Community Center with an option to renew for two (2) additional years was awarded to Sankofa Housing of Detroit, MI, as a result of a best value process at an 18% return on gross revenue expiring March 31, 2009 (Resolution #2007-02-058-E4d); and

WHEREAS, Sankofa Housing (aka A&S Catering) has agreed to exercise the two-year option to renew their catering contract under the same pricing, terms and conditions;

THEREFORE, BE IT RESOLVED, That Troy City Council hereby **EXERCISES** the option to renew the contract with Sankofa Housing (aka A&S Catering) to provide two-year requirements of Catering Services at the Troy Community Center under the same prices, terms and conditions as outlined in the Agreement expiring March 31, 2011; and

BE IT FURTHER RESOLVED, That Troy City Council hereby **AUTHORIZES** the Mayor and City Clerk to execute the agreement when in acceptable form, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

---

**F-5 2009 Poverty Exemption Guidelines**

Suggested Resolution  
Resolution #2009-01-

RESOLVED, That, pursuant to MCL 211.7u, Troy City Council hereby **APPROVES** the proposed "Poverty Exemption Guidelines" for 2009, as presented by the City Assessor in a memorandum dated December 30, 2008, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

---

**F-6 Request for Approval of Purchase Agreement and Acceptance of Permanent Public Utility Easement – Rochester Road Improvements, Torpey to Barclay**

**Project No. 99.203.5 – Parcel #5 – Sidwell #88-20-23-156-005 – Armand J. Dagenais/Michigan College of Beauty, Inc.**

Suggested Resolution

Resolution #2009-01-

RESOLVED, That Troy City Council hereby **APPROVES** the Agreement to Purchase Realty for Public Purposes between Armand J. Dagenais/Michigan College of Beauty, Inc., owners of property having Sidwell #88-20-23-156-005, and the City of Troy, for the acquisition of right-of-way for Rochester Road Improvements, Torpey to Barclay in the amount of \$55,800.00, plus closing costs; and

BE IT FURTHER RESOLVED, That Troy City Council hereby **AUTHORIZES** the Real Estate and Development Department to expend the necessary closing costs to complete this purchase according to the agreement; and

BE IT FURTHER RESOLVED, That Troy City Council hereby **ACCEPTS** the Permanent Public Utility Easement in the amount of \$1,000.00 from Armand J. Dagenais/Michigan College of Beauty, Inc., owners of property having Sidwell #88-20-23-156-005; and

BE IT FINALLY RESOLVED, That Troy City Council hereby **DIRECTS** the City Clerk to record the Warranty Deed and Permanent Public Utility Easement with the Oakland County Register of Deeds, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

---

**F-7 Request for Approval of Purchase Agreement and Acceptance of Permanent Public Utility Easement – Rochester Road Improvements, Torpey to Barclay Project No. 99.203.5 – Parcel #6 – Sidwell #88-20-23-156-004 – Mattress & Futon Plaza, LLC**

Suggested Resolution

Resolution #2009-01-

RESOLVED, That Troy City Council hereby **APPROVES** the Agreement to Purchase Realty for Public Purposes between Mattress & Futon Plaza, LLC, owners of property having Sidwell #88-20-23-156-004, and the City of Troy, for the acquisition of right-of-way for Rochester Road Improvements, Torpey to Barclay in the amount of \$99,800.00, plus closing costs; and

BE IT FURTHER RESOLVED, That Troy City Council hereby **AUTHORIZES** the Real Estate and Development Department to expend the necessary closing costs to complete this purchase according to the agreement; and

BE IT FURTHER RESOLVED, That Troy City Council hereby **ACCEPTS** the Permanent Public Utility Easement in the amount of \$2,500.00 from Mattress & Futon Plaza, LLC, owners of property having Sidwell #88-20-23-156-004; and

BE IT FINALLY RESOLVED, That Troy City Council hereby **DIRECTS** the City Clerk to record the Warranty Deed and Permanent Public Utility Easement with the Oakland County Register of Deeds, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

**F-8 Park Naming of Section 36 Park Land**Suggested Resolution

Resolution #2009-01-

RESOLVED, That Troy City Council hereby **DIRECTS** staff to initiate the process for naming the park located in Section 36 (Milverton).

---

**F-9 Request for Approval of Purchase Agreement and Acceptance of Permanent Public Utility Easement – Rochester Road Improvements, Torpey to Barclay Project No. 99.203.5 - Parcel #32 – Sidwell #88-20-22-276-051 – T &T Development**Suggested Resolution

Resolution #2009-01-

RESOLVED, That Troy City Council hereby **APPROVES** the Agreement to Purchase Realty for Public Purposes between T & T Development, owners of property having Sidwell #88-20-22-276-051, and the City of Troy, for the acquisition of right-of-way for Rochester Road Improvements, Torpey to Barclay in the amount of \$98,060.00, plus closing costs; and

BE IT FURTHER RESOLVED, That Troy City Council hereby **AUTHORIZES** the Real Estate and Development Department to expend the necessary closing costs to complete this purchase according to the agreement; and

BE IT FURTHER RESOLVED, That Troy City Council hereby **ACCEPTS** the Permanent Public Utility Easement in the amount of \$5,700.00 from T & T Development, owners of property having Sidwell #88-20-22-276-051; and

BE IT FINALLY RESOLVED, That Troy City Council hereby **DIRECTS** the City Clerk to record the Warranty Deed and Permanent Public Utility Easement with the Oakland County Register of Deeds, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

**MEMORANDUMS AND FUTURE COUNCIL AGENDA ITEMS:**

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**G-1 Announcement of Public Hearings: None Submitted**

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**G-2 Memorandums: None Submitted****COUNCIL REFERRALS: Items Advanced to the City Manager by Individual City Council Members for Placement on the Agenda**

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

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**I-1 No Council Comments Advanced**

**REPORTS:**

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

- a) Retiree Health Care Benefits Plan & Trust/Final – October 8, 2008
  - b) Ethnic Issues Advisory Board/Final – October 14, 2008
  - c) Building Code Board of Appeals/Final – December 3, 2008
  - d) Planning Commission/Draft – December 9, 2008
  - e) Planning Commission/Final – December 9, 2008
  - f) Employees' Retirement System Board of Trustees/Final – December 10, 2008
  - g) Board of Zoning Appeals/Draft – December 16, 2008
  - h) Planning Commission Special/Study/Final – January 6, 2009
  - i) Building Code Board of Appeals/Draft – January 7, 2009
- 

**J-2 Department Reports:**

- a) Purchasing Department – Final Reporting – BidNet On-Line Auction and C.Cryderman & Associates Auctioneer Services – November, 2008
  - b) City Attorney's Office – 2008 Fourth Quarter Litigation Report
- 

**J-3 Letters of Appreciation:**

- a) Letter of Thanks to Chief Nelson from the Grigg Family Regarding the Excellent Service of the Volunteer Fire Fighters
  - b) Letter to Carol Anderson from Senator John Pappageorge Commending the Parks and Recreation Department on the Troy Family Aquatic Center and the Troy Community Center Receiving Recognition from *Aquatics International Magazine*
  - c) Letter of Appreciation from Iva Shambarger Regarding the Assistance Received from Animal Control Officers
- 

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

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**J-5 Correspondence from Brian Goul, Aquatics Coordinator, to Siegel & Gross, PC Regarding their Donation of Noodles to the Troy Swim Program**

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**J-6 Correspondence from Resident Jacquelyn Olson Regarding Printing of City Calendar**

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**J-7 Communication from City Attorney Lori Grigg Bluhm Regarding Frank Lawrence v. City of Troy**

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**J-8 Communication from City Clerk Tonni Bartholomew Regarding Liquor Committee and Traffic Committee Appointments**

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**J-9 Communication from Planning Director Mark Miller Regarding Election of Planning Commission Officers and Board of Zoning Appeals Representative Recommendations – 2009**

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**STUDY ITEMS:**

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**K-1 Latest Budget Numbers**

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**PUBLIC COMMENT: Address of “K” Items**

*Persons interested in addressing the City Council on items, which appear on the printed Agenda, will be allowed to do so at the time the item is discussed upon recognition by the Chair in accordance with the Rules of Procedure of the City Council, Article 16, during the Public Comment section under item 18 of the agenda. Other than asking questions for the purposes of gaining insight or clarification, Council shall not interrupt or debate with members of the public during their comments. Once discussion is brought back to the Council table, persons from the audience will be permitted to speak only by invitation by Council, through the Chair. City Council requests that if you do have a question or concern, to bring it to the attention of the appropriate department(s) whenever possible. If you feel that the matter has not been resolved satisfactorily, you are encouraged to bring it to the attention of the City Manager, and if still not resolved satisfactorily, to the Mayor and Council.*

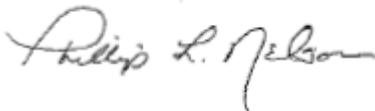
**CLOSED SESSION:**

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**L-1 No Closed Session Requested**

**ADJOURNMENT**

Respectfully submitted,



Phillip L. Nelson, City Manager

**FUTURE CITY COUNCIL PUBLIC HEARINGS:**

Monday, February 16, 2009

1. Special Assessment Roll for Asphalt Paving of Florence, in Section 9, Project No. 08.108.1 (pending approval)

**SCHEDULED CITY COUNCIL MEETINGS:**

Monday, February 2, 2009 .....	Regular City Council
Wednesday, February 11, 2009 (Liquor Violation Hearing) .....	Regular City Council
Monday, February 16, 2009 .....	Regular City Council
Wednesday, February 18, 2009 (Liquor Violation Hearing) .....	Regular City Council
Monday, March 2, 2009 .....	Regular City Council
Monday, March 23, 2009 .....	Regular City Council
Monday, March 30, 2009 .....	Regular City Council
Monday, April 6, 2009 .....	Regular City Council
Monday, April 20, 2009 .....	Regular City Council

# Troy Trails & Pathways



Project Update

January 2009

# Agenda

1. Background
2. About the Project
3. The Next Step
4. A Recipe for Success



# Background

- Troy Trails and Pathways is a project to establish and promote a network of multi-use trails within Troy, and to connect them to other trail systems in the SE Michigan area.



[www.pedbikeimages.org](http://www.pedbikeimages.org) / Dan Burden



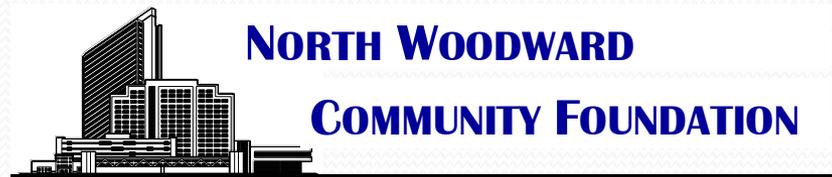
[www.pedbikeimages.org](http://www.pedbikeimages.org) / Dan Burden



# Background

A collaborative effort between

- Troy Trails & Pathways Committee
- City of Troy
- North Woodward Community Foundation (NWCF)



So, why does Troy need  
Trails and Pathways?



# Trends

- More people biking, jogging, walking the dog, etc.
- People are seeking alternative modes of transportation
- Uncertainty of energy prices
- Trails are a common amenity in desirable cities, including progressive communities surrounding Troy

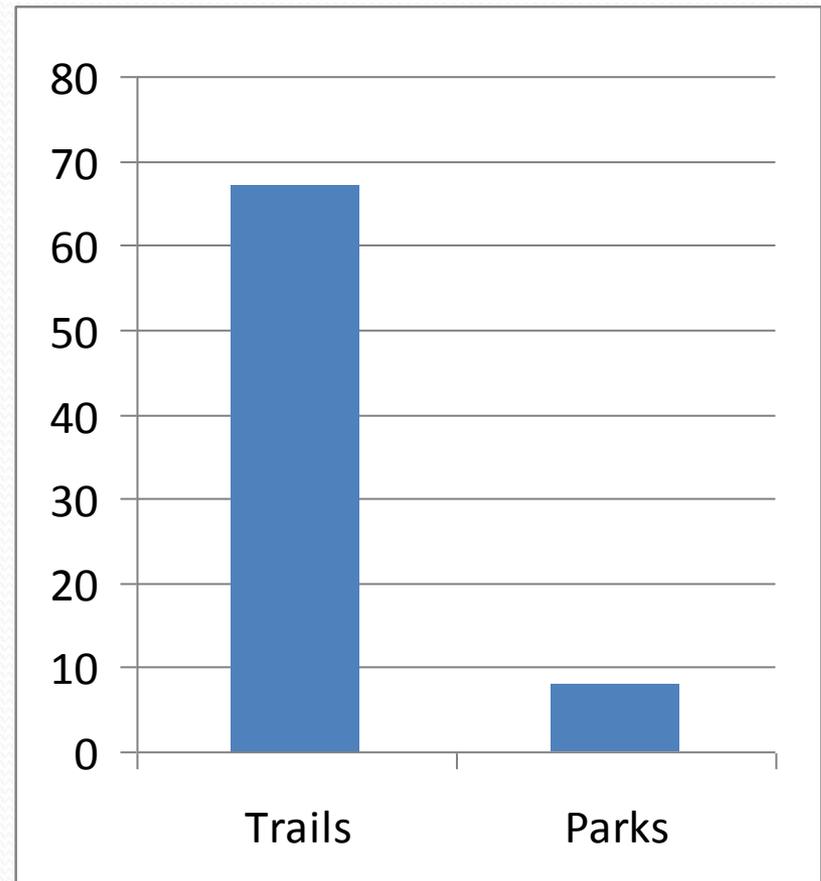
# Return on Investment

- Promotes healthy lifestyles
- Improves pedestrian & bicycle safety
- Fosters regional collaboration
- Builds a sense of community
- Increases Troy's desirability factor
- Retains and attracts the “creative class”
- ...and responds to citizens' request for trails

# Parks & Rec Survey Results

- Most popular request:
  - More trails (67% of City residents)
- Second most popular request:
  - Neighborhood parks (8%)

(2005)



# Plans and Studies Endorsing Trails

- Troy Vision 2020
- Civic Center Priority Task Force
- City of Troy Parks & Rec Five-Year Plan
- City of Troy Master Plan
- Big Beaver and Maple Rd Corridor Studies
- Troy/Birmingham Transit Center Design Charrette
- Rochester Hills Parks & Rec Master Plan
- Oakland County Trails Master Plan
- Macomb County Trails Master Plan
- Southeastern Michigan Greenways Initiative
- Michigan Statewide Trails Vision and Action Plan



# Vision

- Troy is a community with a culture that promotes its extensive non-motorized transportation network.



*www.pedbikeimages.org / Dan Burden*

# Mission

- Work with stakeholders to plan and promote a safe, sustainable, non-motorized transportation network that links the people and places of Troy.



[www.pedbikeimages.org](http://www.pedbikeimages.org) / Dan Burden



[www.pedbikeimages.org](http://www.pedbikeimages.org) / Dan Burden

# Subcommittees

- **Funding:** for both project implementation and on-going maintenance
- **Outreach:** educating the community about the project and pedestrian/bike safety issues
- **Routes:** identifying pathways in Troy and connections to other trail networks
- **Lights, Surface, Signage, Zoning:** establishing a sense of identity and reviewing City policies and ordinances

# Current Goals

- Increase the mileage of
  - Sidewalks
  - Shared paths
  - Bicycle lanes
  - Bicycle routes
- Identify potential routes to connect key destinations
  - Schools
  - Parks
  - Dining
  - Shopping
- Improve safety of crossings
- Expand bicycle parking facilities

# Current Goals

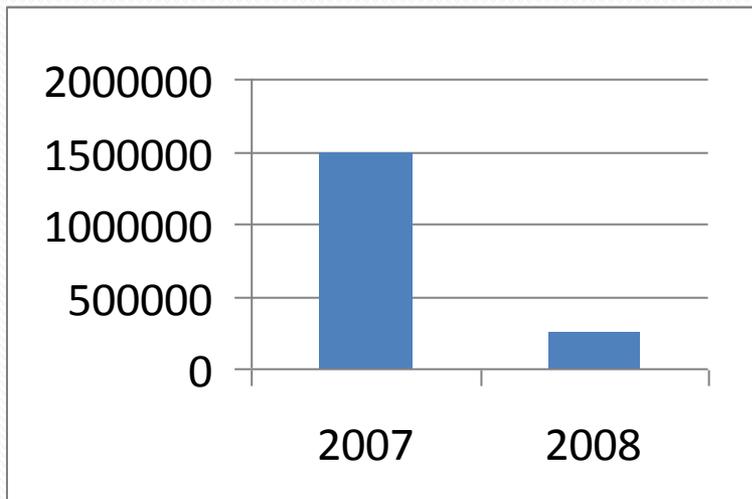
- Proactively communicate with residents about the benefits of trails and pathways
- Coordinate with neighboring communities
- Work with Traffic Engineering on road projects
- Align City's planning/building codes and public works policies with growth in trails
- All Troy citizens within one mile of a trail



# Funding

## City of Troy capital fund

- 2007: \$1,500,000
- 2008: \$ 250,000



## NWCF component fund

- 2007: allocated \$1,000
- 2008: accepting donations
- Current fund balance is \$2,600

# Recent Activities

- Developed preliminary routes and signage plans
- Analyzed RFP vendor responses to develop a Trails Master Plan for Troy
- Created a brochure as part of an education and awareness campaign
- Created informational web page

*The next step is....*



# *A Troy Trails Master Plan*



# What's in a Trails Master Plan?

- Identify *specific* routes and sites
- Set *concrete* goals
- Develop *cost estimates*
- Establish *timelines*

# Why a Trails Master Plan is Crucial

Establishes clear direction for the project

Provides a framework for successful implementation and completion

A completed master plan *and* community funding support are common prerequisites for many grant and matching fund programs.

MDOT is required to take into account a community's master plans.



# Timeline

**Fall 2008:** Request for Proposal released

**Winter 2008-9:** Contract approved by City Council

**Summer 2009:** Draft Trails Master Plan completed

**Fall 2009:** Trails Master Plan finalized and accepted by  
City Council



# Council's Recipe for Success

1. *Approve* the recommended contract to develop a Trails Master Plan
2. Give trails and pathways a *high priority* during the budget process
3. Assign a significant dollar amount to the trails capital fund *every year*
4. *Accept* the final Trails Master Plan

*Questions?*



*Thank you for your time  
and attention!*





## CITY COUNCIL ACTION REPORT

DATE: January 7, 2009

TO: Phillip L. Nelson, City Manager

FROM: Brian P. Murphy, Assistant City Manager/Economic Development Services  
Mark F. Miller, Planning Director

SUBJECT: Public Hearing – Rezoning Application – Proposed Sonic Restaurant, East side of John R, North of Fourteen Mile Road, Section 36 – B-2 to H-S (File Number: Z-735)

### Background:

- The Planning Commission recommended approval of the request to rezone the parcel to H-S at the December 9, 2008 Regular meeting.
- The property is located in the South John R Road Future Land Use designation. This classification is intended to allow for the continued operation and long term improvement to the area, focused on the provision of “comparison” commercial products. This area serves a large region, beyond the City of Troy, and blends with the area to the south, outside the City’s boundaries. The rezoning application is consistent with the Future Land Use Plan in the Master Plan.
- The application is consistent with the general character of the area and is compatible with adjacent zoning districts and land uses.

### Financial Considerations:

- There are no financial considerations for this item.

### Legal Considerations:

- City Council has the authority to act on this application.

Policy Considerations:

- The application is consistent with the following “Outcome Statements” as established at the July 1, 2008 special Council meeting:
  - II. Troy adds value to properties through maintenance or upgrades of infrastructure and quality of life venues.
  - III. Troy is rebuilding for a healthy economy reflecting the values of a unique community in a changing and interconnected world.

Options:

- City Council can approve or deny the rezoning application.

Attachments:

1. Maps.
2. Minutes from the December 9, 2008 Planning Commission Regular meeting.
3. Planning Commission report dated December 1, 2008.
4. Public comment.

Prepared by RBS/MFM

cc: Applicant  
File /Z 735

G:\REZONING REQUESTS\Z-735 Sonic Restaurant Sec 36\CC Public Hearing 01 26 09.docx

# CERTIFICATE OF SURVEY

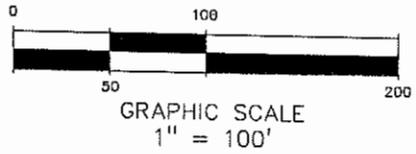
BEARINGS BASED ON THE WEST LINE OF SECTION 36 PER W.D. RECORDED IN L. 39782, P.271 O.C.R.

W1/4 CORNER SECTION 36 T.2N, R.11E

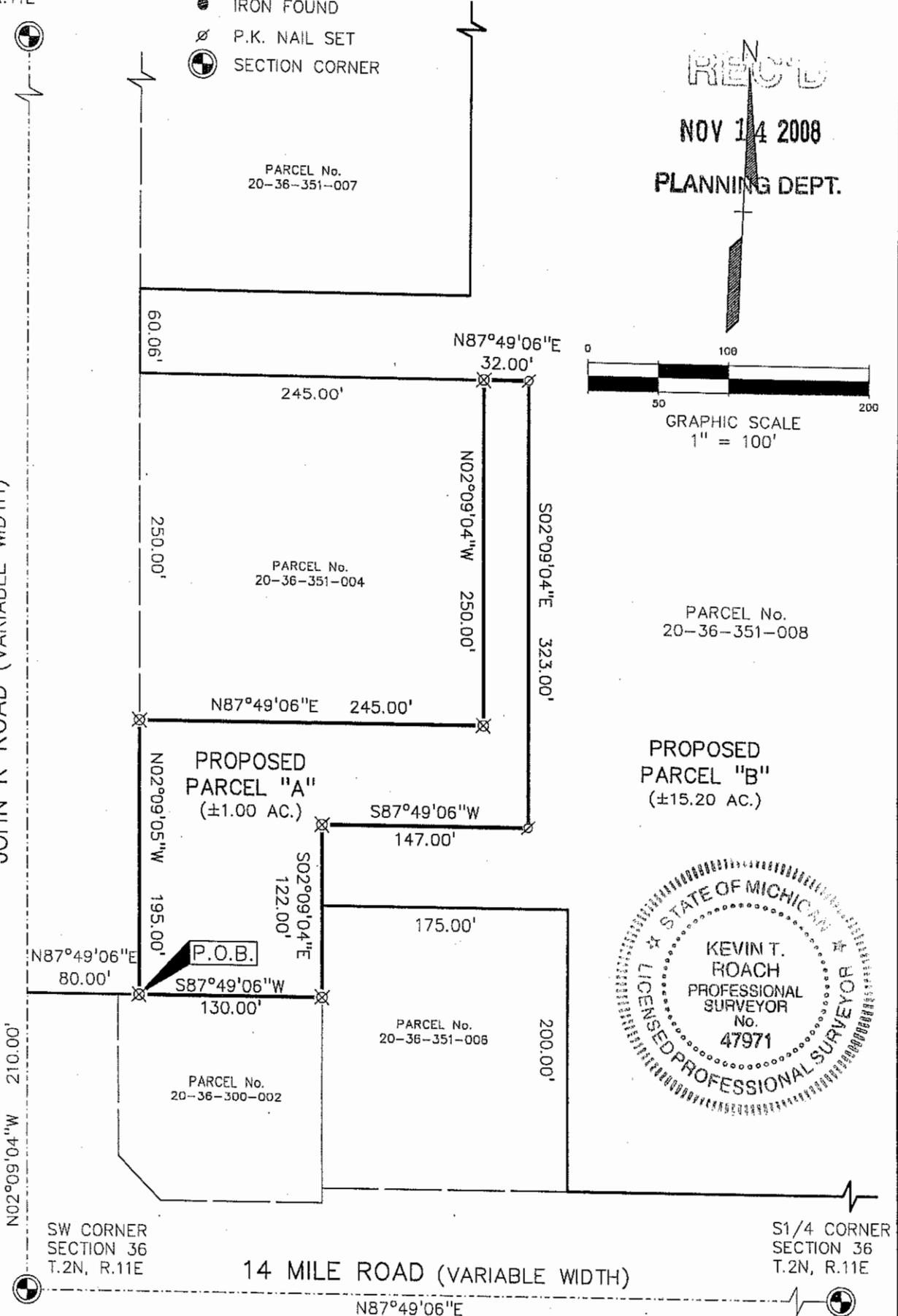
### LEGEND

- ⊗ IRON SET
- IRON FOUND
- ⊙ P.K. NAIL SET
- ⊕ SECTION CORNER

REC'D  
NOV 14 2008  
PLANNING DEPT.



JOHN R ROAD (VARIABLE WIDTH)



I, KEVIN T. ROACH, a Registered Land Surveyor in the State of Michigan, certify that I have surveyed the parcel(s) of land hereon described; that there are no encroachments except as shown; and that I have complied with the survey requirements of Public Act 132 of 1970.

KEVIN T. ROACH P.S. 47971 (Agent For P.E.A.)

PROFESSIONAL  
ENGINEERING  
ASSOCIATES

2430 Rochester Ct. Suite 100  
Troy, MI 48083-1872  
(248) 689-9090

CLIENT: Urban Retail Properties, LLC 900 North Michigan Ave Chicago, IL, 60611	SCALE: 1" = 100'	JOB No: 2008-192
	DATE: 11-12-18	DWG. No: 1 of 2

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

The City of Troy ordains:

Section 1. Short Title

This Ordinance shall be known and may be cited as the \_\_\_\_\_ amendment to the Zoning District Map of the Code of the City of Troy.

Section 2. Amendment

Section 05.20.00 of Chapter 39 is hereby amended to permit the zoning map of said code to be, and the same is hereby amended to delineate the subject parcel as H-S (Highway Service), the following described property, to wit:

T2N, R11E, SW ¼ of Section 36

Commencing at the Southwest corner of Section 36: thence N 02°09'04" W, 210.00 ft. along the West line of said Section 36; thence N 87°49'06" E, 80.00 ft. parallel with the South line of Section 36 to the East right-of-way of John R Road (80 ft. half width) to the Point of Beginning; thence N 02°09'04" W, 195.00 ft. along the East line of John R Road (80 ft. half width); thence N 87°49'06" E, 245.00 ft.; thence N 02°09'04" W, 250.00 ft.; thence N 87°49'06" E, 32.00 ft.; thence S 02°09'04" E, 323.00 ft.; thence S 87°49'06" W, 147.00 ft.; thence S 02°09'04" E, 122.00 ft.; thence S 87°49'06" W, 130.00 ft. to the Point of Beginning. Containing 1.012 ac. more or less and subject to all easements and matters of record.

The subject property is located on the east side of John R Road, north of Fourteen Mile, in Section 36, within the B-2 (Community Business) zoning district, being approximately 1.012 acres in size.

Section 3. Repeal

All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

Section 4. Savings

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

ordinance may be continued, for offenses committed prior to the effective date of this ordinance, under and in accordance with the provisions of any ordinance in force at the time of the commission of such offense.

Section 5. Severability Clause

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

Section 6. Effective Date

This Ordinance shall become effective ten (10) days from the date hereof or upon publication, whichever shall later occur.

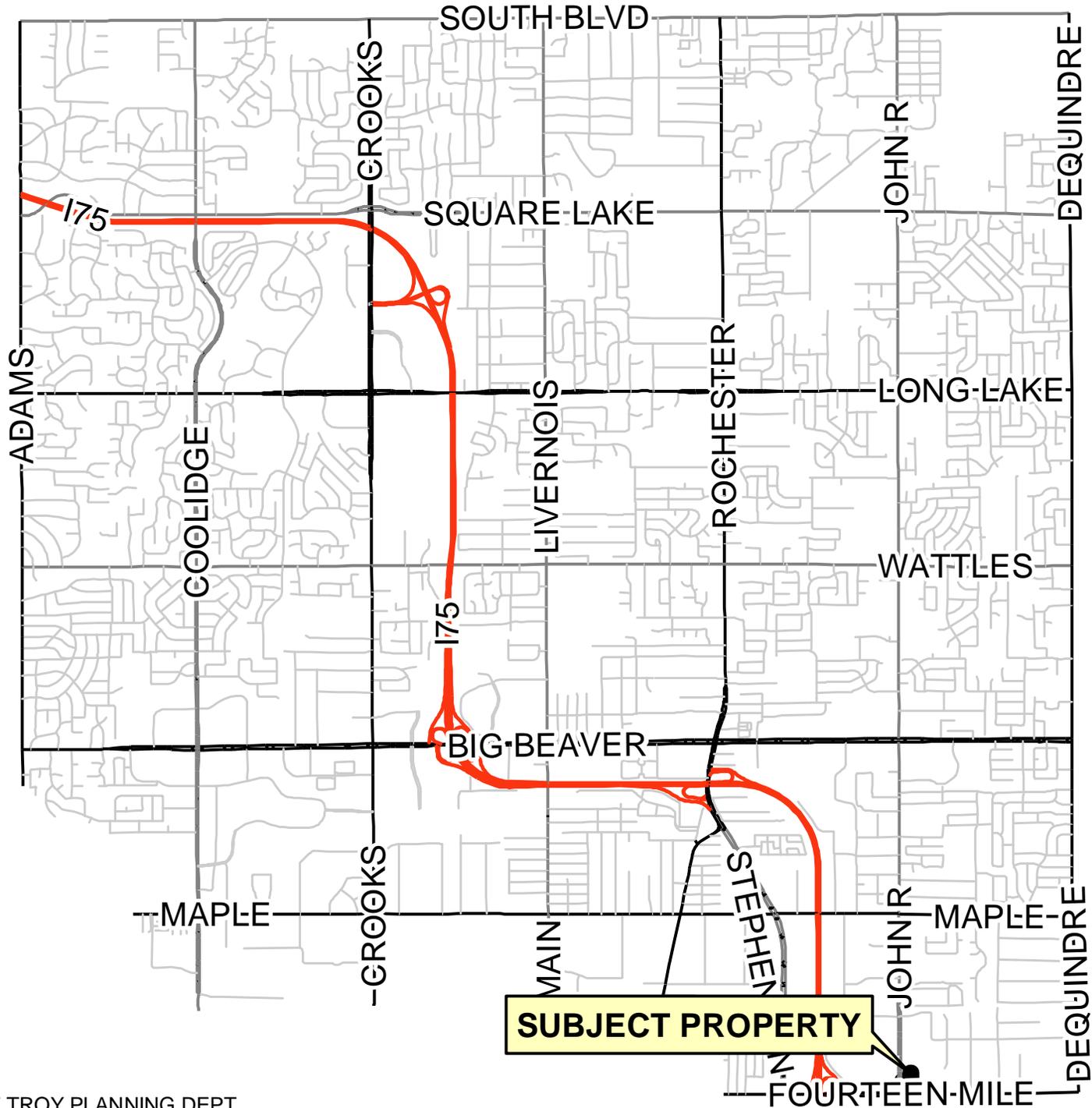
This Ordinance is enacted by the Council of the City of Troy, Oakland County, Michigan, at a regular meeting of the City Council held at City Hall, 500 W. Big Beaver, Troy, Michigan, on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Louise E. Schilling, Mayor

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

**PUBLISHED:** \_\_\_\_\_

# CITY OF TROY



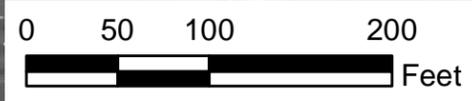
REZONING REQUEST  
FROM B-2 TO H-S  
PROPOSED SONIC RESTAURANT  
E SIDE OF JOHN R, N OF 14 MILE RD  
SEC. 36 (Z-735)

JOHN R

SUBJECT PARCEL

W FOURTEEN MILE

E FOURTEEN MILE



REZONING REQUEST  
FROM B-2 TO H-S  
PROPOSED SONIC RESTAURANT  
E SIDE OF JOHN R, N OF 14 MILE RD  
SEC. 36 (Z-735)

B-3

JOHN R

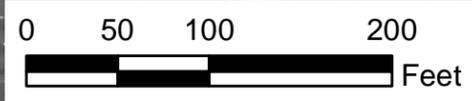
B-2

SUBJECT PARCEL

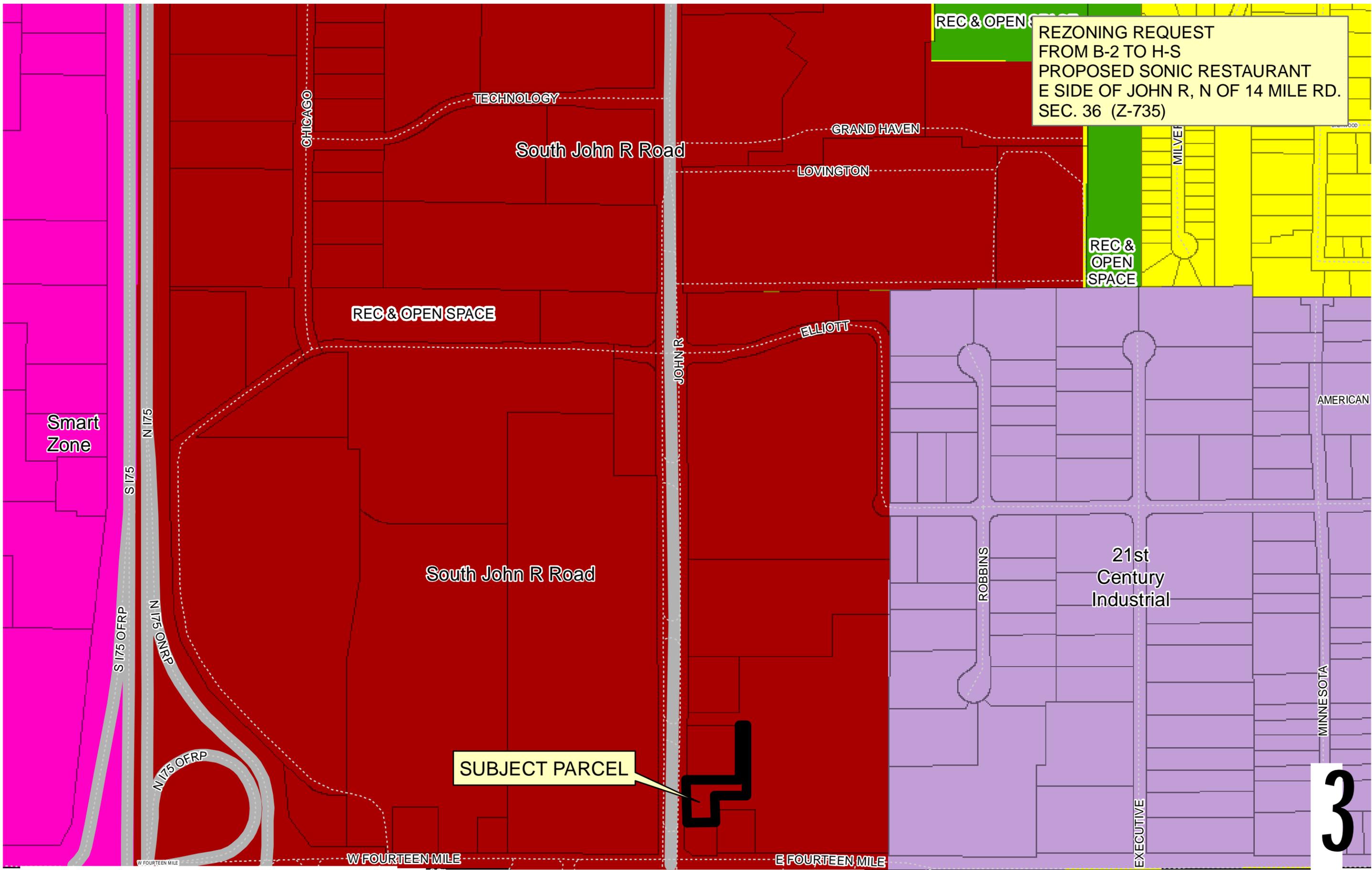
H-S

W FOURTEEN MILE

E FOURTEEN MILE



REZONING REQUEST  
FROM B-2 TO H-S  
PROPOSED SONIC RESTAURANT  
E SIDE OF JOHN R, N OF 14 MILE RD.  
SEC. 36 (Z-735)



SUBJECT PARCEL

6. PUBLIC HEARING – REZONING APPLICATION (Z 735) – Proposed Sonic Drive-In Restaurant, East side of John R Road, North of Fourteen Mile Road, Section 36, From B-2 (Community Business) to H-S (Highway Service) District

Mr. Miller presented a summary of the Planning Department report on the proposed rezoning application, and reported it is the recommendation of City Management to approve the rezoning request.

There was a brief discussion on:

- The “finger” portion of the property.
- Landscape requirements/standards in relation to the bank to the north.
- Landbanked parking.

John Gaber, attorney for the owner, 380 N. Old Woodward, Birmingham, was present to represent the petitioner. Mr. Gaber introduced John Parapetti, Sr. Vice President of Development of Urban Retail Properties, and James Butler of Professional Engineers Associates. Mr. Gaber said the proposed use is a good fit for the property and is compatible with the retail center. He addressed the principal uses permitted in the H-S zoning district in relation to the size of the property. Mr. Gaber also addressed the “finger” portion of the site and its relation to the bank in terms of landscaping and site access.

Chair Schultz addressed the site layout; specifically, the “finger” portion. He said the 8,200 square feet would most likely not be utilized. Chair Schultz indicated the petitioner was avoiding seeking a variance from the Board of Zoning Appeals (BZA).

Mr. Gaber agreed they would prefer not to go before the BZA.

Mr. Hutson said it is unlikely anyone could do anything with that ‘finger’ portion of the property. He said the proposed use is an acceptable use and he sees no harm in going forward with the proposal.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

**Resolution # PC-2008-12-146**

Moved by: Hutson  
Seconded by: Vleck

**RESOLVED**, That the Planning Commission hereby recommends to the City Council that the B-2 to H-S rezoning request, located on the east side of John R, north of Fourteen Mile, within Section 36, being approximately 1.012 acres in size, be granted.

Yes: All present (6)  
Absent: Strat, Ullmann, Wright

**MOTION CARRIED**

G:\REZONING REQUESTS\Z-735 Sonic Restaurant Sec 36\12-09-08 Regular Meeting\_Final.doc

DATE: December 1, 2008

TO: Planning Commission

FROM: Mark F. Miller, Planning Director  
R. Brent Savidant, Principal Planner  
Ronald Figlan, Planner  
Paula Preston Bratto, Planner

SUBJECT: PUBLIC HEARING – REZONING APPLICATION – Proposed Sonic Restaurant, East side of John R, North of Fourteen Mile Road, Section 36 – B-2 to H-S (Z-735)

**GENERAL INFORMATION**

Name of Owner / Applicant:

The owner is Urbancal – Oakland Plaza, LLC. The applicant is Urban Retail Properties, LLC.

Location of Subject Property:

The property is located on the east side of John R, north of Fourteen Mile Road, in section 36.

Size of Subject Property:

The property is approximately 1.012 acres in size.

Current Use of Subject Property:

The property is vacant.

Current Zoning Classification:

B-2 Community Business.

Proposed Zoning of Subject Parcel:

H-S Highway Service.

Proposed Uses and Buildings on Subject Parcel:

The applicant proposes to construct a Sonic drive-in restaurant on the site.

Zoning Classification of Adjacent Parcels:

North: B-2 Community Business.

South: B-2 Community Business and H-S Highway Service.

East: B-2 Community Business.

West: B-3 General Business.

Current Use of Adjacent Parcels:

North: Bank.

South: Gas station and Burger King restaurant.

East: Shopping center parking area.

West: Logan's Steak House and parking area for mall.

**ANALYSIS**

Range of Uses Permitted in the Proposed H-S Highway Service Zoning District and Potential Build-out Scenario:

PRINCIPAL USES PERMITTED:

Retail establishments to service the needs of the highway traveler including such facilities as: drug stores, convenience food stores, gift shops, and restaurants other than those of the drive-in or open front store type.

Bus or transit passenger stations, taxicab offices and dispatching centers, and emergency vehicle or ambulance facilities. Sleeping accommodations may be provided in conjunction with ambulance facilities.

Parking garages and off-street parking areas.

New and used automobile salesroom, showroom or office.

Sales, showrooms, and incidental repairs of recreational vehicles.

Banks, savings and loan associations, and credit unions which may consist solely of drive-up facilities.

Public utility buildings and sub-stations.

Accessory structures and uses customarily incident to the above permitted uses.

USES PERMITTED SUBJECT TO SPECIAL CONDITIONS:

Drive-up windows or service facilities, as an accessory to restaurants permitted within this district.

Drive-up service facilities, as accessory to principal permitted uses within H-S districts, apart from restaurants.

Outside seating of twenty (20) seats or less for restaurants, or other food service establishments.

USES PERMITTED SUBJECT TO SPECIAL USE APPROVAL:

Automobile service stations for the sale of engine fuels, oil, and minor accessories only, and where no repair work is done, other than incidental service, but not including, steam cleaning, undercoating, vehicle body repair, painting, tire recapping, engine rebuilding, auto dismantling, upholstering, auto glass work and other such activities whose external effects could adversely extend beyond the property lines.

Auto washes where engine fuels are sold as a significant part of the operation.

Auto washes, not including the sale of engine fuels, when the entire operation is completely enclosed within a building or structure.

Uses, other than those specified in Article 23.20.06 of the Zoning Ordinance, wherein drive-up service facilities are the sole use of the property.

Business in the character of a drive-in restaurant.

Motel or hotel.

Outdoor sales space for exclusive sale or lease of new or second hand automobiles, trucks, mobile homes, trailers, or recreational vehicles.

Automobile repair garages, provided all activities are conducted within a completely enclosed building.

Outside seating areas, in excess of twenty (20) seats, for restaurants, or other food service establishments.

Potential Storm Water and Utility Issues:

The applicant will have to provide on-site storm water detention and all other utilities.

Compliance with Location Standards of the H-S District:

The Location Standards for the H-S District in Article 23.40.01 of the Zoning Ordinance states the following:

The H-S (Highway Service) District may be applied when the application of such a classification is consistent with the intent of the Master Land Use plan and policies related thereto, or with other land use policies of the City of Troy, and therefore, on a limited basis, may involve the following types of areas:

23.40.02 Areas indicated on the Master Land Use Plan for non-center commercial use.

23.40.03 Areas within broader areas generally designated for Light Industrial use, where the City has established, through rezoning, areas to provide commercial and service uses for the surrounding Light Industrial area.

Note the newly adopted Master Plan does not have a Non-Center Commercial use designation.

## **CONSISTENCY WITH CITY OF TROY MASTER PLAN**

### Quality of Life Considerations:

The proposed zoning district will permit a range of automobile-oriented uses in an automobile-oriented area.

### Design and Community Character Considerations:

The area is an automobile-oriented regional shopping area. The proposed H-S zoning district permits a wide range of automobile-oriented uses, although the parcel's small size limits the uses that could be developed. Permitted uses will be consistent with the character of the existing area.

### Preservation and Enhancement of Natural Features:

The Natural Features Map indicates there are no significant natural features located on the property.

### Low Impact Development Considerations:

There is no indication that the applicant intends to utilize LID techniques.

### Non-motorized Access Considerations:

The development will require building perimeter sidewalks and a connection to the public sidewalk on John R. Sidewalk connections to abutting properties will also be required.

### Access Management Considerations:

Access to the property is provided from John R Road. The development will require cross-access connections with abutting properties. Existing curb cuts and boulevard turnarounds will need to be considered when determining appropriate locations for entry drives. A deceleration lane may be required based on trip generation for the proposed use.

### Compliance with Ten Tenets of Smart Growth:

The following is a list of the Ten Tenets of Smart Growth:

1. Create a range of housing opportunities.
2. Create walkable communities.
3. Encourage community and stakeholder collaboration in development decisions.
4. Foster distinctive, attractive communities with a strong sense of place.
5. Make development decisions predictable, fair, and cost effective.
6. Mix land uses.
7. Preserve open space, farmland, natural beauty and critical environment areas.
8. Provide a variety of transportation options.
9. Strengthen and direct development towards existing communities.
10. Take advantage of compact building design.

The H-S rezoning application does not appear to comply with the Ten Tenets of Smart Growth.

Consistency with Future Land Use Plan:

The property is located in the South John R Road Future Land Use designation. This classification is intended to allow for the continued operation and long term improvement to the area, focused on the provision of “comparison” commercial products. This area serves a large region, beyond the City of Troy, and blends with the area to the south, outside the City’s boundaries. The rezoning application is consistent with the Future Land Use Plan.

**CITY MANAGEMENT RECOMMENDATION**

The rezoning application is consistent with the intent of the Master Plan and compatible with abutting zoning districts and uses.

City Management recommends approval of the rezoning request.

cc: Applicant  
File / Z 735

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PLANNING DEPT.

**STATEMENT IN SUPPORT OF REZONING REQUEST  
FROM B-2 (Community Business) TO H-S (Highway Service)**

Tax ID #20-36-351-008 (part of)  
NE Corner of John R and 14 Mile

Urban Retail Properties, LLC (“Applicant”) requests rezoning of the subject parcel (“Parcel”) from B-2 (Community Business) to H-S (Highway Service) to allow for the future development of the Parcel as a Sonic Drive-In Restaurant. In support of its rezoning request, the Applicant provides the following information as requested by #13 of the City’s Rezoning Request Form.

**Rezoning is Consistent With the City’s Master Plan**

Both the map and the text of the Master Plan for the City of Troy (“Master Plan”) indicate that H-S would be an appropriate zoning classification for the Parcel. Section 23.10.00 of the City’s Zoning Ordinance provides that the intent of the Highway Service District is to provide servicing for the needs of vehicular traffic along major thoroughfares, such as John R Road. The Master Plan designates Oakland Plaza, where the Parcel is located, as a “Regional Center,” which is a large commercial shopping and service area for Troy residents and others. One of the future development policies of the Master Plan is to “Support the upgrading and enhancement, or redevelopment, of existing commercial development areas . . .” The rezoning of the Parcel to H-S would allow a drive-in restaurant, which is the type of use intended to be found with a Regional Center. Rezoning would also allow for the upgrading and enhancement of Oakland Plaza, enabling it to add a drive-in restaurant. For these reasons, the Applicant believes the requested rezoning is supported by the Master Plan.

**Rezoning is Necessary for the Property Owner to Enjoy its Property Rights**

The owner of any commercial property has the right to develop its property in a manner that is permitted under the local zoning ordinance, subject to any other applicable governmental regulations. Such development is necessary to enable the property owner to realize a return on its investment in the property. The Parcel is currently undeveloped, due primarily to its small size. The property owner, as well as the prior owners, have sought to develop the Parcel, but have been constrained by the small size of the Parcel, which does not exceed one (1) acre. Given this size constraint, no retail business, service business, or restaurant is able to feasibly develop the Parcel because there simply is insufficient space for the necessary building size, together with the parking to service such business. A drive-in restaurant is one of the few uses that can be developed on the Parcel due to its size constraints. The requested rezoning to H-S would enable the property owner to develop its property for a productive use, which use would not be permitted under the existing B-2 zoning of the Parcel. Without the rezoning, the property

owner would be unable to put the Parcel to any productive use, thereby depriving the property owner of the use of its property.

### **Rezoning is Compatible With Surrounding Land Uses**

Rezoning of the Parcel to H-S would be compatible with, and not detrimental to the surrounding land uses. The Parcel is located within Oakland Plaza, a regional shopping center of 161,551 square feet located on 19.02 acres. The Parcel abuts outlots used for a Mobil Gas Station, a Burger King Restaurant, and a Chase Bank. There is a large parking field between the Parcel and the in-line retail/commercial space of Oakland Plaza. Further, the properties to the north, south, east and west of Oakland Plaza are all retail/commercial properties. Therefore, rezoning the Parcel to H-S for use as a drive-in restaurant would allow patrons and employees of the surrounding establishments to enjoy another dining option. It may bring additional shoppers to Oakland Plaza and the surrounding properties, creating a definite benefit to such establishments. Therefore, the rezoned use of the Parcel would benefit, and not be detrimental to the surrounding properties.

The traffic generated by the development of the Parcel as a drive-in restaurant will likewise not be detrimental to surrounding properties. The Parcel is on a major thoroughfare, which services the regional Oakland Mall across the street. The roads were developed to service the traffic demands of the large adjacent shopping centers. Further, the additional traffic generated by the Parcel would be marginal considering amount of traffic in the area, and would primarily be existing traffic already found in the area. A small drive-in restaurant is not likely to draw much traffic that would not already be in this commercial area. Finally, the parking needs of the drive-in restaurant would not adversely impact the surrounding properties, since all parking would be accommodated on site.

Further, the Parcel is presently an undeveloped site within a regional shopping center. This is an ideal location for such a development. It creates no adverse impacts on the surrounding businesses, and can actually enhance the center as a desirable shopping destination. Parking is accommodated entirely on site. The surrounding roads and internal cross access within Oakland Plaza are compatible with the proposed development. Therefore, this development would occur in an area zoned, planned, and intended by the City for restaurant use.

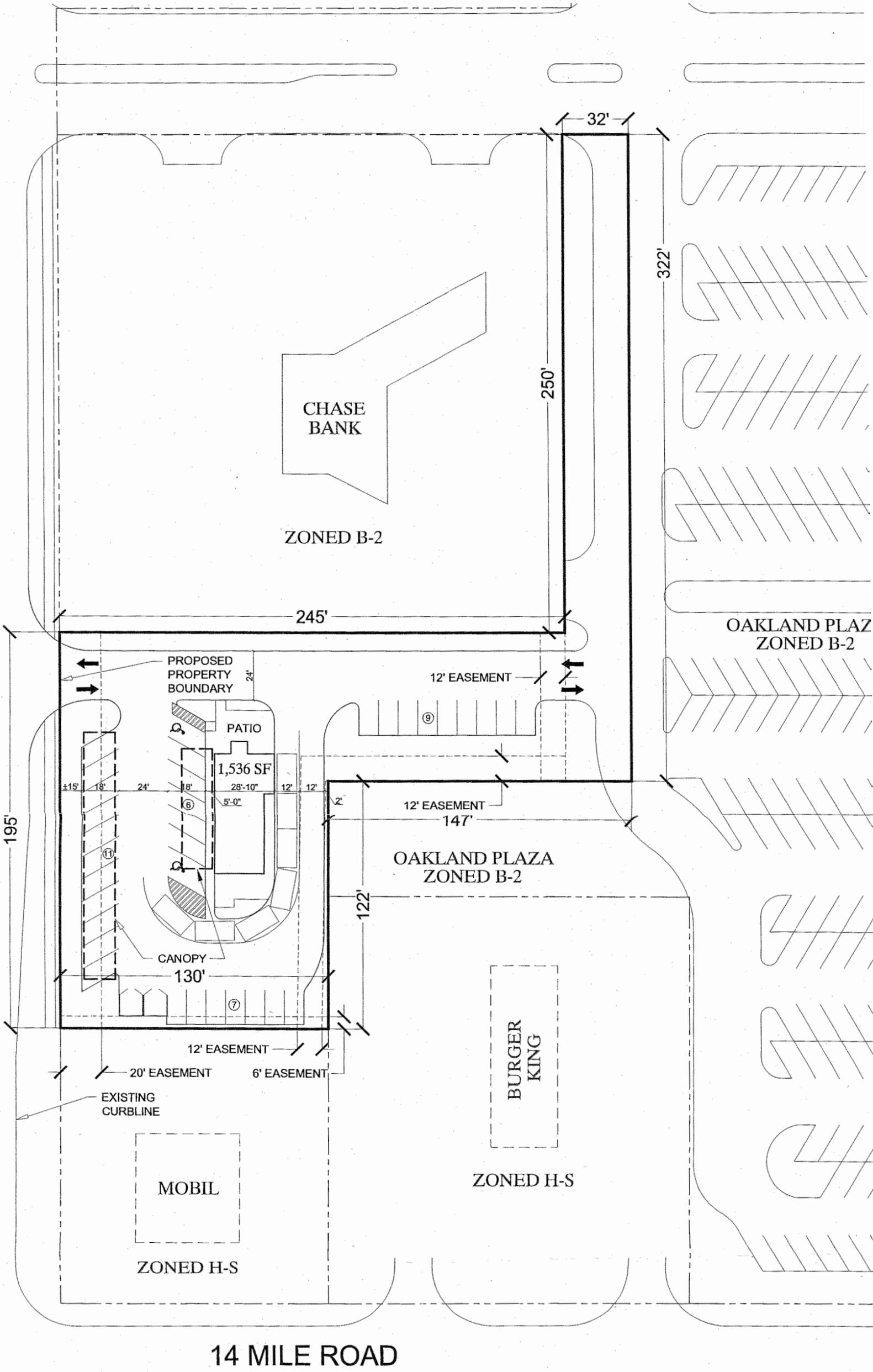
The Applicant further believes that the City should not be concerned that a rezoning to H-S would allow for the development of any other principal uses permitted in H-S zoning. Such permitted uses set forth in Section 23.20.00 include the following:

- Retail establishments and restaurants to service the needs of the highway traveler
- Bus or transit stations, taxicab offices and dispatching centers, emergency vehicle facilities
- Parking garages and off-street parking areas

- Sales, showrooms and incidental repairs of recreational vehicles
- Banks, which may consist solely of drive-up facilities
- Public utility buildings and sub-stations
- Accessory structures

Some of these permitted uses may be detrimental to the surrounding commercial businesses. However, as discussed above, the Parcel is constrained by its small size. All of these permitted uses require an area larger than the size of the Parcel. The applicant believes that this constraint should provide comfort to assure the City that none of these permitted uses can be developed on the Parcel. Instead, the Applicant will need to pursue a Special Use Approval pursuant to Section 23.30.06 to obtain the City's permission to develop the Parcel for a drive-in restaurant.

JOHN R. ROAD



14 MILE ROAD

CONCEPTUAL SITE PLAN FOR SONIC

OAKLAND PLAZA  
TROY, MICHIGAN  
11-12-08



1" = 50'

REC'D

NOV 14 2008

PLANNING DEPT.



**Paula P Bratto**

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**From:** Ron C [chickro1@gmail.com]  
**Sent:** Tuesday, November 25, 2008 9:14 PM  
**To:** Paula P Bratto  
**Subject:** Proposed zoning change -88-20-36-351-008

Dear Planning Department

Please do not change the zoning from B-2 to H-S. The main body of the parcel of land does not meet the 1.0 acre minimum for a H.S. business.

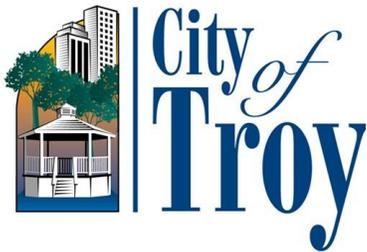
The shape of the proposed parcel makes the long northerly finger of land nearly worthless to a business. It does add sufficient square feet to meet the technical requirements of the zoning classification, but it does not meet the spirit of the 1.0 acre requirement. The people who drafted the 1.0 acre requirement did not consider silly shapes of land. Silly shapes should not be considered in changing the zoning of our land.

Didn't the neighboring Burger King have to meet the 1.0 acre requirement?

Please tell them NO to this rezoning request. Please stick to the zoning plan. Please leave what we have as it is! There is no need to respond to this e-mail.

I live in Section 36.

Ron Chick  
1380 Leafgreen Drive



## CITY COUNCIL ACTION REPORT

DATE: January 7, 2009

TO: Phillip L. Nelson, City Manager

FROM: Brian P. Murphy, Assistant City Manager/Economic Development Services  
Mark F. Miller, Planning Director

SUBJECT: Public Hearing – Rezoning Application – Proposed Animal Advocates Veterinary Hospital, North side of Long Lake, East of Rochester Road, Section 11 – B-2 to B-3 (File Number: Z-734)

### Background:

- The Planning Commission recommended approval of the request to rezone the parcel to B-3 at the December 9, 2008 Regular meeting.
- The rezoning application is consistent with the Future Land Use Plan in the Master Plan, which calls for a Neighborhood Node at the corner of Long Lake Road and Rochester Road (Neighborhood Node L). The Plan proposes that the node "should remain, predominantly commercial, catering to local needs and regional traffic. New development and redevelopment should be mostly commercial and should serve to further enhance this successful commercial area. Opportunities for integrated residential or office development should be considered only when clearly secondary to commercial development".
- The application is consistent with the general character of the area and is compatible with adjacent zoning districts and land uses.

### Financial Considerations:

- There are no financial considerations for this item.

### Legal Considerations:

- City Council has the authority to act on this application.

Policy Considerations:

- The application is consistent with the following “Outcome Statements” as established at the July 1, 2008 special Council meeting:
  - II. Troy adds value to properties through maintenance or upgrades of infrastructure and quality of life venues.
  - III. Troy is rebuilding for a healthy economy reflecting the values of a unique community in a changing and interconnected world.

Options:

- City Council can approve or deny the rezoning application.

Attachments:

1. Maps.
2. Minutes from the December 9, 2008 Planning Commission Regular meeting.
3. Planning Commission report dated December 1, 2008.

Prepared by RBS/MFM

cc: Applicant  
File /Z 734

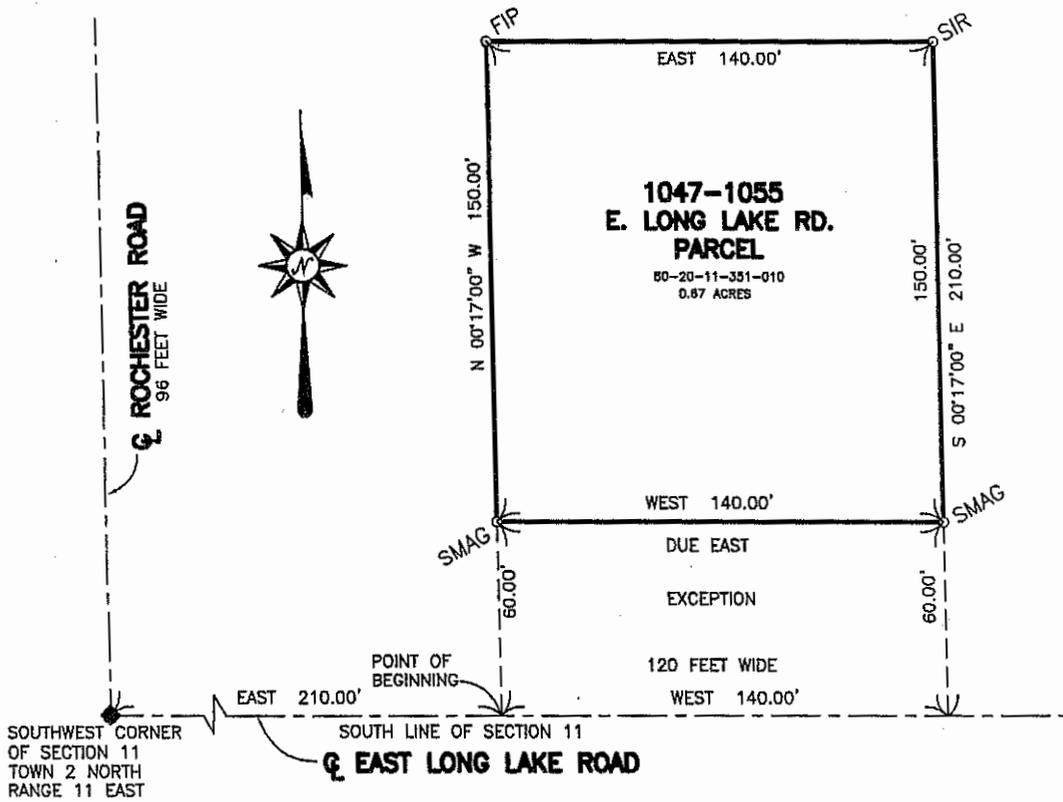
G:\REZONING REQUESTS\Z-734 Animal Advocates Veterinary Hospital Sec 11\CC Public Hearing 01 26 09.docx

# CERTIFIED SURVEY

REC'D

NOV 10 2008

PLANNING DEPT.



LEGEND  
 SIR - SET IRON ROD  
 SMAG - SET MAGNAIL

LEGAL DESCRIPTION

PART OF THE SOUTHWEST 1/4 OF SECTION 11, TOWN 2 NORTH, RANGE 11 EAST, CITY OF TROY, OAKLAND COUNTY MICHIGAN. DESCRIBED AS BEGINNING AT A POINT ON THE CENTER LINE OF EAST LONG LAKE ROAD (120.00 FEET WIDE) ALSO BEING ON THE SOUTH LINE OF SAID SECTION 11 & BEING DUE EAST 210.00 FEET FROM THE S.W. CORNER OF SAID SECTION 11 & PROCEEDING THENCE N.00°17'00"W. 210.00 FEET; THENCE DUE EAST 140.00 FEET; THENCE S.00°17'00"E.210.00 FEET TO A POINT ON THE CENTER LINE OF SAID EAST LONG LAKE ROAD ALSO BEING ON THE SOUTH LINE OF SAID SECTION 11; THENCE CONTUNING ALONG SAID LINE DUE WEST 140.00 FEET TO THE POINT OF BEGINNING. EXCEPTING THEREFROM THE SOUTH 60.00 FEET THEREOF TAKEN FOR ROAD PURPOSES. CONTAINING 0.67 ACRES GROSS.

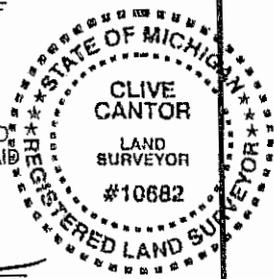
NOTES:

THIS SITE IS ENCUMBERED BY ALL EASEMENTS OF RECORD, VISIBLE EASEMENTS, AND IMPLIED EASEMENTS. HENNESSEY ENGINEERS, INC. ASSUMES NO LIABILITY FOR THE ACCURACY OF THE TITLE WORK PROVIDED OR ANY EASEMENT NOT FURNISHED.

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT I HAVE SURVEYED THE PARCEL OF LAND DESCRIBED AND DELINEATED HEREON, THAT SAID PLAT IS A TRUE REPRESENTATION OF THE SURVEY PERFORMED, THAT SAID SURVEY WAS PERFORMED WITH AN ERROR OF CLOSURE NO GREATER THAN 1 IN 5,000 AND THAT SAID SURVEY IS IN COMPLIANCE WITH SECTION 3, ACT No. 132, OF PUBLIC ACTS OF 1970, AS AMENDED.

*Clive Cantor*  
 CLIVE CANTOR, PS No. 10682



**ENGINEERING THE FUTURE.**  
 13500 REECK ROAD  
 SOUTHGATE, MI 48195  
 (734) 759-1600  
 FAX (734) 282-6566  
 WWW.HENGINEERS.COM

<b>TITLE</b>	
ROCHESTER & LONG LAKE RD. CITY OF TROY, OAKLAND COUNTY, MICHIGAN	
DRAWN JGE	APPROVED
PROJECT No. 51525 AA	SCALE 1" = 60'
DATE 05 NOV., 2008	DRAWING NUMBER 1 OF 1

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

The City of Troy ordains:

Section 1. Short Title

This Ordinance shall be known and may be cited as the \_\_\_\_\_ amendment to the Zoning District Map of the Code of the City of Troy.

Section 2. Amendment

Section 05.20.00 of Chapter 39 is hereby amended to permit the zoning map of said code to be, and the same is hereby amended to delineate the subject parcel as B-3 (General Business), the following described property, to wit:

T2N, R11E, SW ¼ of Section 11

Beginning at a point on the Center line of East Long Lake Road (120 ft. wide) also being on the South line of said Section 11 and being due East 210.00 ft. from the Southwest corner of said Section 11: thence N 00°17'00" W, 210.00 ft.; thence due East 140.00 ft.; thence S 00°17'00" E, 210.00 to a point on the Center line of said East Long Lake Road also being on the South line of said Section 11; thence continuing along said line due West 140.00 ft. to the Point of Beginning. Excepting there from the South 60.00 ft. thereof taken for road purposed. Containing 0.48 ac. more or less and subject to all easements and matters of record.

The subject property is located on the north side of Long Lake Road, east of Rochester Road, in section 11, within the B-2 (Community Business) Zoning District, being approximately 0.48 acres in size.

Section 3. Repeal

All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

Section 4. Savings

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

ordinance, under and in accordance with the provisions of any ordinance in force at the time of the commission of such offense.

Section 5. Severability Clause

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

Section 6. Effective Date

This Ordinance shall become effective ten (10) days from the date hereof or upon publication, whichever shall later occur.

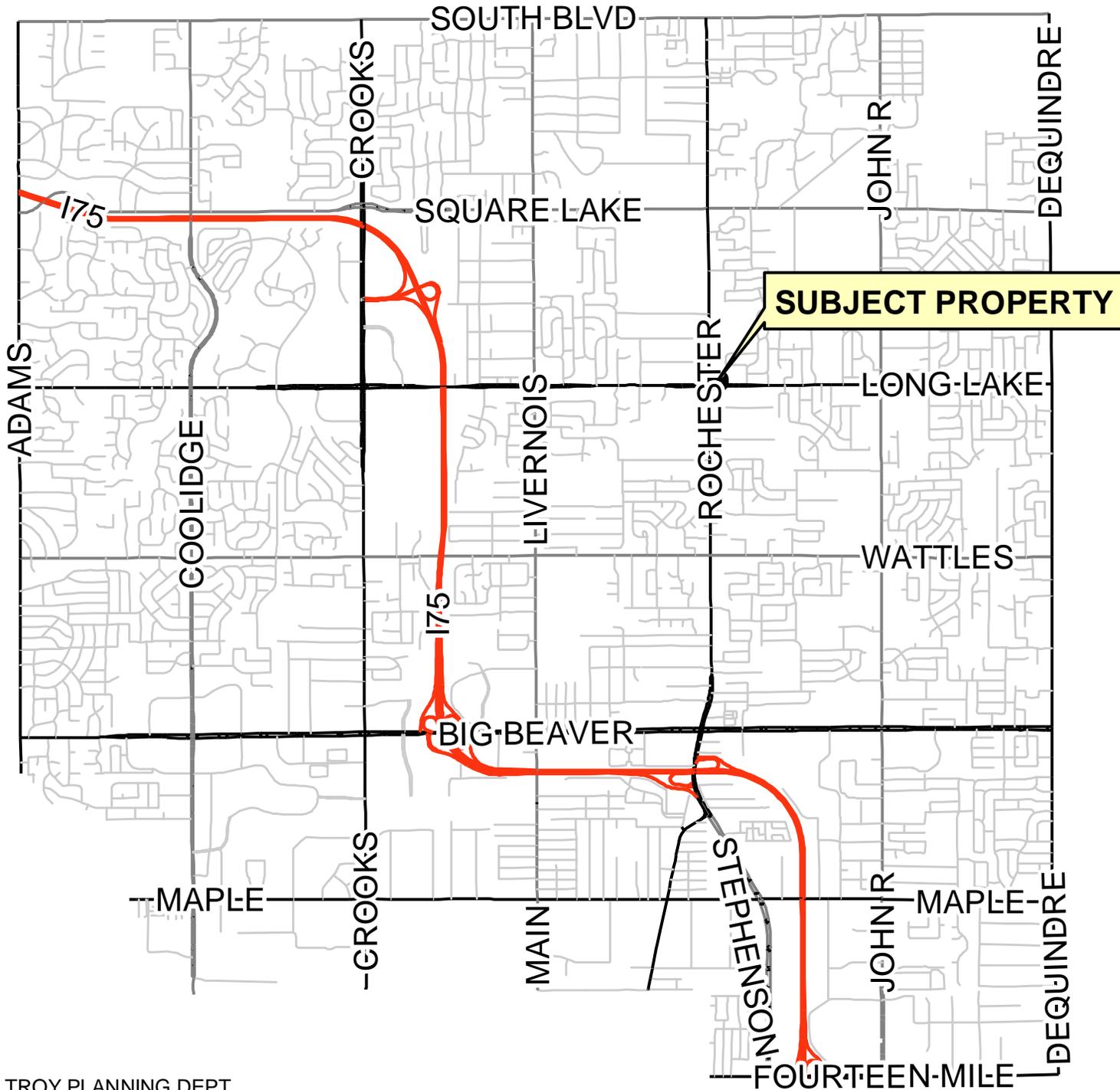
This Ordinance is enacted by the Council of the City of Troy, Oakland County, Michigan, at a regular meeting of the City Council held at City Hall, 500 W. Big Beaver, Troy, Michigan, on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Louise E. Schilling, Mayor

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

**PUBLISHED:** \_\_\_\_\_

# CITY OF TROY



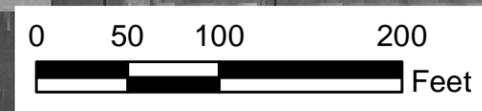
REZONING REQUEST  
FROM B-2 TO B-3  
PROPOSED VETERINARY HOSPITAL  
N SIDE OF LONG LAKE, E OF ROCHESTER RD  
SEC. 11 (Z-734)

SUBJECT PARCEL

ROCHESTER

E LONG LAKE

E Long Lake



REZONING REQUEST  
FROM B-2 TO B-3  
PROPOSED VETERINARY HOSPITAL  
N SIDE OF LONG LAKE, E OF ROCHESTER RD  
SEC. 11 (Z-734)

R-1C

B-2

SUBJECT PARCEL

H-S

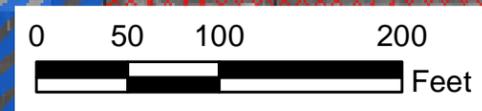
E LONG LAKE

E Long Lake

B-1

B-3

O-1



REZONING REQUEST  
FROM B-2 TO B-2  
PROPOSED VETERINARY HOSPITAL  
N SIDE OF LONG LAKE, E OF ROCHESTER RD.  
SEC. 11 (Z-734)

RECREATION  
& OPEN  
SPACE

Rochester Road

SUBJECT PARCEL

Neighborhood  
Nodes

E Long Lake

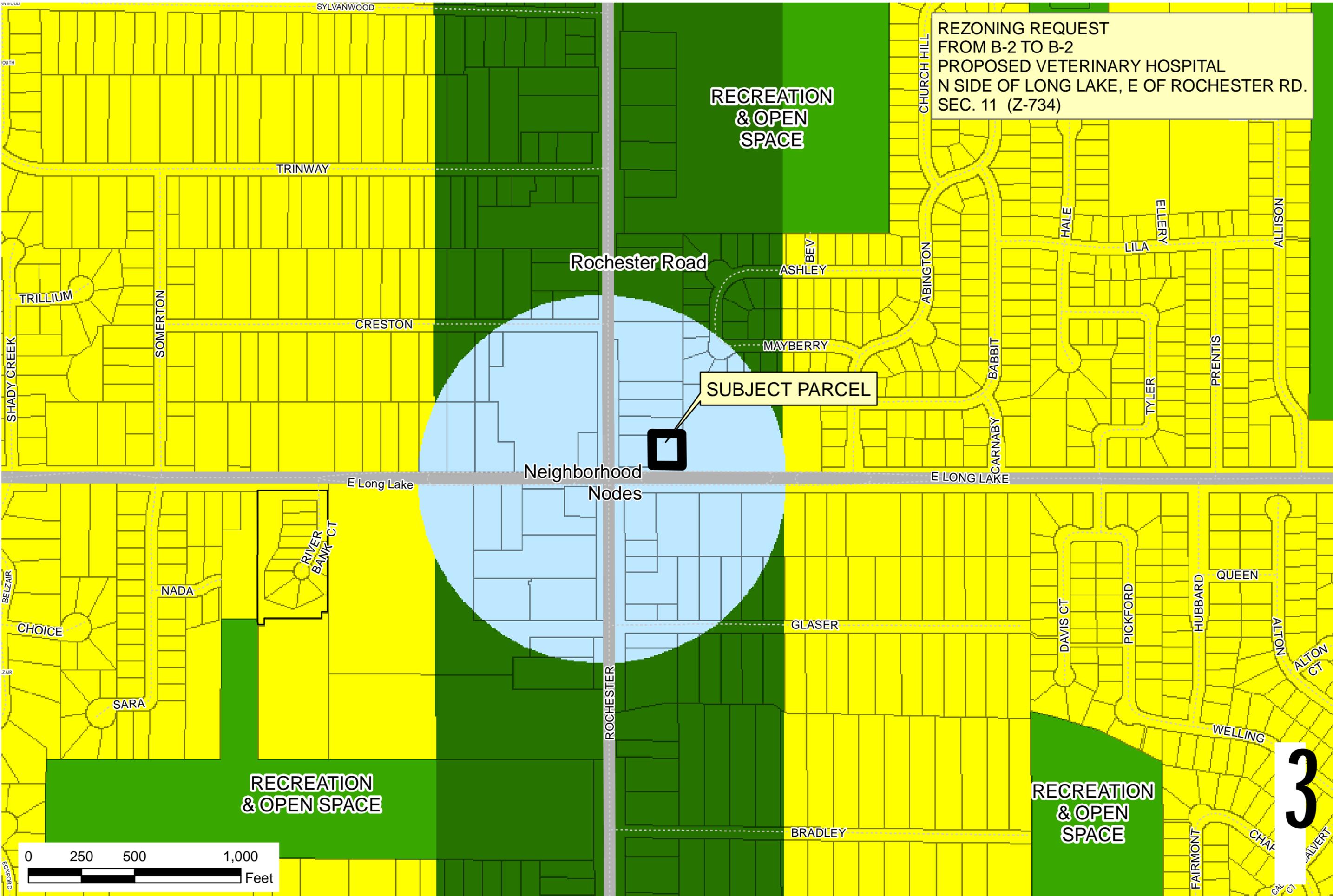
E LONG LAKE

RECREATION  
& OPEN  
SPACE

RECREATION  
& OPEN  
SPACE



3

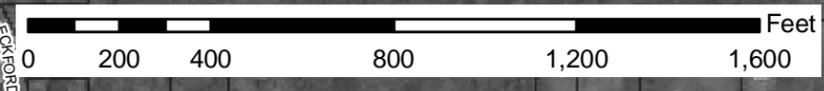


REZONING REQUEST  
FROM B-2 TO B-3  
PROPOSED VETERINARY HOSPITAL  
N SIDE OF LONG LAKE, E OF ROCHESTER RD.  
SEC. 11 (Z-734)

SUBJECT PARCEL



3



REZONING REQUEST  
FROM B-2 TO B-3  
PROPOSED VETERINARY HOSPITAL  
N SIDE OF LONG LAKE, E OF ROCHESTER RD.  
SEC. 11 (Z-734)

CJ-34

SUBJECT PARCEL

H-S

B-1

B-3

P-1

B-2

O-1

M-1

R-1T

CR-1

R-1C

E-P

C-F

SYLVANWOOD

TRINWAY

CRESTON

ROCHESTER

E LONG LAKE

CHURCH HILL

ABINGTON

ASHLEY

MAYBERRY

BABBIT

GARNABY

HALE

LILA

ELLERY

TYLER

PRENTIS

ALLISON

SOMERTON

TRILLIUM

SHADY CREEK

NADA

RIVER BANK CT

CHOICE

SARA

GLASER

DAVIS CT

PICKFORD

HUBBARD

QUEEN

ALTON

ALTON CT

WELLING

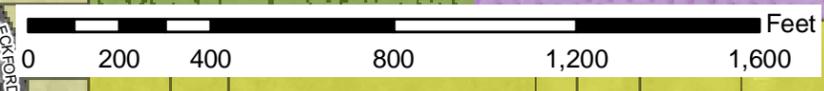
FAIRMONT

CHAPEL

CALVERT

CALVERT CT

3



5. PUBLIC HEARING – REZONING APPLICATION (Z 734) – Proposed Veterinary Office, North side of Long Lake Road, East of Rochester Road (1047-1055 E. Long Lake Road), Section 11, From B-2 (Community Business) to B-3 (General Business) District

Mr. Miller presented a summary of the Planning Department report on the proposed rezoning application, and reported it is the recommendation of City Management to approve the rezoning request.

John Hennessey of Hennessey Engineers, 13500 Mack Road, Southgate, was present to represent the petitioner. Mr. Hennessey said the use is harmonious with the neighborhood and would fill a need within the community.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

**Resolution # PC-2008-12-145**

Moved by: Maxwell

Seconded by: Hutson

**RESOLVED**, That the Planning Commission hereby recommends to the City Council that the B-2 to B-3 rezoning request, located on the north side of Long Lake Road, east of Rochester, within Section 11, being approximately 0.67 acres in size, be granted, because it is consistent with the intent of the Master Plan and is compatible with abutting zoning districts and uses.

Discussion on the motion on the floor.

There was a brief discussion on the principal uses permitted in the B-3 zoning district in relation to the size of the subject property.

Vote on the motion on the floor.

Yes: Hutson, Maxwell, Sanzica, Schultz, Tagle

No: Vleck

Absent: Strat, Ullmann, Wright

**MOTION CARRIED**

Mr. Vleck said he does not disagree with the proposed use, but he would prefer to see a conditional rezoning on the site so there would be more control with the integration of its use with surrounding properties.

DATE: December 1, 2008

TO: Planning Commission

FROM: Mark F. Miller, Planning Director  
R. Brent Savidant, Principal Planner  
Ronald Figlan, Planner  
Paula Preston Bratto, Planner

SUBJECT: PUBLIC HEARING – REZONING APPLICATION – Proposed Animal Advocates Veterinary Hospital, North side of Long Lake, East of Rochester Road, Section 11 – B-2 to B-3 (Z-734)

### **GENERAL INFORMATION**

Name of Owner / Applicant:

The owner is Arkan Jonna of AFJ Long Lake, LLC. The applicants are Stephanie Bellisario, Maureen Birley, and Colleen Overla of Animal Advocates Veterinary Hospital.

Location of Subject Property:

The property is located on the north side of Long Lake Road, east of Rochester Road, in section 11.

Size of Subject Property:

The property is approximately 0.67 acres in size.

Current Use of Subject Property:

A small vacant multi-tenant retail building currently sits on the property.

Current Zoning Classification:

B-2 Community Business.

Proposed Zoning of Subject Parcel:

B-3 General Business.

Proposed Uses and Buildings on Subject Parcel:

The applicant proposes to use the existing building to house a veterinary hospital. The applicant is not proposing any additional construction on the site.

Zoning Classification of Adjacent Parcels:

North: B-2 Community Business.

South: O-1 Low Rise Office and B-3 General Business.

East: B-2 Community Business.

West: H-S Highway Service.

Current Use of Adjacent Parcels:

North: Vacant retail building.

South: Belle Tire and bank.

East: Shopping center.

West: Gas station.

**ANALYSIS**

Range of Uses Permitted in Proposed B-3 Zoning District and Potential Build-out Scenario:

PRINCIPAL USES PERMITTED:

Any retail business or service establishment permitted in B-2 Districts as Principal Uses Permitted and Uses Permitted Subject to Special Conditions.

Mortuary establishments.

Bus or transit passenger stations, taxicab offices and dispatching centers, and emergency vehicle or ambulance facilities.

Parking garages and off-street parking areas.

Sales, showrooms, and incidental repair of recreational vehicles.

New and used car salesroom, showroom, or office.

Governmental offices, public utility offices, exchanges, transformer stations, pump stations and service yards but not including outdoor storage.

Other uses similar to the above uses.

Accessory structures and uses customarily incident to the above permitted uses.

USES PERMITTED SUBJECT TO SPECIAL CONDITIONS:

Drive-up windows or service facilities, as an accessory to restaurants permitted within this district.

Drive-up service facilities, as accessory to principal permitted uses within B-3 Districts, apart from restaurants.

Bowling alley, billiard hall, indoor archery range, indoor skating rinks, indoor tennis courts, athletic or health clubs, or similar forms of indoor commercial recreation.

Open air business uses when developed as uses subordinate to primary uses and structures within the B-3 District.

Outside seating of twenty (20) seats or less for restaurants, or other food service establishments.

**USES PERMITTED SUBJECT TO SPECIAL USE APPROVAL**

Outdoor sales space for exclusive sale or lease of new or second-hand automobiles, trucks, mobile homes, trailers, or recreational.

Motel or hotel.

Veterinary hospitals.

Commercial kennels.

Automobile repair garages.

Outside seating areas, in excess of twenty (20) seats, for restaurants, or other food service establishments.

**Potential Storm Water and Utility Issues:**

The applicant proposes no additional construction on the property.

**Compliance with Location Standards of the B-3 District:**

There are no Location Standards for the B-3 General Commercial District.

**CONSISTENCY WITH CITY OF TROY MASTER PLAN**

**Quality of Life Considerations:**

Rezoning the parcel would expand its development potential as B-3 permits a wider range of uses than does B-2.

**Design and Community Character Considerations:**

The parcel abuts a service station, a shopping center and a vacant retail building. The vacant building on the subject parcel could be re-used under the provisions of the B-3 zoning district. If rezoned from B-2 to B-3, the underlying zoning will remain retail. The B-3 district permits a wider range of uses than B-2 does, however the small parcel size limits its development potential for some of the more intense uses.

**Preservation and Enhancement of Natural Features:**

The Natural Features Map indicates there are no significant natural features located on the property.

**Low Impact Development Considerations:**

The application indicates the applicants intend to re-use the existing building. There is no indication that the applicant intends to utilize LID techniques.

Non-motorized Access Considerations:

The development will require building perimeter sidewalks and a connection to the public sidewalk on Long Lake Road.

Access Management Considerations:

Access to the property is provided by two curb cuts on Long Lake Road. Access management could be improved in this area through the reduction in the number of curb cuts and the use of cross-access easements and shared parking.

Compliance with Ten Tenets of Smart Growth:

The following is a list of the Ten Tenets of Smart Growth:

1. Create a range of housing opportunities.
2. Create walkable communities.
3. Encourage community and stakeholder collaboration in development decisions.
4. Foster distinctive, attractive communities with a strong sense of place.
5. Make development decisions predictable, fair, and cost effective.
6. Mix land uses.
7. Preserve open space, farmland, natural beauty and critical environment areas.
8. Provide a variety of transportation options.
9. Strengthen and direct development towards existing communities.
10. Take advantage of compact building design.

The application indicates the existing vacant building will be reused. Reusing the building will add a B-3 use within an established Neighborhood Node.

Compliance with Future Land Use Plan of the Master Plan:

The Master Plan calls for a Neighborhood Node at the corner of Long Lake Road and Rochester Road (Neighborhood Node L). The Master Plan proposes that the node "should remain, predominantly commercial, catering to local needs and regional traffic. New development and redevelopment should be mostly commercial and should serve to further enhance this successful commercial area. Opportunities for integrated residential or office development should be considered only when clearly secondary to commercial development".

The rezoning application is consistent with the Future Land Use Plan.

**CITY MANAGEMENT RECOMMENDATION**

The rezoning application is consistent with the intent of the Master Plan and compatible with abutting zoning districts and uses.

City Management recommends approval of the rezoning request.

cc: Applicant  
File / Z 734

## Statement of Intent for the City of Troy Rezoning Board

Animal Advocates Veterinary Hospital would like to open our business at 1047-1055 Long Lake Road. We feel our business would greatly benefit the city of Troy in the following ways:

1. We would provide quality veterinary care to Troy residents, as well as bringing in business from surrounding cities, which would aid in boosting Troy's economy.
2. We would become actively involved in the Troy community by participating in Troy Daze and other community events.
3. We would promote the city of Troy by providing veterinary educational tours of our facility to local schools and organizations.
4. We also plan on improving the appearance of the building by refinishing the parking lot and updating its exterior/interior making it aesthetically pleasing to the community.
4. We would occupy a currently vacant building with a successful business.

We do not plan on hindering or impinging upon any existing businesses, and our practice will be a small animal exclusive facility.

1. Our office hours will be 8 AM – 6 PM, M, T, W, and F. Thursdays, we will be open from 8 AM – 8 PM, and Saturdays, from 8 AM – 1 PM. We will be closed on Sundays.
2. We do not plan on having any boarding services at our facility, and there will be no outdoor kennels.
3. We plan on performing approximately 98% outpatient procedures with only overnight stays of hospitalized animals when necessary.
4. We will be diligent in cleaning up pet waste daily.

We look forward to practicing in Troy, and we appreciate your time and consideration in this matter.

Sincerely,

Stephanie Bellisario, D.V.M.

Maureen Birley, D.V.M.

Colleen Overla, D.V.M.

REC'D

NOV 10 2008

PLANNING DEPT.





## CITY COUNCIL ACTION REPORT

DATE: January 16, 2009

TO: Phillip L. Nelson, City Manager

FROM: Brian P. Murphy, Assistant City Manager/Economic Development Services  
Mark F. Miller, Planning Director

SUBJECT: Public Hearing – Street Vacation — Myrtle Avenue (originally platted as Melita Avenue), East of Kilmer, North of Big Beaver, Section 22 (File Number: SV 163-C)

### Background:

- The Planning Commission recommended approval of the street vacation request at the December 9, 2008 Regular meeting.
- The right-of-way was approved as a platted street (originally platted as “Melita Avenue”) in 1927 as part of the Burgess Bungalow Subdivision. The street is unimproved.
- The subject property is located entirely within the proposed PUD #10, Big Beaver Kilmer Mixed Use Planned Unit Development, which received Concept Development Plan Approval by City Council on December 15, 2008.
- Following vacation, ownership will revert to the applicant, who owns the property within the plat to the north and south of the proposed street vacation.

### Financial Considerations:

- There are no financial considerations for this item.

### Legal Considerations:

- City Council has the authority to act on this application.
- The State of Michigan may require the Burgess Bungalow Subdivision plat to be amended.

Policy Considerations:

- The application is consistent with the following “Outcome Statements” as established at the July 1, 2008 special Council meeting:
  - II. Troy adds value to properties through maintenance or upgrades of infrastructure and quality of life venues.
  - III. Troy is rebuilding for a healthy economy reflecting the values of a unique community in a changing and interconnected world.

Options:

- City Council can approve or deny the street vacation request.

Attachments:

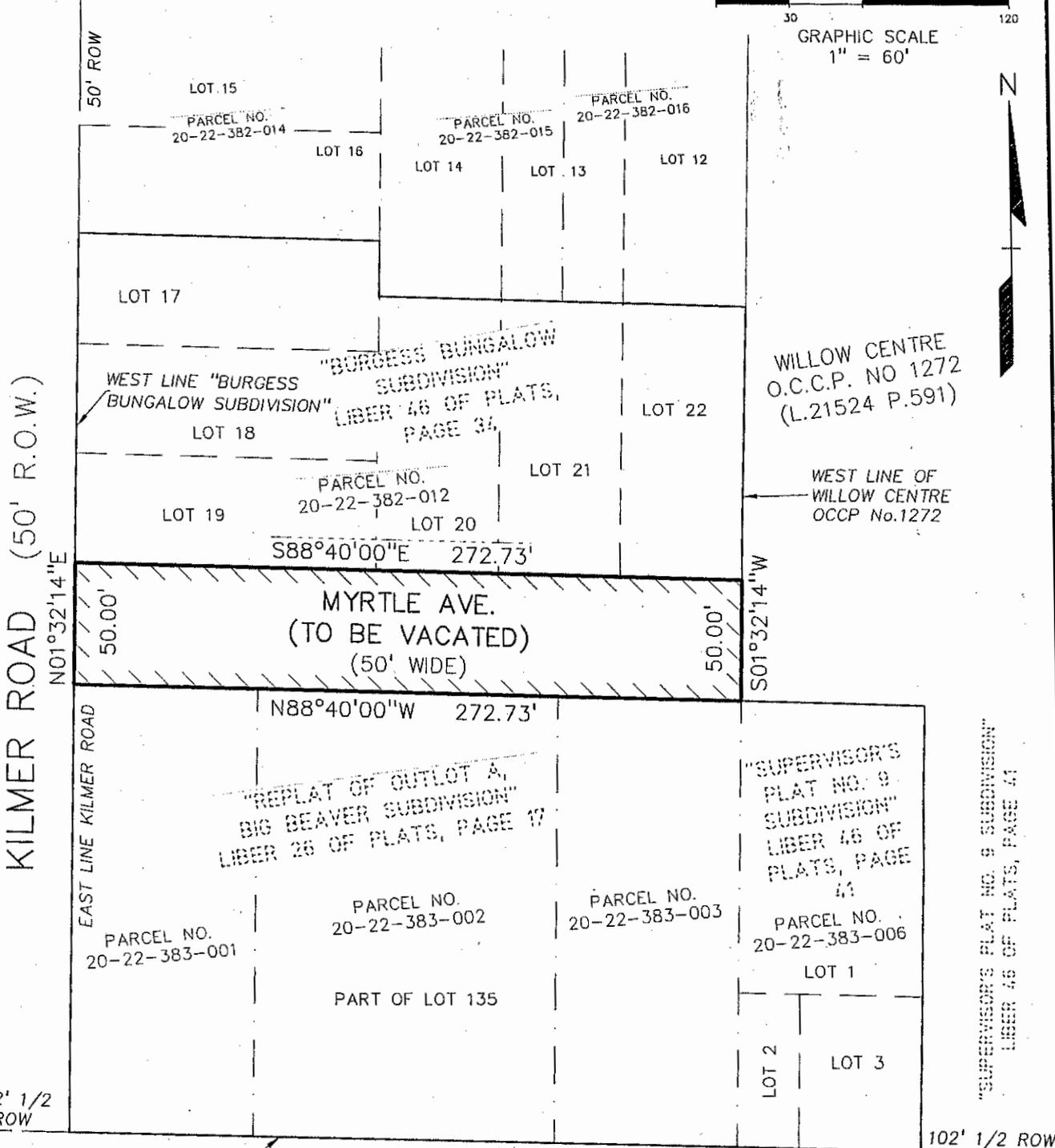
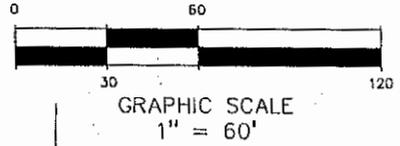
1. Minutes from the December 9, 2008 Planning Commission Regular meeting.
2. Planning Commission report dated December 2, 2008.

Prepared by RBS/MFM

cc: Applicant  
File /SV 163-C

G:\STREET VACATION\SV 163 C Myrtle Ave Sec 22\CC Public Hearing 01 26 09.docx

# SKETCH OF VACATION



KILMER ROAD (50' R.O.W.)

WILLOW CENTRE  
O.C.C.P. NO 1272  
(L.21524 P.591)

MYRTLE AVE.  
(TO BE VACATED)  
(50' WIDE)

BIG BEAVER ROAD  
(102' 1/2 R.O.W.)

**LEGAL DESCRIPTION**

(Myrtle Avenue to be Vacated)

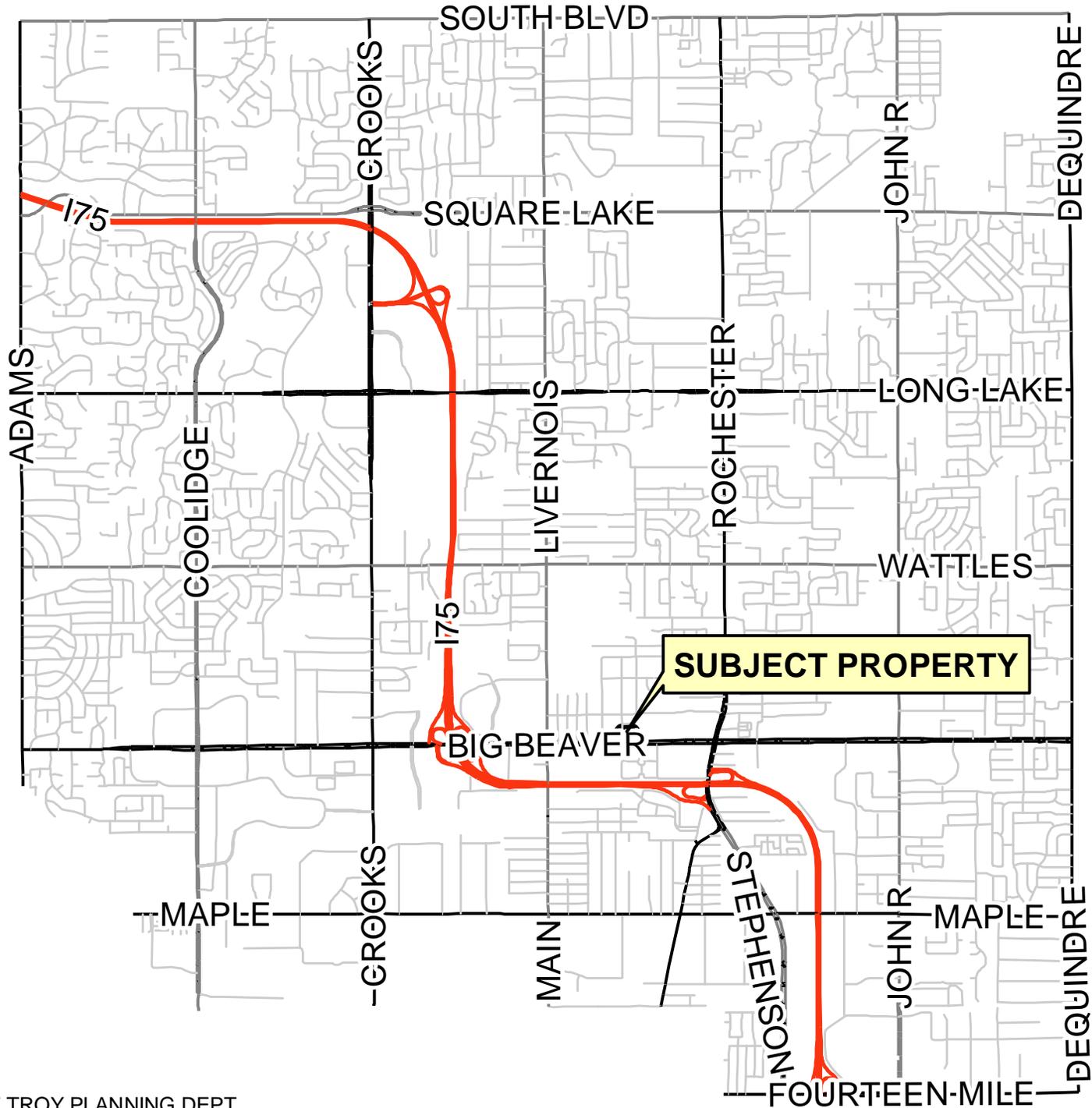
All of Myrtle Avenue (50 feet wide), as platted in "Burgess Bungalow Subdivision" (recorded in Liber 46 of Plats, Page 34, Oakland County Records), lying easterly of the east line of Kilmer Road (50 feet wide) and westerly of the west line of Oakland County Condominium Plan No. 1272, being known as "Willow Centre" (recorded in Liber 21524, Page 591, Oakland County Records).

<b>PROFESSIONAL ENGINEERING ASSOCIATES</b>
2430 Rochester Ct. Suite 100 Troy, MI 48083-1872 (248) 689-9090

CLIENT:  
T.H. MARSH CONSTRUCTION CO.  
12725 STARK ROAD  
LIVONIA, MI., 48150

SCALE: 1" = 60'	JOB No: 2007101
DATE: 9-24-08	DWG. No: 1 of 1

# CITY OF TROY



STREET VACATION REQUEST  
MYRTLE AVE. (AKA MELITA AVE) - 50' WIDE STREET  
EXTENDING 272.73' E OF KILMER  
N OF BIG BEAVER, E SIDE OF KILMER  
SEC. 22 (SV 163 C)

LANGSTON

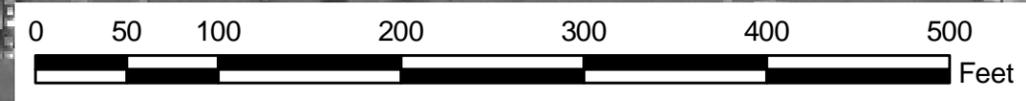
KILMER

EX. MYRTLE AVE (AKA MELITA AVE)  
REQUESTED TO BE VACATED

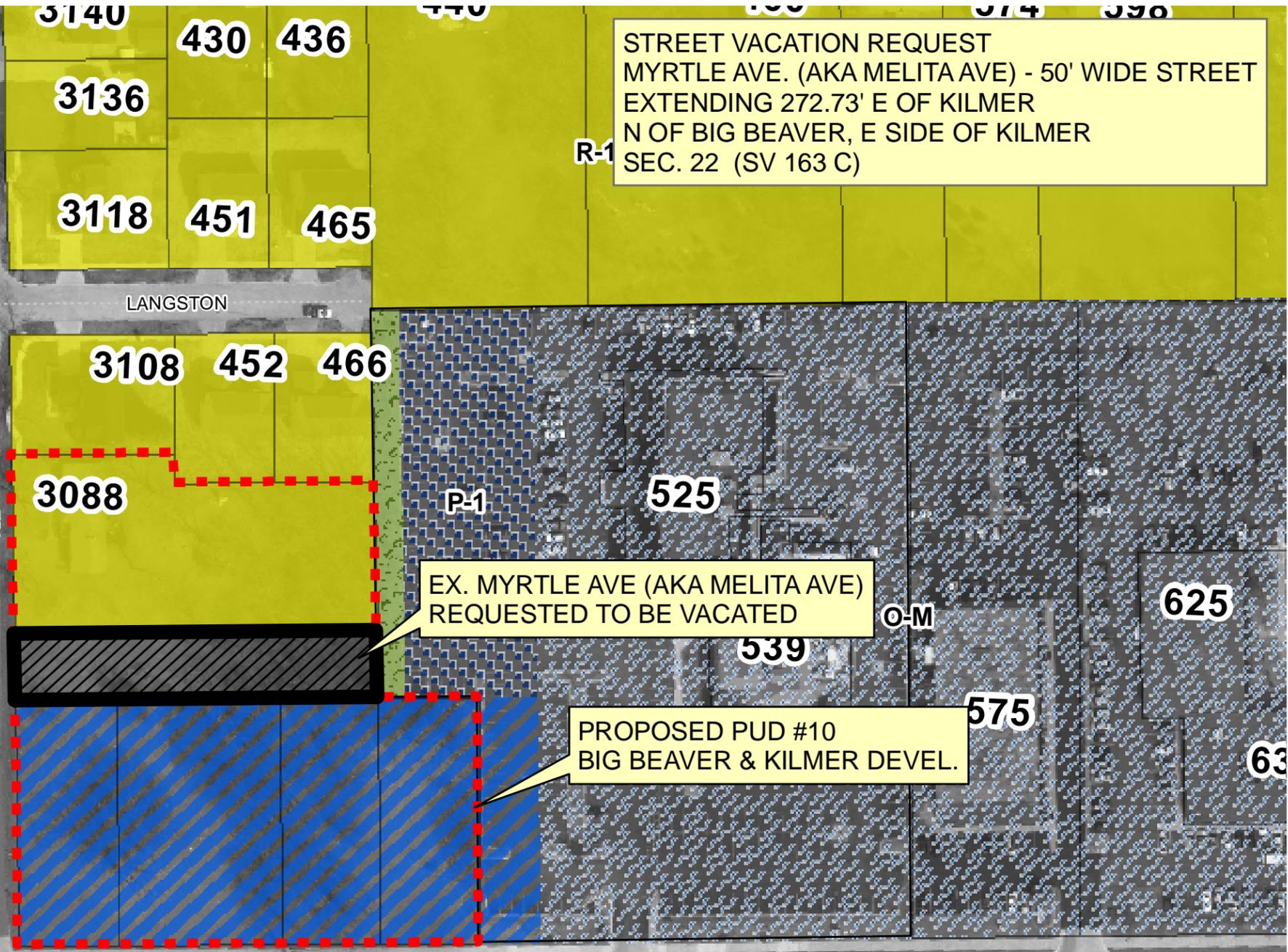
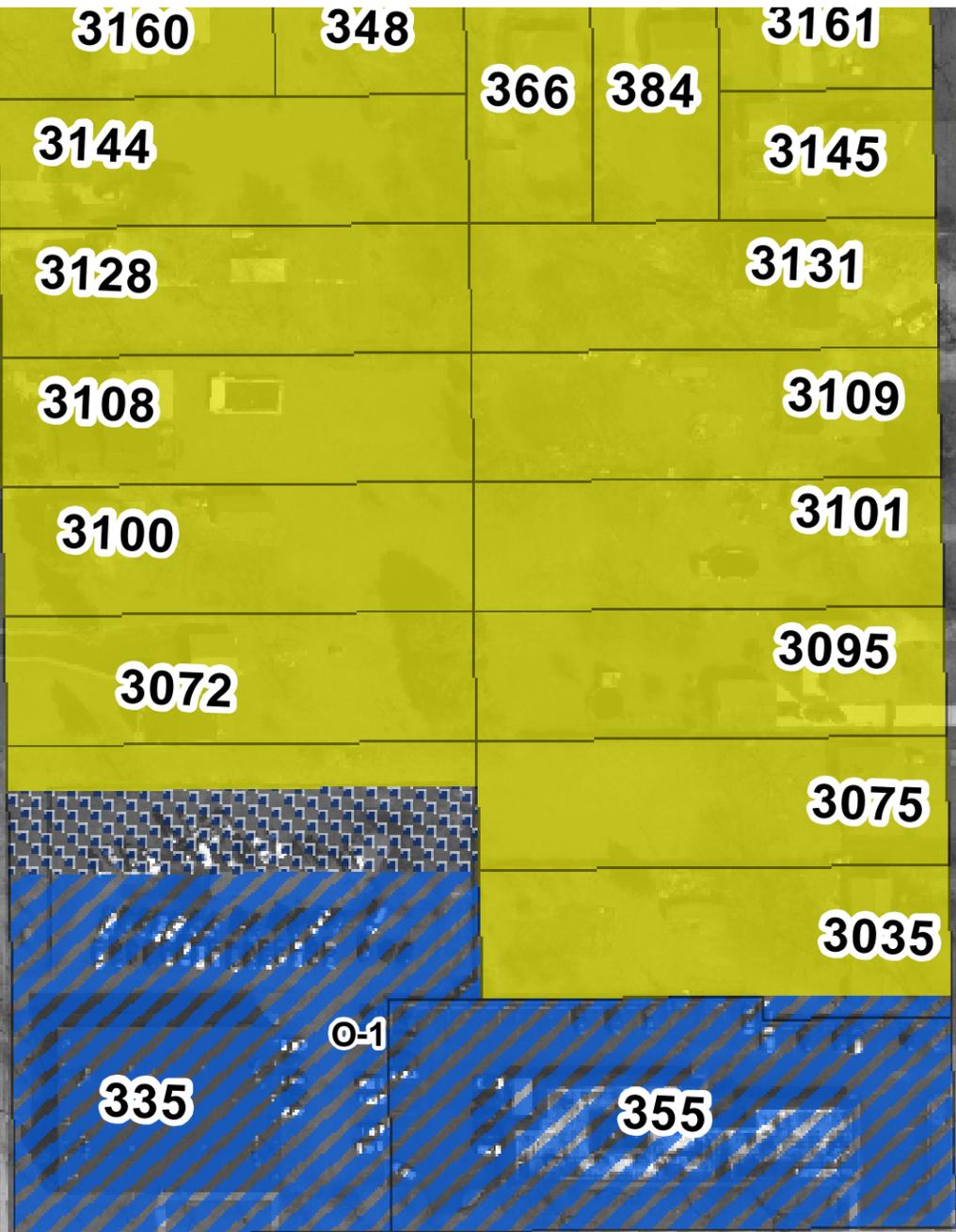
PROPOSED PUD #10  
BIG BEAVER & KILMER DEVEL.

E BIG BEAVER

CHARTER



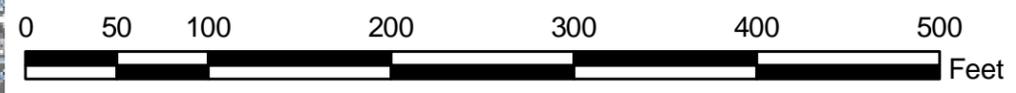
STREET VACATION REQUEST  
MYRTLE AVE. (AKA MELITA AVE) - 50' WIDE STREET  
EXTENDING 272.73' E OF KILMER  
N OF BIG BEAVER, E SIDE OF KILMER  
SEC. 22 (SV 163 C)



EX. MYRTLE AVE (AKA MELITA AVE)  
REQUESTED TO BE VACATED

PROPOSED PUD #10  
BIG BEAVER & KILMER DEVEL.

E BIG BEAVER



**STREET VACATION**

7. **PUBLIC HEARING – STREET VACATION REQUEST (SV 163-C)** – Myrtle Avenue (originally platted as Melita Avenue), East of Kilmer, North of Big Beaver, 50 feet wide and approximately 272.73 feet long, abutting Lots 19 through 22 of Burgess Bungalow Subdivision, Section 22 (located within proposed PUD #10 BBK)

Mr. Miller presented a summary of the Planning Department report on the proposed street vacation, and reported it is the recommendation of City Management to approve the request.

Cary Gitre of Landus Development, 412 Willits, Birmingham, was present to represent the petitioner.

**PUBLIC HEARING OPENED**

No one was present to speak.

**PUBLIC HEARING CLOSED****Resolution # PC-2008-12-147**

Moved by: Sanzica  
Seconded by: Tagle

**RESOLVED**, That the Planning Commission hereby recommends to the City Council that the street vacation request, as submitted, for Myrtle Avenue, located east of Kilmer and north of Big Beaver, approximately 50 feet wide and 272.73 feet long, abutting Lots 19 through 22 of Burgess Bungalow Subdivision, Section 22, be approved.

**BE IT FURTHER RESOLVED**, That the applicant shall cause to be completed a vacated, corrected or revised plat conforming to the requirements of the Land Division Act, MCL 560.221, et. seq., for the areas affected by this vacation request, if required by the State of Michigan.

**BE IT FINALLY RESOLVED**, That the applicant shall deliver a recorded copy of the court judgment regarding the aforesaid vacated, corrected or revised plat, if required, to the City Attorney's Office prior to any construction commencing on the parcel.

Yes: All present (6)  
Absent: Strat, Ullmann, Wright

**MOTION CARRIED**

DATE: December 2, 2008

TO: Planning Commission

FROM: Mark F. Miller, Planning Director  
R. Brent Savidant, Principal Planner  
Ronald Figlan, Planner  
Paula Preston Bratto, Planner

SUBJECT: PUBLIC HEARING – STREET VACATION APPLICATION (SV 163-C) – Myrtle Avenue (originally platted as Melita Avenue), East of Kilmer, North of Big Beaver, Section 22

### **GENERAL INFORMATION**

Name of applicant(s):

The applicant is Ryan S. Marsh of Marsh – BBK, LLC.

History of Street:

The property is located entirely within the proposed PUD #10, Big Beaver Kilmer Mixed Use Planned Unit Development. The right-of-way was approved as a platted street (originally platted as “Melita Avenue”) in 1927 as part of the Burgess Bungalow Subdivision. The street is unimproved.

Following vacation, ownership will revert to the applicant, who owns the property within the plat to the north and south of the proposed street vacation.

Length and width of right of way.

The Myrtle Avenue right-of-way is approximately 272.73 feet long by 50 feet wide. The Myrtle Avenue right-of-way abuts lots 19, 20, 21 and 22 of Burgess Bungalow Subdivision to the north, and part of lot 135 of the Replat of Outlot A, Big Beaver Subdivision and lots 1 through 3 of Supervisor’s Plat No. 9 Subdivision to the south.

Zoning of abutting parcels:

North: R-1E One Family Residential.  
South: O-1 Low Rise Office.  
East: E-P Environmental Protection.  
West: Not zoned (Kilmer Avenue).

Use of adjacent parcels:

North: Single family residential.  
South: Vacant.  
East: Landscape buffer for Willow Office Center and Bahama Breeze Restaurant.  
West: Kilmer Avenue.

## **ANALYSIS**

### Reason for street vacation (as stated on the Street/Alley Vacation Application):

The reason given in the application is: "To accommodate Troy PUD 10".

### Impact on utilities:

There are no City-owned public utilities (water, sewer or storm sewer) located within the right of way. Other public utility agencies were notified of the street vacation request in writing.

### Impact on access to existing lots or buildings:

The applicant owns the property on both the north and south sides of the right of way. Access to abutting properties will not be impacted by vacation of the right of way.

### Plat/Land Division Implications

The State of Michigan may require the Burgess Bungalow Subdivision plat to be amended.

## **CITY MANAGEMENT RECOMMENDATION**

City Management recommends approval of the street vacation request for Myrtle Avenue.

### Attachments:

1. Maps.

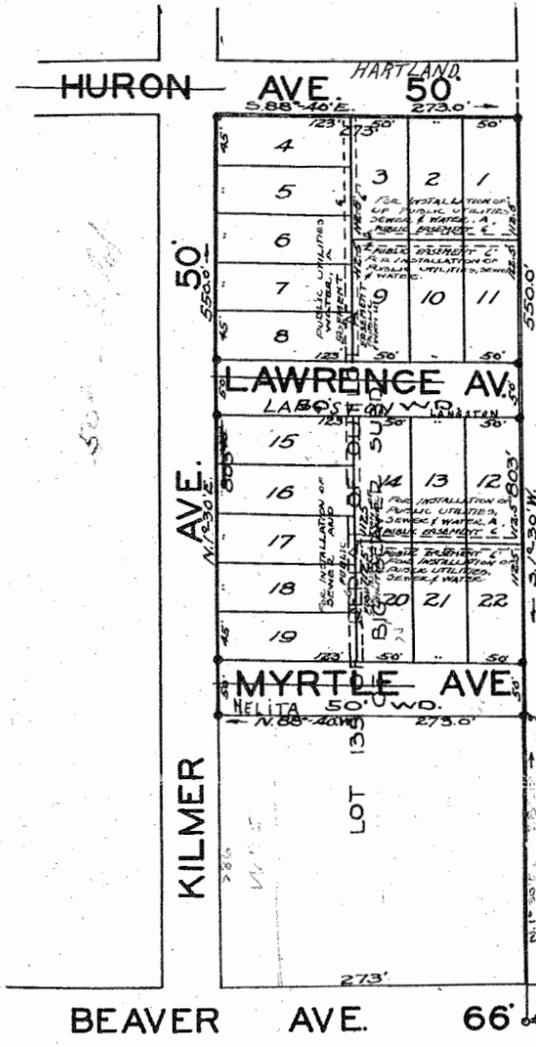
cc: Applicant  
File/ SV 163-C

G:\STREET VACATION\SV 163 C Myrtle Ave Sec 22\SV 163 C PC Report.docx

April 7-1927

**BURGESS BUNGALOW SUBDIVISION**  
 OF PART OF LOT 135 OF REPLAT OF OUTLOT "A"  
 OF "BIG BEAVER" SUBDIVISION.  
 PART OF S.W. 1/4 OF SECTION 22, T.2N., R.11E.,  
 TROY TWP., OAKLAND CO., MICHIGAN.

1" = 100'  
 ALL DIMENSIONS IN FEET & DECIMALS THEREOF.  
 SCALE: 1" = 100'



DEDICATION

KNOW ALL MEN BY THESE PRESENTS, That we, LIVONIA M. KILMER, AS PROPRIETOR  
AND WILLIAM H. BURGESS AND MYRTLE C. BURGESS, HIS WIFE, AS VENDREES..  
 have caused the land embraced in the annexed plat to be surveyed, laid out and platted,  
 to be known as "Burgess Bungalow Subdivision of part of Lot 135 of Replat of outlot "A"  
 of Big Beaver" Subdivision. Part of S. W. 1/4, of Section 22, T. 2 N., R. 11 E., Troy  
 Twp., Oakland Co., Michigan, and that the streets and alleys as shown on said plat are  
 hereby dedicated to the use of the public.

Signed and Sealed in Presence of  
Ella M. Rankin  
Mary Hill

Livonia M. Kilmer (L.S.)  
William H. Burgess (L.S.)  
Myrtle C. Burgess (L.S.)  
 ..... (L.S.)

State of Michigan, )  
 County of Oakland ) ss.

On this 30th day of December, 1926 before me, a Notary Public  
 in and for said county, personally came the above named Livonia M. Kilmer  
William H. Burgess and Myrtle C. Burgess  
 known to me to be the persons who executed the above dedication, and acknowledged the  
 same to be their free act and deed.

Harry L. Schultz

My Commission expires Jan. 13th, 1930. Notary Public, Oakland Co. Mich.

DESCRIPTION OF LAND PLATTED.

The land embraced in the annexed plat of "Burgess Bungalow Subdivision" of part of  
 Lot 135 of replat of outlot "A" of Big Beaver Subdivision. Part of S. W. 1/4 of Section 22,  
 T. 2 N., R. 11 E., Troy Twp., Oakland Co., Michigan, is described as follows: Beginning  
 at a point 165' N. 88° 40' W. 286' N. 1° 30' E. from the S. E. corner of the S. W. 1/4  
 of Sec. 22, T. 2 N., R. 11 E., Troy Twp. Oakland Co., Michigan; thence N. 88°-40' W. 273';  
 thence N. 1° 30' E. 550'; thence S. 88°-40' E., 273'; thence S. 1° 30' W. 550' to the  
 point of beginning.

SURVEYOR'S CERTIFICATE.

I hereby certify that the plat hereon delineated is a correct one and that permanent  
 metal monuments of not less than one inch in diameter and fifteen inches in length set  
 in a concrete base at least four inches in diameter and forty-eight inches in depth have  
 been placed at points marked thus: (●) as thereon shown at all angles in the boundaries  
 of the land platted, at all the intersections of streets, intersections of alleys, or of  
 streets and alleys, and at the intersections of streets and alleys with the boundaries  
 of the plat as shown on said plat.

Robert Brauch  
 Registered Civil Engineer.

CERTIFICATE OF APPROVAL.

This plat was approved by the Township Board of Troy Twp., at a meeting held  
Feb. 9-1927

James M. Miller  
 Clerk.

Register's Office  
 Oakland County  
 This instrument was received for record  
APR 7 - 1927 at 4 o'clock P.  
 and recorded in Liber 471  
 of 1 on page 24  
Wm. C. Brauch Register

Approved by the Board of County Auditors  
 of Oakland County, Michigan, this 7  
 day of March, 1927.

Edward J. ...  
 Chairman

**Oakland County Treasurer's Certificate**  
 This is to Certify that there are no Tax Liens or Titles  
 held by the State or any other authority against and that all Taxes  
 levied and assessed in this township are paid FIVE YEARS  
473  
Jessie J. Gray  
 County Treasurer.  
 Pontiac, Mich. March 5, 1927.



## CITY COUNCIL ACTION REPORT

December 12, 2008

TO: Phillip L. Nelson, City Manager

FROM: John M. Lamerato, Assistant City Manager-Finance/Administration  
Nino Licari, City Assessor

SUBJECT: Regular Business for Standard Resolutions 1, 2, & 3 for paving of Florence, in section 9, SAD #08.108.1

### Background:

- Residents of Florence Street expressed interest in an informational meeting to determine their interest in paving all or part of the street under Special Assessment guidelines. The Engineering Department poll specified an interest by the residents to have the meeting proceed. Staff met with the residents on November 20, 2008, and explained the procedure to the residents.

On December 11, 2008, petitions were submitted to the City Clerk's Office detailing those residents approving of the establishment of a Special Assessment District to pay the cost of asphalt paving.

Thirteen (13) of twenty-two (22) of the owners signed in favor of the project, or 59.09%. Also, 61.17% of the owners of the frontage on the roadway signed in favor of the project.

Council is asked at this point to approve Standard Resolutions 1 (preparations of plans and cost estimates), Standard Resolution 2 (approval of the plans and cost estimates), and Standard Resolution 3 (setting a Public Hearing for final approval/disapproval of the project).

### Financial Considerations:

- The total project cost is \$162,800, of which the City share is \$85,400. This amount is budgeted in the Local Roads fund.

The Special Assessment share of \$77,400 will be transferred out of the Local Roads fund, into a Special Assessment account. The owners will then have a ten (10) year payment plan, at 6% interest to reimburse the City for the up front portion that the City pays. There is no pre payment penalty, and the Special Assessment can be paid in full at any point. It is, however, a lien on the

property from the moment City Council approves Standard Resolution #4. Any owner wishing to sell their property after the lien is placed, must reimburse the entire Special Assessment amount to receive clear title to the property.

Legal Considerations:

- There are no legal considerations with this item.

Policy Considerations:

This paving project is in keeping with City Council Outcome II; *'Troy adds value to properties through maintenance or upgrades of infrastructure and quality of life venues.'*

Options:

- Council may move forward with the project by approving Standard resolutions 1, 2, & 3, or stop the project at this point by not acting on the resolutions.

NL/nl H:\SpecialAssess\Florence\Memo 123.12.12.08



REQUEST FOR PUBLIC IMPROVEMENT  
(TO BE USED ONLY FOR SPECIAL ASSESSMENT IMPROVEMENTS)

To the Honorable,  
The Mayor and City Council  
Troy, Michigan

We, the undersigned, owners of property in the City of Troy to be benefited by the proposed improvements, description of which property, and our addresses, are set forth opposite our respective names hereto, do hereby request the following public improvements, to wit:

**Bituminous Asphalt Paving of Florence Street with Community Block  
Grant Funds available to qualifying households.**

This request is not made for the purpose of initiating such improvement, but only for advising the City Council of our desire for such improvement and willingness to have our property assessed therefore if the Council, in the exercise of its discretion, orders such improvement to be made.

Signature	Printed Name	Address	Date	Parcel H.D. #	Telephone #
<i>Charles E. Simpson</i>	CHARLES E. SIMPSON	130 FLORENCE	11/24/08	88-20-09-226-009	248-879-8299
<i>Alexandra Helen Pfeiffer</i>	Alexandra Helen Pfeiffer	130 Florence	11/24/08	88-20-09-226-009	248-879-8299
<i>Thomas Robert Szewski</i>	THOMAS ROBERT SZEWSKI	55 FLORENCE	11-24-08	88-20-09-233-024	586-914-0276
<i>Bonetta Margaret</i>	Bonetta Margaret	60 Florence	11/24/08	88-20-09-231-017	248-828-826
<i>Pamela Z. Lutes</i>	Pamela Z. Lutes	127 Florence	11/24/08	88-20-09-233-005	248-20-8015
<i>Timothy T. Murphy</i>	TIMOTHY T. MURPHY	99 Florence	11/24/08	88-20-09-233-023	248-828-1290
<i>Nanci L. Murphy</i>	Nanci L. Murphy	99 Florence	11/25/08	88-20-09-233-023	248-828-1290
<i>Matthew T. Katich</i>	Matthew T. Katich	42 Florence	11/26/08	88-20-09-232-007	248-736-5716
<i>Andrea C. Katich</i>	Andrea C. Katich	42 Florence	11/26/08	88-20-09-232-007	517-927-99
<i>Brian Girnbach</i>	Brian Girnbach	141 Florence	11/26/08	88-20-09-233-004	248-890-895
<i>Annamarie Bartlett</i>	Annamarie Bartlett	150 FLORENCE	11/27/08	88-20-09-226-018	248-879-5987
<i>Donald S. Bartlett</i>	Donald S. Bartlett	150 Florence	11/27/08	88-20-09-226-018	248-879-5987
<i>Gray Pierce</i>	Gray Pierce	200 FLORENCE	11/27/08	88-20-09-226-017	248-813-879
<i>Deborah Pierce</i>	DEBORAH PIERCE	200 FLORENCE	11-27-08	88-20-09-226-017	248-813-8799

In case of joint ownership, husband and wife and/or other joint owner must sign. (Affidavit on reverse side of page must be filled out).

**RECEIVED**

DEC 11 2008

CITY OF TROY  
ASSESSING DEPT.

REQUEST FOR PUBLIC IMPROVEMENT  
(TO BE USED ONLY FOR SPECIAL ASSESSMENT IMPROVEMENTS)

To the Honorable,  
The Mayor and City Council  
Troy, Michigan

We, the undersigned, owners of property in the City of Troy to be benefited by the proposed improvements, description of which property, and our addresses, are set forth opposite our respective names hereto, do hereby request the following public improvements, to wit:

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Grant Funds available to qualifying households.**

This request is not made for the purpose of initiating such improvement, but only for advising the City Council of our desire for such improvement and willingness to have our property assessed therefore if the Council, in the exercise of its discretion, orders such improvement to be made.

Signature	Printed Name	Address	Date	Parcel I.D. #	Telephone #
<i>Christy Collier</i>	Christy J. Collier	108 Florence	11/20/08	88-20-09-231-001	248-879-0808
<i>Lisa Marie Fulcher</i>	Lisa Marie Fulcher	221 Florence	12/1/08	88-20-09-233-002	248-879-1900
<i>Timothy R. Fulcher</i>	TIMOTHY R. FULCHER	221 FLORENCE	12/1/08	88-20-09-233-002	248-879-1900

In case of joint ownership, husband and wife and/or other joint owner must sign. (Affidavit on reverse side of page must be filled out).

**RECEIVED**  
DEC 11 2008  
CITY OF TROY  
ASSESSING DEPT.

State of Michigan }  
County of Oakland }

I, Timothy Thomas Murphy being duly sworn, say that I reside at No. 99  
Florence Street; that I know of my own personal knowledge that each of the persons  
purporting to sign the foregoing request did sign the same and that all of said signers are  
property owners of the City of Troy.

(Signed)



Signed, subscribed and sworn to before me, a Notary Public in and for said County this  
11th day of December, 2008.



CHERYL A. STEWART  
Notary Public, Oakland County, MI  
My Commission Expires May 3, 2012  
Acting in Oakland County

My commission expires: May 3, 2012

**RECEIVED**

DEC 11 2008

**CITY OF TROY  
ASSESSING DEPT.**

State of Michigan }  
County of Oakland }

I, Timothy Thomas Murphy being duly sworn, say that I reside at No. 99  
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(Signed)



Signed, subscribed and sworn to before me, a Notary Public in and for said County this  
11th day of December, 2008



CHERYL A. STEWART  
Notary Public, Oakland County, MI  
My Commission Expires May 3, 2012  
Acting in Oakland County

My commission expires: May 3, 2012

**RECEIVED**

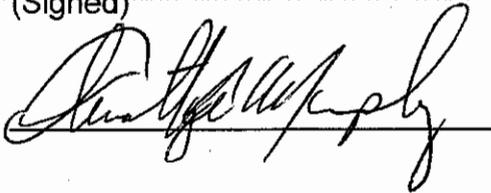
DEC 1 1 2008

CITY OF TROY  
ASSESSING DEPT.

State of Michigan }  
County of Oakland }

I, Timothy Thomas Murphy being duly sworn, say that I reside at No. 99 Florence  
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(Signed)



Signed, subscribed and sworn to before me, a Notary Public in and for said County this  
11th day of December, 2008



CHERYL A. STEWART  
Notary Public, Oakland County, MI  
My Commission Expires May 3, 2012  
Acting in Oakland County

My commission expires: May 3, 2012

**RECEIVED**

DEC 11 2008

CITY OF TROY  
ASSESSING DEPT.

**City of Troy - Assessing Department**  
**Florence Street Paving S.A.D # 08.108.1**  
**Petition Analysis**  
**S.A.D. Cost = \$77,400.00**  
**2,493.75 Lineal Feet @ \$31.03759 / LF**

Parcel ID	Name	Address	Street	Frontage	% of Total	Yes	No	% Yes	SAD \$
88-20-09-226-005	Snow, Jonathan & Marianne	256	Florence	80.00	3.21				2,483.01
88-20-09-226-006	Carpenter, Gary	244	Florence	80.00	3.21				2,483.01
88-20-09-226-007	Sabha, Arya	224	Florence	83.15	3.33				2,580.78
<b>88-20-09-226-009</b>	<b>Simpson, Charles &amp; Alexandra</b>	<b>130</b>	<b>Florence</b>	<b>140.00</b>	<b>5.61</b>	<b>2</b>		<b>5.61</b>	<b>4,345.26</b>
<b>88-20-09-226-017</b>	<b>Pierce, Gary &amp; Deborah</b>	<b>200</b>	<b>Florence</b>	<b>131.98</b>	<b>5.29</b>	<b>2</b>		<b>5.29</b>	<b>4,096.34</b>
<b>88-20-09-226-018</b>	<b>Bartlett, Donald &amp; Annmarie</b>	<b>150</b>	<b>Florence</b>	<b>150.00</b>	<b>6.02</b>	<b>2</b>		<b>6.02</b>	<b>4,655.64</b>
<b>88-20-09-231-015</b>	<b>Collier, Cavin</b>	<b>108</b>	<b>Florence</b>	<b>100.00</b>	<b>4.01</b>	<b>1</b>		<b>4.01</b>	<b>3,103.76</b>
<b>88-20-09-231-016</b>	<b>Iskander, Asm &amp; Hosne</b>	<b>76</b>	<b>Florence</b>	<b>80.00</b>	<b>3.21</b>	<b>2</b>		<b>3.21</b>	<b>2,483.01</b>
<b>88-20-09-231-017</b>	<b>Maggard, Loretta</b>	<b>60</b>	<b>Florence</b>	<b>120.00</b>	<b>4.81</b>	<b>1</b>		<b>4.81</b>	<b>3,724.51</b>
<b>88-20-09-232-007</b>	<b>Katich, Matthew &amp; Andrea</b>	<b>42</b>	<b>Florence</b>	<b>93.64</b>	<b>3.75</b>	<b>2</b>		<b>3.75</b>	<b>2,906.36</b>
88-20-09-232-008	Zhao, Qinming & Zhang, Li	34	Florence	93.64	3.75				2,906.36
88-20-09-232-009	Bergin, Mark	26	Florence	93.64	3.75				2,906.36
88-20-09-233-001	Snow, Jonathan (Marianne?)	255	Florence	120.00	4.81				3,724.51
<b>88-20-09-233-002</b>	<b>Fulcher, Timothy &amp; Lisa</b>	<b>221</b>	<b>Florence</b>	<b>123.30</b>	<b>4.94</b>	<b>2</b>		<b>4.94</b>	<b>3,826.94</b>
<b>88-20-09-233-004</b>	<b>Girrbach, Brian</b>	<b>141</b>	<b>Florence</b>	<b>121.65</b>	<b>4.88</b>	<b>1</b>		<b>4.88</b>	<b>3,775.72</b>
<b>88-20-09-233-005</b>	<b>Lutes, Pamela</b>	<b>127</b>	<b>Florence</b>	<b>121.65</b>	<b>4.88</b>	<b>1</b>		<b>4.88</b>	<b>3,775.72</b>
<b>88-20-09-233-021</b>	<b>Diedrich, Norman</b>	<b>47</b>	<b>Florence</b>	<b>100.00</b>	<b>4.01</b>	<b>1</b>		<b>4.01</b>	<b>3,103.76</b>
88-20-09-233-022	Sankovich, Perry	25	Florence	174.50	7.00				5,416.06
<b>88-20-09-233-023</b>	<b>Murphy, Timothy &amp; Nanci</b>	<b>99</b>	<b>Florence</b>	<b>120.00</b>	<b>4.81</b>	<b>2</b>		<b>4.81</b>	<b>3,724.51</b>
<b>88-20-09-233-024</b>	<b>Sobanski, Thomas</b>	<b>55</b>	<b>Florence</b>	<b>123.30</b>	<b>4.94</b>	<b>1</b>		<b>4.94</b>	<b>3,826.94</b>
88-20-09-233-025	Ferrari, Wayne & Sandra	215	Florence	138.30	5.55				4,292.50
88-20-09-233-026	Porter, Vicki	149	Florence	105.00	4.21				3,258.95

2,493.75 100.00 61.17 77,400.00

31.03759

LF	Yes	1,525.52	61.17
LF	No	968.23	38.83
Owners	Yes	13.00	59.09
Owners	No	9.00	40.91
\$\$	Yes	47,348.47	61.17
\$\$	No	30,051.53	38.83

**FLORENCE STREET PAVING**  
**S.A.D # 08.108.1**  
**S.A.D. Cost = \$77,400.00**  
**2,493.75 Lineal Feet @ \$31.03759 / LF**

← 88-20-09-226			1,246.05 LF				88-20-09-231 →			88-20-09-232 —		
-005 \$2,483.01 256 80.00	-006 \$2,483.01 244 80.00	-007 \$2,580.78 224 83.15	-017 Y \$4,096.34 200 131.98	-018 Y \$4,655.64 150 150.00	-009 Y \$4,345.26 130 140.00	-015 Y \$3,103.76 108 100.00	-016 Y \$2,483.01 76 80.00	-017 Y \$3,724.51 60 120.00	-007 Y \$2,906.36 42 93.64	-008 \$2,906.36 34 93.64	-009 \$2,906.36 26 93.64	27' ROW
<b>FLORENCE</b>												<b>LIVVERNOIS</b>
120.00 255 \$3,724.51 -001	123.30 221 Y \$3,826.94 -002	138.30 215 \$4,292.50 -025	105.00 149 \$3,258.95 -026	121.65 141 Y \$3,775.72 -004	121.65 127 Y \$3,775.72 -005	120.00 99 Y \$3,724.51 -023	123.30 55 Y \$3,826.94 -024	100.00 47 Y \$3,103.76 -021	174.50 25 \$5,416.06 -022			27' ROW
←			1,247.70 LF				88-20-09-233 →					

## Preliminary Cost Estimate

October 17, 2008

Project Location: Florence Street (Livernois Rd. to West End)

Project No.: 08.108.1

Proposed Improvement: 1,287 LF, 22' wide Bituminous Asphalt Pavement

Item	Quantity	Description	Unit Cost	Total Cost
<b>SAD Share - Asphalt Section (1,287')</b>				
1	571 Tons	Bit. Mix No. 500, 20C - 3"	85.00	48,535.00
2	286 Tons	Bit. Mix No. 1100T, 20AA - 1 1/2"	85.00	24,310.00
3	105 Tons	21AA Aggregate for Shoulders	20.00	2,100.00
<b>Sub-Total</b>				<b>74,945.00</b>
Engineering, Admin. And Contingencies, 30%				22,483.50
<b>Sub-Total</b>				<b>97,428.50</b>
Maintenance Savings				(20,000.00)
<b>Total Special Assessment Share - Asphalt</b>				<b>77,400.00</b>
<b>City Share</b>				
4	629 CY	Earth Excavation	10.00	6,290.00
5	100 CY	Subgrade Undercut, w/ crush. Conc.	40.00	4,000.00
6	3,432 SY	Grading	3.00	10,296.00
7	1,133 Tons	Aggregate Base, 21AA	20.00	22,660.00
8	21 Each	Relocate Mailbox Post	100.00	2,100.00
9	10 Each	Reconstruct/Adjust Structure	500.00	5,000.00
10	3,432 SY	Turf Restoration		Incidental
<b>Sub-Total</b>				<b>50,346.00</b>
Engineering, Admin. And Contingencies, 30%				15,103.80
<b>Sub-Total</b>				<b>65,449.80</b>
Maintenance Savings				20,000.00
<b>Total City Share</b>				<b>85,400.00</b>
<b>TOTAL PROJECT COST</b>				<b>162,800.00</b>

Prepared by: Antonio Cicchetti, PE

<\\G:\Projects\Projects - 2008\08.108.1 - Florence Paving S.A.D\SS\Preliminary Cost Estimate.xls>

# City of Troy Assessing Department

Project Name Florence Bituminous Asphalt Paving

Project # 08.108.1

## Amortization Table 10 Year

int. @.06

<b>Assessment</b> 2,483.01
-------------------------------

Year	Principal	Interest	Payment	Balance
1	\$ 248.30		\$ 248.30	\$ 2,234.71
2	\$ 248.30	\$ 134.08	\$ 382.38	\$ 1,986.41
3	\$ 248.30	\$ 119.18	\$ 367.49	\$ 1,738.11
4	\$ 248.30	\$ 104.29	\$ 352.59	\$ 1,489.81
5	\$ 248.30	\$ 89.39	\$ 337.69	\$ 1,241.51
6	\$ 248.30	\$ 74.49	\$ 322.79	\$ 993.20
7	\$ 248.30	\$ 59.59	\$ 307.89	\$ 744.90
8	\$ 248.30	\$ 44.69	\$ 293.00	\$ 496.60
9	\$ 248.30	\$ 29.80	\$ 278.10	\$ 248.30
10	\$ 248.30		\$ 248.30	\$ 0.00

<b>TOTAL</b>	\$ 2,483.01	\$ 655.51	\$ 3,138.52
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88-20-09-231-016	76 Florence
88-20-09-226-006	244 Florence
88-20-09-226-005	256 Florence

# City of Troy Assessing Department

Project Name Florence Bituminous Asphalt Paving

Project # 08.108.1

## Amortization Table 10 Year

int. @.06

<b>Assessment</b>
2,580.78

Year	Principal	Interest	Payment	Balance
1	\$ 258.08		\$ 258.08	\$ 2,322.70
2	\$ 258.08	\$ 139.36	\$ 397.44	\$ 2,064.62
3	\$ 258.08	\$ 123.88	\$ 381.96	\$ 1,806.55
4	\$ 258.08	\$ 108.39	\$ 366.47	\$ 1,548.47
5	\$ 258.08	\$ 92.91	\$ 350.99	\$ 1,290.39
6	\$ 258.08	\$ 77.42	\$ 335.50	\$ 1,032.31
7	\$ 258.08	\$ 61.94	\$ 320.02	\$ 774.23
8	\$ 258.08	\$ 46.45	\$ 304.53	\$ 516.16
9	\$ 258.08	\$ 30.97	\$ 289.05	\$ 258.08
10	\$ 258.08		\$ 258.08	-

<b>TOTAL</b>	\$ 2,580.78	\$ 681.33	\$ 3,262.11
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88-20-09-226-007

224 Florence

# City of Troy Assessing Department

Project Name Florence Bituminous Asphalt Paving

Project # 08.108.1

## Amortization Table 10 Year

int. @.06

<b>Assessment</b>
<b>2,906.36</b>

Year	Principal	Interest	Payment	Balance
1	\$ 290.64		\$ 290.64	\$ 2,615.72
2	\$ 290.64	\$ 156.94	\$ 447.58	\$ 2,325.09
3	\$ 290.64	\$ 139.51	\$ 430.14	\$ 2,034.45
4	\$ 290.64	\$ 122.07	\$ 412.70	\$ 1,743.82
5	\$ 290.64	\$ 104.63	\$ 395.26	\$ 1,453.18
6	\$ 290.64	\$ 87.19	\$ 377.83	\$ 1,162.54
7	\$ 290.64	\$ 69.75	\$ 360.39	\$ 871.91
8	\$ 290.64	\$ 52.31	\$ 342.95	\$ 581.27
9	\$ 290.64	\$ 34.88	\$ 325.51	\$ 290.64
10	\$ 290.64		\$ 290.64	-

<b>TOTAL</b>	\$ 2,906.36	\$ 767.28	\$ 3,673.64
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88-20-09-232-009	26 Florence
88-20-09-232-008	34 Florence
88-20-09-232-007	42 Florence

## City of Troy Assessing Department

Project Name Florence Bituminous Asphalt Paving

Project # 08.108.1

### Amortization Table 10 Year

int. @.06

Assessment 3,103.76
------------------------

Year	Principal	Interest	Payment	Balance
1	\$ 310.38		\$ 310.38	\$ 2,793.38
2	\$ 310.38	\$ 167.60	\$ 477.98	\$ 2,483.01
3	\$ 310.38	\$ 148.98	\$ 459.36	\$ 2,172.63
4	\$ 310.38	\$ 130.36	\$ 440.73	\$ 1,862.26
5	\$ 310.38	\$ 111.74	\$ 422.11	\$ 1,551.88
6	\$ 310.38	\$ 93.11	\$ 403.49	\$ 1,241.50
7	\$ 310.38	\$ 74.49	\$ 384.87	\$ 931.13
8	\$ 310.38	\$ 55.87	\$ 366.24	\$ 620.75
9	\$ 310.38	\$ 37.25	\$ 347.62	\$ 310.38
10	\$ 310.38		\$ 310.38	\$ -

<b>TOTAL</b>	\$ 3,103.76	\$ 819.39	\$ 3,923.15
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88-20-09-233-021  
88-20-09-231-015

47 Florence  
108 Florence

## City of Troy Assessing Department

Project Name Florence Bituminous Asphalt Paving

Project # 08.108.1

### Amortization Table 10 Year

int. @.06

<b>Assessment</b>
<b>3,258.95</b>

Year	Principal	Interest	Payment	Balance
1	\$ 325.90		\$ 325.90	\$ 2,933.06
2	\$ 325.90	\$ 175.98	\$ 501.88	\$ 2,607.16
3	\$ 325.90	\$ 156.43	\$ 482.32	\$ 2,281.27
4	\$ 325.90	\$ 136.88	\$ 462.77	\$ 1,955.37
5	\$ 325.90	\$ 117.32	\$ 443.22	\$ 1,629.48
6	\$ 325.90	\$ 97.77	\$ 423.66	\$ 1,303.58
7	\$ 325.90	\$ 78.21	\$ 404.11	\$ 977.69
8	\$ 325.90	\$ 58.66	\$ 384.56	\$ 651.79
9	\$ 325.90	\$ 39.11	\$ 365.00	\$ 325.90
10	\$ 325.90		\$ 325.90	-

<b>TOTAL</b>	\$ 3,258.95	\$ 860.36	\$ 4,119.31
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88-20-09-233-026

149 Florence

## City of Troy Assessing Department

Project Name Florence Bituminous Asphalt Paving

Project # 08.108.1

### Amortization Table 10 Year

int. @.06

Assessment 3,724.51
------------------------

Year	Principal	Interest	Payment	Balance
1	\$ 372.45		\$ 372.45	\$ 3,352.06
2	\$ 372.45	\$ 201.12	\$ 573.57	\$ 2,979.61
3	\$ 372.45	\$ 178.78	\$ 551.23	\$ 2,607.16
4	\$ 372.45	\$ 156.43	\$ 528.88	\$ 2,234.71
5	\$ 372.45	\$ 134.08	\$ 506.53	\$ 1,862.26
6	\$ 372.45	\$ 111.74	\$ 484.19	\$ 1,489.80
7	\$ 372.45	\$ 89.39	\$ 461.84	\$ 1,117.35
8	\$ 372.45	\$ 67.04	\$ 439.49	\$ 744.90
9	\$ 372.45	\$ 44.69	\$ 417.15	\$ 372.45
10	\$ 372.45		\$ 372.45	-

<b>TOTAL</b>	\$ 3,724.51	\$ 983.27	\$ 4,707.78
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88-20-09-231-017	60 Florence
88-20-09-233-023	99 Florence
88-20-09-233-001	255 Florence

# City of Troy Assessing Department

Project Name Florence Bituminous Asphalt Paving

Project # 08.108.1

## Amortization Table 10 Year

int. @.06

<b>Assessment</b>
3,775.72

Year	Principal	Interest	Payment	Balance
1	\$ 377.57		\$ 377.57	\$ 3,398.15
2	\$ 377.57	\$ 203.89	\$ 581.46	\$ 3,020.58
3	\$ 377.57	\$ 181.23	\$ 558.81	\$ 2,643.00
4	\$ 377.57	\$ 158.58	\$ 536.15	\$ 2,265.43
5	\$ 377.57	\$ 135.93	\$ 513.50	\$ 1,887.86
6	\$ 377.57	\$ 113.27	\$ 490.84	\$ 1,510.29
7	\$ 377.57	\$ 90.62	\$ 468.19	\$ 1,132.72
8	\$ 377.57	\$ 67.96	\$ 445.53	\$ 755.14
9	\$ 377.57	\$ 45.31	\$ 422.88	\$ 377.57
10	\$ 377.57		\$ 377.57	\$ (0.00)

<b>TOTAL</b>	\$ 3,775.72	\$ 996.79	\$ 4,772.51
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88-20-09-233-005  
88-20-09-233-004

127 Florence  
141 Florence

## City of Troy Assessing Department

Project Name Florence Bituminous Asphalt Paving

Project # 08.108.1

### Amortization Table 10 Year

int. @.06

Assessment 3,826.94
------------------------

3

Year	Principal	Interest	Payment	Balance
1	\$ 382.69		\$ 382.69	\$ 3,444.25
2	\$ 382.69	\$ 206.65	\$ 589.35	\$ 3,061.55
3	\$ 382.69	\$ 183.69	\$ 566.39	\$ 2,678.86
4	\$ 382.69	\$ 160.73	\$ 543.43	\$ 2,296.16
5	\$ 382.69	\$ 137.77	\$ 520.46	\$ 1,913.47
6	\$ 382.69	\$ 114.81	\$ 497.50	\$ 1,530.78
7	\$ 382.69	\$ 91.85	\$ 474.54	\$ 1,148.08
8	\$ 382.69	\$ 68.88	\$ 451.58	\$ 765.39
9	\$ 382.69	\$ 45.92	\$ 428.62	\$ 382.69
10	\$ 382.69		\$ 382.69	\$ -

<b>TOTAL</b>	\$ 3,826.94	\$ 1,010.31	\$ 4,837.25
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88-20-09-233-024  
88-20-09-233-002

55 Florence  
221 Florence

# City of Troy Assessing Department

Project Name Florence Bituminous Asphalt Paving

Project # 08.108.1

## Amortization Table 10 Year

int. @.06

<b>Assessment</b>
<b>4,096.34</b>

Year	Principal	Interest	Payment	Balance
1	\$ 325.90		\$ 325.90	\$ 3,770.45
2	\$ 325.90	\$ 226.23	\$ 552.12	\$ 3,444.55
3	\$ 325.90	\$ 206.67	\$ 532.57	\$ 3,118.66
4	\$ 325.90	\$ 187.12	\$ 513.01	\$ 2,792.76
5	\$ 325.90	\$ 167.57	\$ 493.46	\$ 2,466.87
6	\$ 325.90	\$ 148.01	\$ 473.91	\$ 2,140.97
7	\$ 325.90	\$ 128.46	\$ 454.35	\$ 1,815.08
8	\$ 325.90	\$ 108.90	\$ 434.80	\$ 1,489.18
9	\$ 325.90	\$ 89.35	\$ 415.25	\$ 1,163.29
10	\$ 325.90		\$ 325.90	\$ 837.39

<b>TOTAL</b>	\$ 3,258.95	\$ 1,262.31	\$ 4,521.26	
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88-20-09-226-017

200 Florence

# City of Troy Assessing Department

Project Name Florence Bituminous Asphalt Paving

Project # 08.108.1

## Amortization Table 10 Year

int. @.06

<b>Assessment</b>
4,292.50

Year	Principal	Interest	Payment	Balance
1	\$ 325.90		\$ 325.90	\$ 3,966.61
2	\$ 325.90	\$ 238.00	\$ 563.89	\$ 3,640.71
3	\$ 325.90	\$ 218.44	\$ 544.34	\$ 3,314.82
4	\$ 325.90	\$ 198.89	\$ 524.78	\$ 2,988.92
5	\$ 325.90	\$ 179.34	\$ 505.23	\$ 2,663.03
6	\$ 325.90	\$ 159.78	\$ 485.68	\$ 2,337.13
7	\$ 325.90	\$ 140.23	\$ 466.12	\$ 2,011.24
8	\$ 325.90	\$ 120.67	\$ 446.57	\$ 1,685.34
9	\$ 325.90	\$ 101.12	\$ 427.02	\$ 1,359.45
10	\$ 325.90		\$ 325.90	\$ 1,033.55

<b>TOTAL</b>	\$ 3,258.95	\$ 1,356.47	\$ 4,615.42	
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88-20-09-233-025

215 Florence

## City of Troy Assessing Department

Project Name Florence Bituminous Asphalt Paving

Project # 08.108.1

### Amortization Table 10 Year

int. @.06

<b>Assessment</b>
4,345.26

Year	Principal	Interest	Payment	Balance
1	\$ 325.90		\$ 325.90	\$ 4,019.37
2	\$ 325.90	\$ 241.16	\$ 567.06	\$ 3,693.47
3	\$ 325.90	\$ 221.61	\$ 547.50	\$ 3,367.58
4	\$ 325.90	\$ 202.05	\$ 527.95	\$ 3,041.68
5	\$ 325.90	\$ 182.50	\$ 508.40	\$ 2,715.79
6	\$ 325.90	\$ 162.95	\$ 488.84	\$ 2,389.89
7	\$ 325.90	\$ 143.39	\$ 469.29	\$ 2,064.00
8	\$ 325.90	\$ 123.84	\$ 449.73	\$ 1,738.10
9	\$ 325.90	\$ 104.29	\$ 430.18	\$ 1,412.21
10	\$ 325.90		\$ 325.90	\$ 1,086.31

<b>TOTAL</b>	\$ 3,258.95	\$ 1,381.79	\$ 4,640.74	
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88-20-09-226-009

130 Florence

# City of Troy Assessing Department

Project Name Florence Bituminous Asphalt Paving

Project # 08.108.1

## Amortization Table 10 Year

int. @.06

<b>Assessment</b>
4,655.64

Year	Principal	Interest	Payment	Balance
1	\$ 325.90		\$ 325.90	\$ 4,329.75
2	\$ 325.90	\$ 259.78	\$ 585.68	\$ 4,003.85
3	\$ 325.90	\$ 240.23	\$ 566.13	\$ 3,677.96
4	\$ 325.90	\$ 220.68	\$ 546.57	\$ 3,352.06
5	\$ 325.90	\$ 201.12	\$ 527.02	\$ 3,026.17
6	\$ 325.90	\$ 181.57	\$ 507.46	\$ 2,700.27
7	\$ 325.90	\$ 162.02	\$ 487.91	\$ 2,374.38
8	\$ 325.90	\$ 142.46	\$ 468.36	\$ 2,048.48
9	\$ 325.90	\$ 122.91	\$ 448.80	\$ 1,722.59
10	\$ 325.90		\$ 325.90	\$ 1,396.69

<b>TOTAL</b>	\$ 3,258.95	\$ 1,530.77	\$ 4,789.72	
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88-20-09-226-018

150 Florence

# City of Troy Assessing Department

Project Name Florence Bituminous Asphalt Paving

Project # 08.108.1

## Amortization Table 10 Year

int. @.06

<b>Assessment</b>
<b>5,416.06</b>

Year	Principal	Interest	Payment	Balance
1	\$ 325.90		\$ 325.90	\$ 5,090.17
2	\$ 325.90	\$ 305.41	\$ 631.30	\$ 4,764.27
3	\$ 325.90	\$ 285.86	\$ 611.75	\$ 4,438.38
4	\$ 325.90	\$ 266.30	\$ 592.20	\$ 4,112.48
5	\$ 325.90	\$ 246.75	\$ 572.64	\$ 3,786.59
6	\$ 325.90	\$ 227.20	\$ 553.09	\$ 3,460.69
7	\$ 325.90	\$ 207.64	\$ 533.54	\$ 3,134.80
8	\$ 325.90	\$ 188.09	\$ 513.98	\$ 2,808.90
9	\$ 325.90	\$ 168.53	\$ 494.43	\$ 2,483.01
10	\$ 325.90		\$ 325.90	\$ 2,157.11
<hr/>				
<b>TOTAL</b>	<b>\$ 3,258.95</b>	<b>\$ 1,895.78</b>	<b>\$ 5,154.73</b>	

88-20-09-233-022

25 Florence

88-20-09-226-005  
SNOW, JONATHAN & MARIAN  
256 FLORENCE  
TROY MI 48098-2951

88-20-09-226-006  
CARPENTER, GARY T  
244 FLORENCE  
TROY MI 48098-2951

88-20-09-226-007  
SABHA, ARYA P  
224 FLORENCE  
TROY MI 48098-2951

88-20-09-226-009  
SIMPSON, CHARLES & ALEXA  
130 FLORENCE  
TROY MI 48098-2950

88-20-09-226-017  
PIERCE, GARY & DEBORAH  
200 FLORENCE  
TROY MI 48098-2951

88-20-09-226-018  
BARTLETT, DONALD & ANNM  
150 FLORENCE  
TROY MI 48098-2950

88-20-09-231-015  
COLLIER, CAVIN  
108 FLORENCE  
TROY MI 48098-2950

88-20-09-231-016  
ISKANDER, ASM & HOSNE B  
76 FLORENCE  
TROY MI 48098-2924

88-20-09-231-017  
MAGGARD TRUST, LORETTA  
60 FLORENCE  
TROY MI 48098-2924

88-20-09-232-007  
KATICH, MATTHEW T & ANDR  
42 FLORENCE  
TROY MI 48098-2924

88-20-09-232-008  
ZHAO, QINGMING  
34 FLORENCE  
TROY MI 48098-2924

88-20-09-232-009  
BERGIN, MARK T  
26 FLORENCE  
TROY MI 48098-2924

88-20-09-233-001  
SNOW, JONATHAN N  
255 FLORENCE  
TROY MI 48098-2953

88-20-09-233-002  
FULCHER, TIMOTHY & LISA  
221 FLORENCE  
TROY MI 48098-2953

88-20-09-233-004  
GIRRBACH, BRIAN  
141 FLORENCE  
TROY MI 48098-2952

88-20-09-233-005  
LUTES, PAMELA Z  
127 FLORENCE  
TROY MI 48098-2952

88-20-09-233-021  
DIEDRICH, NORMAN J  
47 FLORENCE  
TROY MI 48098-2923

88-20-09-233-022  
SANKOVICH, PERRY J  
25 FLORENCE  
TROY MI 48098-2923

88-20-09-233-023  
MURPHY, TIMOTHY T & NANC  
99 FLORENCE  
TROY MI 48098-2923

88-20-09-233-024  
SOBANSKI, THOMAS  
55 FLORENCE  
TROY MI 48098-2923

88-20-09-233-025  
FERRARI, WAYNE & SANDRA  
215 FLORENCE  
TROY MI 48098-2953

88-20-09-233-026  
PORTER, VICKI A  
149 FLORENCE  
TROY MI 48098-2952

CITY OF TROY

PUBLIC HEARING

MEETING TO REVIEW THE NECESSITY FOR THE INSTALLATION OF ASPHALT PAVING ON FLORENCE STREET IN SECTION 9, AND TO HEAR ANY AND ALL OBJECTIONS TO THE NECESSITY OF THE PUBLIC IMPROVEMENT AND SAID SPECIAL ASSESSMENT ASSESSED AGAINST SPECIAL ASSESSMENT DISTRICT NO. 08.108.1 IN THE CITY OF TROY, MICHIGAN:

PLEASE TAKE NOTICE that the Council will meet at City Hall on the 16th day of FEBRUARY, 2009 at 7:30 o'clock p.m., for the purpose of reviewing the necessity for the installation of Asphalt Paving on Florence Street in Section 9, Project No. 08.108.1, and of hearing any and all objections to the necessity of the public improvement and Special Assessment made in the matter of construction of the following described improvement:

Installation of Asphalt Paving on Florence Street.

The Assessment Roll is on file in the office of the City Clerk for public examination. The Special Assessments therein contained have been assessed according to law against the parcels of land constituting Special Assessment District No. 08.108.1, which District is described as follows:

T2N, R11E, Section 9

88-20-09-226-005 The special assessment for your property is \$ 2,483.01,  
88-20-09-226-006 The special assessment for your property is \$ 2,483.01,  
88-20-09-226-007 The special assessment for your property is \$ 2,580.78,  
88-20-09-226-009 The special assessment for your property is \$ 4,345.26,  
88-20-09-226-017 The special assessment for your property is \$ 4,096.34,  
88-20-09-226-018 The special assessment for your property is \$ 4,655.64,  
88-20-09-231-015 The special assessment for your property is \$ 3,103.76,  
88-20-09-231-016 The special assessment for your property is \$ 2,483.01,  
88-20-09-231-017 The special assessment for your property is \$ 3,724.51,  
88-20-09-232-007 The special assessment for your property is \$ 2,906.36,  
88-20-09-232-008 The special assessment for your property is \$ 2,906.36,  
88-20-09-232-009 The special assessment for your property is \$ 2,906.36,  
88-20-09-233-001 The special assessment for your property is \$ 3,724.51,  
88-20-09-233-002 The special assessment for your property is \$ 3,826.94,  
88-20-09-233-004 The special assessment for your property is \$ 3,775.72,  
88-20-09-233-005 The special assessment for your property is \$ 3,775.72,  
88-20-09-233-021 The special assessment for your property is \$ 3,103.76,  
88-20-09-233-022 The special assessment for your property is \$ 5,416.06,  
88-20-09-233-023 The special assessment for your property is \$ 3,724.51.  
88-20-09-233-024 The special assessment for your property is \$ 3,826.94,  
88-20-09-233-025 The special assessment for your property is \$ 4,292.50,  
88-20-09-233-026 The special assessment for your property is \$ 3,258.95.

The above assessments and all proceedings upon which they are based shall not be contestable, unless suit to contest the validity thereof is instituted within thirty (30) days after the date of confirmation of said Special Assessment Roll No. 08.108.1

The owner or any person having an interest in the real property may file a written appeal of the special assessment with the state tax tribunal within 30 days after the confirmation of the special assessment roll if that special assessment was protested at the hearing held for the purpose of confirming the roll.

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Tonni L. Bartholomew, MMC  
City Clerk

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



**TO:** Members of the Troy City Council  
**FROM:** Lori Grigg Bluhm, City Attorney  
Allan T. Motzny, Assistant City Attorney  
**DATE:** January 14, 2009  
**SUBJECT:** Kendricks Lawsuit

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Plaintiff Christine Kendricks filed the attached lawsuit against several individuals and entities including the "City of Troy Police Department" and "City of Troy Police Department Employee Officer Theresa Harrison." Other defendants include Oakland County Probate Court Judge Eugene Moore, the Family Independence Agency and the individual caseworker, the Oakland County Prosecutor's Office, the Oakland County Probate Court Referee, Attorney Guardians Ad Litem, and various other defendants, including shelter and foster care facilities. Plaintiff has filed this lawsuit without the assistance of an attorney. In her complaint, Kendricks alleges she is entitled to relief based on eight separate causes of action, which include claims that she has been deprived of constitutional rights and that she has suffered from intentional and negligent infliction of emotional distress. The lawsuit was filed in the U.S. District Court for the Eastern District of Michigan, Judge Bernard A. Friedman.

Plaintiff claims she has suffered damages in excess of \$75,000 based on child protective proceedings initiated in the Oakland County Probate Court in March of 2001, when she was eleven years old. She alleges her removal from the custody of her parents was improper because of procedural errors that occurred in the Probate Court. She also claims the foster homes and/or shelters that she was placed into were unfit and unsuitable. As a result, she claims she has suffered physical and emotional injuries. According to her complaint, the City of Troy Police Department, along with all the other defendants, "authorized, tolerated, permitted, ratified in the creation of policies, practices, and customs, establishing a de facto policy of deliberate indifference to individuals such as Plaintiff." She also claims Officer Harrison threatened and harassed her to provide statements supporting allegations of child abuse against her father.

Officer Harrison was necessarily involved in the probate court proceedings, as well as the criminal prosecution of Plaintiff's father, which ultimately resulted in a conviction (Child Abuse 3<sup>rd</sup> degree). However, Officer Harrison's involvement with Plaintiff and her family was minimal. Officer Harrison was initially alerted to the suspected abuse by the Family Independence Agency caseworker, who had been contacted by Plaintiff's school, since there were bruises on her arms. Plaintiff never explained how the bruises were received, but her sister volunteered that the bruises were caused by Plaintiff's father, who hit her with a belt. Pursuant to an order of the Probate Court, Plaintiff was temporarily placed into protective custody. This temporary order was later adjudicated in the Oakland County Probate Court, resulting in the more permanent foster care placement.

In order to comply with the 20 day period in which to respond to a new federal lawsuit, our office has already filed an answer to the complaint and a motion to dismiss. Absent any objection from City Council, we will continue the defense of the Police Department and Officer Harrison.

If you have any questions concerning the above, please let us know.

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN**

CHRISTINE KENDRICKS,  
Pro Se Plaintiff,

V

Case:2:08-cv-15193  
Judge: Friedman, Bernard A  
MJ: Scheer, Donald A  
Filed: 12-17-2008 At 02:38 PM  
CMP CHRISTINE KENDRICKS V HON. EUGE  
NE ARTHUR MOORE, ET AL (LG)

HON. EUGENE ARTHUR MOORE  
FAMILY INDEPENDENCE AGENCY;  
EMPLOYEE JACINDA KENT JONES (FLA)  
MARK BOSLER, ATTORNEY GUARDIAN AD LITEM  
CITY OF TROY POLICE DEPT.  
EMPLOYEE OFFICER THERESA HARRISON (TROY PD)  
BERNADINE TROUT, ATTORNEY GUARDIAN AD LITEM  
REFEREE TWILA LEIGH  
OAKLAND COUNTY CHILDREN'S VILLAGE  
WOLVERINE SERVICES  
VISTA MARIA  
OAKLAND COUNTY PROSECUTOR OFFICE  
Jointly and Severally,  
Defendants,

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**COMPLAINT AND JURY DEMAND**

Now Comes, Plaintiff, CHRISTINE A. KENDRICKS, having now reached the age of majority to state her Complaint as follows:

**I. VENUE AND JURISDICTION**

1. This court has subject-matter jurisdiction over the Plaintiff's claim pursuant to 28 U.S.C. §§1331, 1343 (3-4) and 42 U.S.C. 1981; 1983; 1988
2. Venue is proper pursuant to U.S.C. §1391(b) in that Plaintiff's claim arose in the Eastern District of Michigan.

## II. PARTIES

3. Plaintiff, CHRISTINE KENDRICKS, resided at 2318 Valleyview Dr., Troy, MI when the events outlined took place. At times relevant herein, the Plaintiff was a minor.
4. The Defendant, Honorable Eugene Arthur Moore (P17924) is an Oakland County Probate Court Judge. On March 8, 2001, Judge Moore improperly assumed jurisdiction of the Plaintiff's case until his recusal March 12, 2003.
5. The Defendant, Michigan Family Independence Agency ("FIA") is a State of Michigan Agency, generally specializing in, among other things, the investigation of child neglect/abuse complaints and the treatment and housing of adjudicated youth.
6. The Defendant, Jacinda Kent (Jones), is an adult and competent individual who at all relevant times herein was a social worker for the Michigan Family Independence Agency.
7. The Defendant, Mark Bosler (P33800), is an adult and competent individual who was appointed Attorney Guardian Ad Litem for the Plaintiff on March 8, 2001.
8. The Defendant, The City of Troy Police Department is a local agency that serves to protect those residing in the city of Troy, Michigan.
9. The Defendant, Theresa Harrison, is an adult and competent individual who at all relevant times herein was an employee of the City of Troy Police Department.
10. The Defendant, Bernadine Trout (P47000), is an adult and competent individual who was appointed Attorney Guardian Ad Litem for the Plaintiff on August 27, 2002.

11. The Defendant, Referee Twila Leigh (P39479), at times relevant herein, was an Oakland County Probate Court Referee.
12. The Defendant, Oakland County Children's Village, is, and at all relevant times mentioned in the Complaint was, an entity organized and operating under the laws of the State of Michigan.
13. The Defendant, Vista Maria, is, and at all relevant times mentioned in the Complaint was, an entity existing and operating under the laws of the State of Michigan, with its principal place of business located at 20651 Warren Ave, Dearborn Heights, MI 48127.
14. The Defendant, Wolverine Services, is, and at all relevant times mentioned in the Complaint was, an entity existing and operating under the laws of the State of Michigan, with its principal place of business located at 15100 Mack Ave, Grosse Point Park, MI 48224.
15. The Defendant, The Oakland County Prosecutor's Office, is, and at all relevant times mentioned in the Complaint was, an entity organized under the laws of the State of Michigan and assigned to represent the Michigan Family Independence Agency.

### **III. FACTUAL BACKGROUND APPLICABLE TO ALL CLAIMS**

16. Plaintiff, Christine Kendricks, age 18, at all times relevant herein, the Plaintiff was a minor residing in the State of Michigan.
17. On March 6, 2001, Plaintiff was removed from her Troy, Michigan Boulan Park Middle School classroom for the purpose of interrogation by Michigan Family

- Independence Agency (“ FIA”) worker Jacinda Kent. The visit came at the request of Boulan Park Middle School officials via phone call on March 5, 2001.
18. On March 6, 2001, Plaintiff informed Defendant, Jacinda Kent (Jones), that she was not abused or neglected. The interrogation ceased and Plaintiff returned to class.
  19. The fact that FIA worker Jacinda Kent Jones did not immediately respond to the phone call on March 5, 2001 supports that no extingent circumstances existed.
  20. On March 8, 2001, Plaintiff was removed from her Troy, Michigan Boulan Park Middle School classroom for the purpose of interrogation by Detective Theresa Harrison of the City of Troy Police Department. Det. Harrison called Kent during the interrogation and reported that the Plaintiff did not appear to be in any impending danger nor was the Plaintiff afraid to return home. Harrison also reported that she did not observe any signs of physical abuse to photograph.
  21. On March 8, 2001, a hearing was held, at which, the Plaintiff was ordered into state custody because of the alleged child abuse of her father. Date-of-Hearing Court appointed attorneys requested that the parents be given proper notice and opportunity to be heard. These oral motions were denied because Kent requested immediate removal from the home that was granted.
  22. Mark S. Bosler was appointed Guardian Ad Litem and present at the initial hearing ordering the Plaintiff into state custody.
  23. On March 8, 2001, Referee Twila Leigh denied a motion to inform the parents of the hearing. Per Det. Harrison’s March 8, 2001 police report (incident# 7962), Jacinda Kent and Twila Leigh had an ex parte hearing to amend the take-into-

- custody order, negating the urgency to the convenience of the Troy Police Department. Despite the lack of urgency, the Plaintiff's parents were not notified of any hearings nor were the parents notified of or served with the take-into-custody order.
24. On March 12, 2001, Plaintiff was forcibly removed from class by Jacinda Kent Jones of Michigan FIA and Theresa Harrison of the Troy Police Department and taken to the Troy Police Department. No explanation or reason was given for her detention.
  25. Delaying the Plaintiff's removal from parental custody until March 12, 2001, seven days after FIA received the call from Boulan Park Middle School officials, was an admission that the home environment of the Plaintiff posed no immediate danger to the Plaintiff.
  26. The Plaintiff's parent's were not notified of the initial hearing nor served with the subsequent take-into-custody order of removal prior to the transfer of the Plaintiff from parental to state custody.
  27. Eva Guerra (P52467) failed to neither notify, her client, the Plaintiff's mother of the initial hearing nor serve her with the subsequent take-into-custody order of removal prior to the transfer of the Plaintiff from parental to state custody and was cited by the Attorney Grievance Commission.
  28. Later, March 12, 2001, Plaintiff was taken to Children Village Juvenile Detention Center. Again, no explanation or reason was provided for Plaintiff's detention.
  29. Plaintiff was detained until May 9, 2001, without any reason or explanation given for her detention.

30. On March 14, 2001, an official physical examination conducted by a licensed doctor and advance practice nurse at Oakland County Children's Village determined that the Plaintiff showed no signs of abuse.
31. GAL Mark Bosler failed to motion the court for an immediate placement hearing after plaintiff was taken into custody. Nor did he motion the court for termination after the state failed to prove their case 60 days after the take into custody order.
32. On March 20, 2001, the Plaintiff was interrogated again by Officer Theresa Harrison at Oakland County Children's Village, despite the evidence of the physical exam; the Plaintiff was terrorized and threatened with physical abuse if she did not make false statements in favor of the above named Defendants. Later that day, Plaintiff was denied access to medical care for a profuse nose bleed which lasted approximately 45 minutes.
33. The Michigan Family Independence Agency, its assigns, and agents had at all times the duty to protect the health and welfare of the Plaintiff.
34. The Plaintiff suffered from several illnesses and injuries as direct and proximate result of the Defendants' negligence.
35. The Plaintiff's education was discontinued while in the care of the Michigan Family Independence Agency ("FIA"), its assigns, and agents.
36. The Plaintiff's medical history was ignored while she was in state custody. Defendants failed to continue her treatment regime for asthma.
37. Michigan FIA placed the Plaintiff in foster homes/shelters that were unfit and unsuitable.

38. Michigan FIA placed the Plaintiff in a dysfunctional, hostile foster home where she was beaten. The Plaintiff was hospitalized from a beating that left her eye severely injured.
39. Michigan FIA failed to place the Plaintiff in a foster home where she practiced her religion, in that the Plaintiff's foster care provider forbid the Plaintiff from attending any religious services.
40. The Plaintiff was assaulted on numerous occasions while in state custody. Michigan FIA, its agents, and assigns failed to investigate the circumstances of these assaults or provide the Plaintiff with proper medical attention.
41. The Plaintiff was placed in several unsuitable homes/shelters in Wayne County despite having been a long-term resident of Oakland County.
42. The Plaintiff was not allowed to see any adult siblings while in state custody.
43. On or about March 12, 2003, the Honorable Judge Moore recused himself of the case after Plaintiff's parents challenged the Court's jurisdiction.
44. On an ongoing basis, the Defendants, jointly and severally, jeopardized the health and welfare of the Plaintiff by showing a complete disregard and indifference for her physical, mental, spiritual and emotional well being.
45. The illnesses, injuries, beatings, and emotional distress that the Plaintiff suffered occurred as a direct result of the carelessness, negligence, recklessness and wanton and willful conduct of all of the Defendants, jointly and severally.

**IV. FIRST CAUSE OF ACTION – NO  
PROBATE COURT JURISDICTION**

46. Paragraphs 1 through 45 are incorporated by reference as if fully set forth at length herein.
47. Persons entitled to notice and opportunity to be heard. Before making a decree or judgment, reasonable notice and opportunity to be heard shall be given to the contestants, a parent whose parental rights have not been previously terminated and a person who has physical custody of the child.
48. No proper or reasonable notice and opportunity of hearing was given to the parents of the initial hearing, March 8, 2001, which adjudicated the removal of the Plaintiff from her home.
49. Referee Twila Leigh and Judge Eugene Arthur Moore denied the service of summons to Plaintiff's parents for the March 8, 2001 hearing in violation of MCL.712A.13, as the Plaintiff was still in the custody of the parents and no emergency existed.
50. Because the notice requirement was not satisfied, the probate court lacked jurisdiction to order the children taken into custody in these proceeding.
51. Courts have held that the removal of a child from his or her home without prior notice is not permissible, unless emergent circumstances are shown. They have also held that removal is not permissible unless it is necessary to ensure the child's safety against serious physical illness or injury or immediate physical danger.
52. The Honorable Eugene Arthur Moore knew or should have known that the consequences of failing to notify the Plaintiff's parents of the take-into-custody proceeding is a jurisdictional defect that renders all proceedings and orders in the trial

court void. *In re Adair*, 191 Mich App 710, 713-714; 478 NW2d 667 (1991); *In re Brown*, 149 Mich App 529, 534-542; 386 NW2d 577 (1986).

53. Therefore, any actions to enforce or support such orders are invalid and illegal.

Therefore, no immunity existed and all orders issued by the Oakland County Probate Court were invalid due to lack of jurisdiction. Removal of Plaintiff was an unconstitutional abduction under the color of law which resulted in the infliction of emotional distress and other damages violating her constitutional right to life, liberty, and the pursuit of happiness.

54. Defendants, jointly and severally, acting under color of state law and in concert with one another, by their conduct, showed intentional, outrageous, and reckless disregard for Plaintiff's constitutional rights.

55. As a direct and proximate result of the Defendants' conduct, Plaintiff suffered physical and emotional injury, loss of freedom, and was deprived of other constitutionally protected rights described above.

56. Defendants (Judge Eugene Moore of the Oakland County Probate Court, Referee Twila Leigh of the Oakland County Probate Court, Detective Theresa Harrison of the Troy Police Department, Jacinda Kent (Jones) of the Michigan Family Independence Agency, L- GAL Mark S. Bosler and Bernadine Trout) acting under the color of the law, authorized, tolerated, permitted, ratified in the creation of policies, practices, and customs, establishing a de facto policy of deliberate indifference to individuals such as Plaintiff.

57. WHEREFORE, Plaintiff requests judgment against Defendants as set forth below.

**V. SECOND CAUSE OF ACTION – 42 USC 1983**  
**CIVIL ACTION FOR DEPRIVATION OF RIGHTS**  
**FOURTEENTH AMENDMENT VIOLATIONS**

58. Paragraphs 1 through 57 are incorporated by reference as if fully set forth at length herein.

59. When the allegations in this complaint occurred, the Defendants, jointly and severally, were acting under the color of law.

60. At all material times, the Defendants, jointly and severally, are liable for their acts because of policies, practices, and customs, which lead to this complained of violation.

61. Plaintiff's constitutionally protected rights that the Defendant violated include the following:

- a) Her right to liberty in the substantive component of the Due Process Clause of the Fourteenth Amendment, which includes personal safety and protection.
- b) Her right to fair and equal treatment guaranteed and protected by the Equal Protection Clause of the Fourteenth Amendment.

62. FIA took the Plaintiff into physical custody acting under the color of law, and in so doing, established a special custodial relationship with the Plaintiff, giving rise to affirmative duties on their part to secure for her the constitutionally protected rights identified above.

63. FIA's violation of their affirmative duties to Plaintiff while she was under FIA's custodial control is a direct cause for the deprivation of the Plaintiff's constitutional rights described above.
64. The Defendants, jointly and severally, acting under the color of state law, by their conduct, showed outrageous, intentional, and reckless disregard for the Plaintiff's constitutional rights. The actions of the Defendants showed deliberate indifference to Plaintiff's health, safety, and well-being and was a deprivation of her constitutionally protected rights.
65. As a direct and proximate result of the Defendants' conduct, Plaintiff suffered physical and emotional injury, loss of freedom, and was deprived of other constitutionally protected rights described above.
66. The Defendants, jointly and severally, acting under the color of law, authorized, tolerated, permitted, ratified in the creation of policies, practices, and customs, with the aim of monetary recovery, established a de facto policy of deliberate indifference to individuals such as Plaintiff.
67. As a direct and proximate result of these policies, practices, and customs, Plaintiff was deprived of her constitutionally protected rights described above.

WHEREFORE, Plaintiff requests judgment against Defendants as set forth below.

**VI. THIRD CAUSE OF ACTION – 42 USC 1983**

**CIVIL ACTION FOR DEPRIVATION OF RIGHTS**

**EIGHTH AMENDMENT VIOLATIONS**

68. Paragraphs 1 through 67 are incorporated by reference as if fully set forth at length herein.

69. The Eighth Amendment of the U.S. Constitution provides, in pertinent part, that excessive bail shall not be required nor excessive fine be imposed nor cruel and unusual punishment be inflicted.
70. Defendant, Michigan Family Independence Agency, its agents, and assigns failure to provide hospitable living conditions, food, education, freedom to practice religion, clothing, or safety showed deliberate indifference to the health and safety of Plaintiff. This violated her constitutionally protected Eighth Amendment right to be free from cruel and unusual punishment.
71. As a direct and proximate result of Defendants' actions, Plaintiff suffered physical and emotional injury and was deprived of constitutionally protected rights described above.
72. The Defendants, jointly and severally, acting under the color of law, authorized, tolerated, permitted, ratified in the creation of policies, practices, and customs, with the aim of monetary recovery, established a de facto policy of deliberate indifference to individuals such as Plaintiff.

WHEREFORE, Plaintiff requests judgment against Defendant as set forth below.

**VII. FOURTH CAUSE OF ACTION – 42 USC 1985(3)**

**CONSPIRACY TO INTERFERE WITH CIVIL RIGHTS**

73. Paragraphs 1 through 72 are incorporated by reference as if fully set forth at length herein.
74. Defendants, jointly and severally, acted and conspired to deprive the Plaintiff of equal protection of the law, and to deprive the Plaintiff of privileges and immunities under the law.

75. Defendants, jointly and severally, acting under the color of state law, showed intentional, outrageous, and reckless disregard for Plaintiff's constitutional rights. The actions of the Defendants showed deliberate indifference to Plaintiff's health, safety, and well-being and was a deprivation of her constitutionally protected rights.
76. As a direct and proximate result of the Defendants' conduct, Plaintiff suffered physical and emotional injury, loss of freedom, and was deprived of other constitutionally protected rights described above.
77. The Defendants, jointly and severally, acting under the color of law, authorized, tolerated, permitted, ratified in the creation of policies, practices, and customs, with the aim of monetary recovery, established a de facto policy of deliberate indifference to individuals such as Plaintiff.
78. As a direct and proximate result of these policies, practices, and customs, Plaintiff was deprived of her constitutionally protected rights described above.

WHEREFORE, Plaintiff requests judgment against Defendants as set forth below.

**VIII. FIFTH CAUSE OF ACTION- INTENTIONAL**  
**INFLICTION OF EMOTIONAL DISTRESS**

79. Paragraphs 1 through 78 are incorporated by reference as if fully set forth at length herein.
80. Defendant Theresa Harrison of the City of Troy Police Department threatened and harassed the Plaintiff to provide statements supporting the allegations of physical abuse by the Plaintiff's father.

81. Defendant Mark Bosler threatened and harassed the Plaintiff to provide statements supporting the allegations of physical abuse by the Plaintiff's father, rather than conducting his own investigation.
82. All Defendants, jointly and severally knew, or in the exercise of reasonable care should have known, that their actions and abuse of Plaintiff would result in serious emotional distress to Plaintiff.
83. In committing the acts described above, Defendants, jointly and severally, acted with willful, reckless, intentional and deliberate disregard for the likelihood that Plaintiff would suffer severe emotional distress as a direct and proximate result of the conduct.
84. Defendants' conduct as alleged above was extreme and outrageous, and went beyond all bounds of decency.
85. As a direct and proximate result of all Defendants' wrongful actions and abuse described above, Plaintiff suffered severe emotional distress.

WHEREFORE, Plaintiff requests judgment against Defendants as set forth below.

**IX. SIXTH CAUSE OF ACTION- NEGLIGENT**  
**INFLICTION OF EMOTIONAL DISTRESS**

86. Paragraphs 1 through 85 are incorporated by reference as if fully set forth at length herein.
87. Defendant Mark Bosler's failure to thoroughly review evidence crucial to the Plaintiff's case, including the lack of jurisdiction of the Court in removing the Plaintiff from her home and medical reports confirming that the Plaintiff did not exhibit any signs of abuse showed a blatant disregard for the well being of the Plaintiff.

88. Defendant Bernadine Trout's failure to thoroughly review evidence crucial to the Plaintiff's case, including the lack of jurisdiction of the Court in removing the Plaintiff from her home and medical reports confirming that the Plaintiff did not exhibit any signs of abuse showed a blatant disregard for the well being of the Plaintiff.
89. Mark Bosler had an obligation to work in the best interest of the Plaintiff and to challenge the lack of reasonable efforts prior to the Plaintiff's removal from her home. Bosler negligently and carelessly breached the duty described above with disregard for the likelihood that the Plaintiff would suffer severe emotional distress as a direct and proximate result of the conduct.
90. Defendant Bernadine Trout's failure to thoroughly review evidence crucial to the Plaintiff's case, including the lack of jurisdiction of the Court in removing the Plaintiff from her home and medical reports confirming that the Plaintiff did not exhibit any signs of abuse showed a blatant disregard for the well being of the Plaintiff.
91. Bernadine Trout had an obligation to work in the best interest of the Plaintiff and to challenge the lack of reasonable efforts prior to the Plaintiff's removal from her home. Trout negligently and carelessly breached the duty described above with disregard for the likelihood that the Plaintiff would suffer severe emotional distress as a direct and proximate result of the conduct.
92. Defendants, jointly and severally, knew, or in the exercise of reasonable care should have known, that their conduct and abuse would result in serious emotional distress to Plaintiff.

93. Defendants' conduct as alleged above was extreme and outrageous, and went beyond all bounds of decency.

94. As a direct and proximate result of Defendants' wrongful actions and abuse as described above, Plaintiff suffered severe emotional distress.

WHEREFORE, Plaintiff requests judgment against Defendants as set forth below.

**X. SEVENTH CAUSE OF ACTION- NEGLIGENCE**

95. Paragraphs 1 through 94 are incorporated by reference as if fully set forth at length herein.

96. Defendant Michigan Family Independence Agency, its agents, and assigns had a duty as custodian and caretaker of Plaintiff to protect and provide a suitable environment for the Plaintiff.

97. FIA, its agents, and assigns negligently and carelessly breached the duty described above .

98. As a direct and proximate result of the Defendants' negligence, Plaintiff has suffered permanent emotional and psychological injury.

99. As a further direct and proximate result of the Defendants' negligence, Plaintiff, based upon information and belief, believes that she will be required to expend additional sums for treatment of emotional and psychological injuries suffered by her for life, exact amount of which is unknown to Plaintiff at this time.

100. The acts of the Defendants were done carelessly, maliciously, and in wanton disregard of the rights of Plaintiff.

WHEREFORE, Plaintiff requests judgment against Defendants as set forth below.

**XI. EIGHTH CAUSE OF ACTION- BREACH OF DUTY –**

**IN LOCO PARENTIS**

101. Paragraphs 1 through 100 are incorporated by reference as if fully set forth at length herein.
102. Defendant Michigan Family Independence Agency, its agents, and assigns acting in loco parentis, and in whom was placed Plaintiff's care, custody, and control owed a duty to Plaintiff to take care of, and act in the best interest of Plaintiff.
103. Defendant Michigan Family Independence Agency, its agents, and assigns breached the duty to Plaintiff by engaging and condoning in abuse and negligence of Plaintiff described above.

WHEREFORE, Plaintiff request judgment against Defendants jointly and severally:

1. In an amount in excess of \$75,000 as determined by this Honorable Court;
2. Awarding Plaintiff the costs of this action and actual attorney fees as provided in law;
3. Granting Plaintiff such other and further relief as the Court deems just and proper.

Dated: 12/17/08

By:



Christine Kendrick

Pro Se Plaintiff

4621 S. Cooper St., Suite 131-150

Arlington, TX 76017

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN

CHRISTINE KENDRICKS,  
Pro Se Plaintiff,

v

Case: 2:08-cv-15193  
Judge: Friedman, Bernard A  
MJ: Scheer, Donald A

HON. EUGENE ARTHUR MOORE  
FAMILY INDEPENDENCE AGENCY (now known as THE DEPARTMENT OF  
HUMAN SERVICES);  
EMPLOYEE JACINDA KENT JONES (FIA)  
MARK BOSLER, ATTORNEY GUARDIAN AD LITEM  
CITY OF TROY POLICE DEPT.  
EMPLOYEE OFFICER THERESA HARRISON (TROY PD)  
BERNADINE TROUT, ATTORNEY GUARDIAN AD LITEM  
REFEREE TWILA LEIGH  
OAKLAND COUNTY CHILDREN'S VILLAGE  
WOLVERINE SERVICES  
VISTA MARIA  
OAKLAND COUNTY PROSECUTOR OFFICE  
Jointly and Severally,  
Defendants,

FILED  
DEC 18 9:32 AM '08

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**FIRST AMENDED COMPLAINT AND JURY DEMAND**

Now Comes, Plaintiff, CHRISTINE A. KENDRICKS, having now reached the age of majority to state her Complaint as follows:

**I. VENUE AND JURISDICTION**

1. This court has subject-matter jurisdiction over the Plaintiff's claim pursuant to 28 U.S.C. §§1331, 1343 (3-4) and 42 U.S.C. 1981; 1983; 1988
2. Venue is proper pursuant to U.S.C. §1391(b) in that Plaintiff's claim arose in the Eastern District of Michigan.

## II. PARTIES

3. Plaintiff, CHRISTINE KENDRICKS, resided at 2318 Valleyview Dr., Troy, MI when the events outlined took place. At times relevant herein, the Plaintiff was a minor.
4. The Defendant, Honorable Eugene Arthur Moore (P17924) is an Oakland County Probate Court Judge. On March 8, 2001, Judge Moore improperly assumed jurisdiction of the Plaintiff's case until his recusal March 12, 2003.
5. The Defendant, Michigan Family Independence Agency ("FIA") is a State of Michigan Agency that is now known as the Department of Human Services, generally specializing in, among other things, the investigation of child neglect/abuse complaints and the treatment and housing of adjudicated youth. For the purpose of this complaint The Department of Human Services will be referred to as The Michigan Family Independence Agency.
6. The Defendant, Jacinda Kent (Jones), is an adult and competent individual who at all relevant times herein was a social worker for the Michigan Family Independence Agency, which is now known as the Department of Human Services.
7. The Defendant, Mark Bosler (P33800), is an adult and competent individual who was appointed Attorney Guardian Ad Litem for the Plaintiff on March 8, 2001.
8. The Defendant, The City of Troy Police Department is a local agency that serves to protect those residing in the city of Troy, Michigan.
9. The Defendant, Theresa Harrison, is an adult and competent individual who at all relevant times herein was an employee of the City of Troy Police Department.

10. The Defendant, Bernadine Trout (P47000), is an adult and competent individual who was appointed Attorney Guardian Ad Litem for the Plaintiff on August 27, 2002.
11. The Defendant, Referee Twila Leigh (P39479), at times relevant herein, was an Oakland County Probate Court Referee.
12. The Defendant, Oakland County Children's Village, is, and at all relevant times mentioned in the Complaint was, an entity organized and operating under the laws of the State of Michigan.
13. The Defendant, Vista Maria, is, and at all relevant times mentioned in the Complaint was, an entity existing and operating under the laws of the State of Michigan, with its principal place of business located at 20651 Warren Ave, Dearborn Heights, MI 48127.
14. The Defendant, Wolverine Services, is, and at all relevant times mentioned in the Complaint was, an entity existing and operating under the laws of the State of Michigan, with its principal place of business located at 15100 Mack Ave, Grosse Point Park, MI 48224.
15. The Defendant, The Oakland County Prosecutor's Office, is, and at all relevant times mentioned in the Complaint was, an entity organized under the laws of the State of Michigan and assigned to represent the Michigan Family Independence Agency.

### **III. FACTUAL BACKGROUND APPLICABLE TO ALL CLAIMS**

16. Plaintiff, Christine Kendricks, age 18, at all times relevant herein, the Plaintiff was a minor residing in the State of Michigan.

17. On March 6, 2001, Plaintiff was removed from her Troy, Michigan Boulan Park Middle School classroom for the purpose of interrogation by Michigan Family Independence Agency ("FIA") worker Jacinda Kent. The visit came at the request of Boulan Park Middle School officials via phone call on March 5, 2001.
18. On March 6, 2001, Plaintiff informed Defendant, Jacinda Kent (Jones), that she was not abused or neglected. The interrogation ceased and Plaintiff returned to class.
19. The fact that FIA worker Jacinda Kent Jones did not immediately respond to the phone call on March 5, 2001 supports that no exigent circumstances existed.
20. On March 8, 2001, Plaintiff was removed from her Troy, Michigan Boulan Park Middle School classroom for the purpose of interrogation by Detective Theresa Harrison of the City of Troy Police Department. Det. Harrison called Kent during the interrogation and reported that the Plaintiff did not appear to be in any impending danger nor was the Plaintiff afraid to return home. Harrison also reported that she did not observe any signs of physical abuse to photograph.
21. On March 8, 2001, a hearing was held, at which, the Plaintiff was ordered into state custody because of the alleged child abuse of her father. Date-of-Hearing Court appointed attorneys requested that the parents be given proper notice and opportunity to be heard. These oral motions were denied because Kent requested immediate removal from the home that was granted.
22. Mark S. Bosler was appointed Guardian Ad Litem and present at the initial hearing ordering the Plaintiff into state custody.

23. On March 8, 2001, Referee Twila Leigh denied a motion to inform the parents of the hearing. Per Det. Harrison's March 8, 2001 police report (incident# 7962), Jacinda Kent and Twila Leigh had an ex parte hearing to amend the take-into-custody order, negating the urgency to the convenience of the Troy Police Department. Despite the lack of urgency, the Plaintiff's parents were not notified of any hearings nor were the parents notified of or served with the take-into-custody order.
24. On March 12, 2001, Plaintiff was forcibly removed from class by Jacinda Kent Jones of Michigan FIA and Theresa Harrison of the Troy Police Department and taken to the Troy Police Department. No explanation or reason was given for her detention.
25. Delaying the Plaintiff's removal from parental custody until March 12, 2001, seven days after FIA received the call from Boulan Park Middle School officials, was an admission that the home environment of the Plaintiff posed no immediate danger to the Plaintiff.
26. The Plaintiff's parent's were not notified of the initial hearing nor served with the subsequent take-into-custody order of removal prior to the transfer of the Plaintiff from parental to state custody.
27. Eva Guerra (P52467) failed to neither notify, her client, the Plaintiff's mother of the initial hearing nor serve her with the subsequent take-into-custody order of removal prior to the transfer of the Plaintiff from parental to state custody and was cited by the Attorney Grievance Commission.

28. Later, March 12, 2001, Plaintiff was taken to Children Village Juvenile Detention Center. Again, no explanation or reason was provided for Plaintiff's detention.
29. Plaintiff was detained until May 9, 2001, without any reason or explanation given for her detention.
30. On March 14, 2001, an official physical examination conducted by a licensed doctor and advance practice nurse at Oakland County Children's Village determined that the Plaintiff showed no signs of abuse.
31. GAL Mark Bosler failed to motion the court for an immediate placement hearing after plaintiff was taken into custody. Nor did he motion the court for termination after the state failed to prove their case 60 days after the take into custody order.
32. On March 20, 2001, the Plaintiff was interrogated again by Officer Theresa Harrison at Oakland County Children's Village, despite the evidence of the physical exam; the Plaintiff was terrorized and threatened with physical abuse if she did not make false statements in favor of the above named Defendants. Later that day, Plaintiff was denied access to medical care for a profuse nose bleed which lasted approximately 45 minutes.
33. The Michigan Family Independence Agency, its assigns, and agents had at all times the duty to protect the health and welfare of the Plaintiff.
34. The Plaintiff suffered from several illnesses and injuries as direct and proximate result of the Defendants' negligence.
35. The Plaintiff's education was discontinued while in the care of the Michigan Family Independence Agency ("FIA"), its assigns, and agents.

36. The Plaintiff's medical history was ignored while she was in state custody. Defendants failed to continue her treatment regime for asthma.
37. Michigan FIA placed the Plaintiff in foster homes/shelters that were unfit and unsuitable.
38. Michigan FIA placed the Plaintiff in a dysfunctional, hostile foster home where she was beaten. The Plaintiff was hospitalized from a beating that left her eye severely injured.
39. Michigan FIA failed to place the Plaintiff in a foster home where she practiced her religion, in that the Plaintiff's foster care provider forbid the Plaintiff from attending any religious services.
40. The Plaintiff was assaulted on numerous occasions while in state custody. Michigan FIA, its agents, and assigns failed to investigate the circumstances of these assaults or provide the Plaintiff with proper medical attention.
41. The Plaintiff was placed in several unsuitable homes/shelters in Wayne County despite having been a long-term resident of Oakland County.
42. The Plaintiff was not allowed to see any adult siblings while in state custody.
43. On or about March 12, 2003, the Honorable Judge Moore recused himself of the case after Plaintiff's parents challenged the Court's jurisdiction.
44. On an ongoing basis, the Defendants, jointly and severally, jeopardized the health and welfare of the Plaintiff by showing a complete disregard and indifference for her physical, mental, spiritual and emotional well being.

45. The illnesses, injuries, beatings, and emotional distress that the Plaintiff suffered occurred as a direct result of the carelessness, negligence, recklessness and wanton and willful conduct of all of the Defendants, jointly and severally.

**IV. FIRST CAUSE OF ACTION – NO  
PROBATE COURT JURISDICTION**

46. Paragraphs 1 through 45 are incorporated by reference as if fully set forth at length herein.
47. Persons entitled to notice and opportunity to be heard. Before making a decree or judgment, reasonable notice and opportunity to be heard shall be given to the contestants, a parent whose parental rights have not been previously terminated and a person who has physical custody of the child.
48. No proper or reasonable notice and opportunity of hearing was given to the parents of the initial hearing, March 8, 2001, which adjudicated the removal of the Plaintiff from her home.
49. Referee Twila Leigh and Judge Eugene Arthur Moore denied the service of summons to Plaintiff's parents for the March 8, 2001 hearing in violation of MCL.712A.13, as the Plaintiff was still in the custody of the parents and no emergency existed.
50. Because the notice requirement was not satisfied, the probate court lacked jurisdiction to order the children taken into custody in these proceeding.
51. Courts have held that the removal of a child from his or her home without prior notice is not permissible, unless emergent circumstances are shown. They have also held

that removal is not permissible unless it is necessary to ensure the child's safety against serious physical illness or injury or immediate physical danger.

52. The Honorable Eugene Arthur Moore knew or should have known that the consequences of failing to notify the Plaintiff's parents of the take-into-custody proceeding is a jurisdictional defect that renders all proceedings and orders in the trial court void. *In re Adair*, 191 Mich App 710, 713-714; 478 NW2d 667 (1991); *In re Brown*, 149 Mich App 529, 534-542; 386 NW2d 577 (1986).
53. Therefore, any actions to enforce or support such orders are invalid and illegal. Therefore, no immunity existed and all orders issued by the Oakland County Probate Court were invalid due to lack of jurisdiction. Removal of Plaintiff was an unconstitutional abduction under the color of law which resulted in the infliction of emotional distress and other damages violating her constitutional right to life, liberty, and the pursuit of happiness.
54. Defendants, jointly and severally, acting under color of state law and in concert with one another, by their conduct, showed intentional, outrageous, and reckless disregard for Plaintiff's constitutional rights.
55. As a direct and proximate result of the Defendants' conduct, Plaintiff suffered physical and emotional injury, loss of freedom, and was deprived of other constitutionally protected rights described above.
56. Defendants (Judge Eugene Moore of the Oakland County Probate Court, Referee Twila Leigh of the Oakland County Probate Court, Detective Theresa Harrison of the Troy Police Department, Jacinda Kent (Jones) of the Michigan Family Independence Agency, L- GAL Mark S. Bosler and Bernadine Trout) acting under the color of the

law, authorized, tolerated, permitted, ratified in the creation of policies, practices, and customs, establishing a de facto policy of deliberate indifference to individuals such as Plaintiff.

57. WHEREFORE, Plaintiff requests judgment against Defendants as set forth below.

**V. SECOND CAUSE OF ACTION – 42 USC 1983**  
**CIVIL ACTION FOR DEPRIVATION OF RIGHTS**  
**FOURTEENTH AMENDMENT VIOLATIONS**

58. Paragraphs 1 through 57 are incorporated by reference as if fully set forth at length herein.

59. When the allegations in this complaint occurred, the Defendants, jointly and severally, were acting under the color of law.

60. At all material times, the Defendants, jointly and severally, are liable for their acts because of policies, practices, and customs, which lead to this complained of violation.

61. Plaintiff's constitutionally protected rights that the Defendant violated include the following:

- a) Her right to liberty in the substantive component of the Due Process Clause of the Fourteenth Amendment, which includes personal safety and protection.
- b) Her right to fair and equal treatment guaranteed and protected by the Equal Protection Clause of the Fourteenth Amendment.

62. FIA took the Plaintiff into physical custody acting under the color of law, and in so doing, established a special custodial relationship with the Plaintiff, giving rise to affirmative duties on their part to secure for her the constitutionally protected rights identified above.
63. FIA's violation of their affirmative duties to Plaintiff while she was under FIA's custodial control is a direct cause for the deprivation of the Plaintiff's constitutional rights described above.
64. The Defendants, jointly and severally, acting under the color of state law, by their conduct, showed outrageous, intentional, and reckless disregard for the Plaintiff's constitutional rights. The actions of the Defendants showed deliberate indifference to Plaintiff's health, safety, and well-being and was a deprivation of her constitutionally protected rights.
65. As a direct and proximate result of the Defendants' conduct, Plaintiff suffered physical and emotional injury, loss of freedom, and was deprived of other constitutionally protected rights described above.
66. The Defendants, jointly and severally, acting under the color of law, authorized, tolerated, permitted, ratified in the creation of policies, practices, and customs, with the aim of monetary recovery, established a de facto policy of deliberate indifference to individuals such as Plaintiff.
67. As a direct and proximate result of these policies, practices, and customs, Plaintiff was deprived of her constitutionally protected rights described above.

WHEREFORE, Plaintiff requests judgment against Defendants as set forth below.

**VI. THIRD CAUSE OF ACTION – 42 USC 1983**

**CIVIL ACTION FOR DEPRIVATION OF RIGHTS**

**EIGHTH AMENDMENT VIOLATIONS**

68. Paragraphs 1 through 67 are incorporated by reference as if fully set forth at length herein.
69. The Eighth Amendment of the U.S. Constitution provides, in pertinent part, that excessive bail shall not be required nor excessive fine be imposed nor cruel and unusual punishment be inflicted.
70. Defendant, Michigan Family Independence Agency, its agents, and assigns failure to provide hospitable living conditions, food, education, freedom to practice religion, clothing, or safety showed deliberate indifference to the health and safety of Plaintiff. This violated her constitutionally protected Eighth Amendment right to be free from cruel and unusual punishment.
71. As a direct and proximate result of Defendants' actions, Plaintiff suffered physical and emotional injury and was deprived of constitutionally protected rights described above.
72. The Defendants, jointly and severally, acting under the color of law, authorized, tolerated, permitted, ratified in the creation of policies, practices, and customs, with the aim of monetary recovery, established a de facto policy of deliberate indifference to individuals such as Plaintiff.

WHEREFORE, Plaintiff requests judgment against Defendant as set forth below.

**VII. FOURTH CAUSE OF ACTION – 42 USC 1985(3)**

**CONSPIRACY TO INTERFERE WITH CIVIL RIGHTS**

73. Paragraphs 1 through 72 are incorporated by reference as if fully set forth at length herein.
74. Defendants, jointly and severally, acted and conspired to deprive the Plaintiff of equal protection of the law, and to deprive the Plaintiff of privileges and immunities under the law.
75. Defendants, jointly and severally, acting under the color of state law, showed intentional, outrageous, and reckless disregard for Plaintiff's constitutional rights. The actions of the Defendants showed deliberate indifference to Plaintiff's health, safety, and well-being and was a deprivation of her constitutionally protected rights.
76. As a direct and proximate result of the Defendants' conduct, Plaintiff suffered physical and emotional injury, loss of freedom, and was deprived of other constitutionally protected rights described above.
77. The Defendants, jointly and severally, acting under the color of law, authorized, tolerated, permitted, ratified in the creation of policies, practices, and customs, with the aim of monetary recovery, established a de facto policy of deliberate indifference to individuals such as Plaintiff.
78. As a direct and proximate result of these policies, practices, and customs, Plaintiff was deprived of her constitutionally protected rights described above.

WHEREFORE, Plaintiff requests judgment against Defendants as set forth below.

**VIII. FIFTH CAUSE OF ACTION- INTENTIONAL**  
**INFLICTION OF EMOTIONAL DISTRESS**

79. Paragraphs 1 through 78 are incorporated by reference as if fully set forth at length herein.

80. Defendant Theresa Harrison of the City of Troy Police Department threatened and harassed the Plaintiff to provide statements supporting the allegations of physical abuse by the Plaintiff's father.
81. Defendant Mark Bosler threatened and harassed the Plaintiff to provide statements supporting the allegations of physical abuse by the Plaintiff's father, rather than conducting his own investigation.
82. All Defendants, jointly and severally knew, or in the exercise of reasonable care should have known, that their actions and abuse of Plaintiff would result in serious emotional distress to Plaintiff.
83. In committing the acts described above, Defendants, jointly and severally, acted with willful, reckless, intentional and deliberate disregard for the likelihood that Plaintiff would suffer severe emotional distress as a direct and proximate result of the conduct.
84. Defendants' conduct as alleged above was extreme and outrageous, and went beyond all bounds of decency.
85. As a direct and proximate result of all Defendants' wrongful actions and abuse described above, Plaintiff suffered severe emotional distress.

WHEREFORE, Plaintiff requests judgment against Defendants as set forth below.

**IX. SIXTH CAUSE OF ACTION- NEGLIGENT  
INFLICTION OF EMOTIONAL DISTRESS**

86. Paragraphs 1 through 85 are incorporated by reference as if fully set forth at length herein.
87. Defendant Mark Bosler's failure to thoroughly review evidence crucial to the Plaintiff's case, including the lack of jurisdiction of the Court in removing the

Plaintiff from her home and medical reports confirming that the Plaintiff did not exhibit any signs of abuse showed a blatant disregard for the well being of the Plaintiff.

88. Defendant Bernadine Trout's failure to thoroughly review evidence crucial to the Plaintiff's case, including the lack of jurisdiction of the Court in removing the Plaintiff from her home and medical reports confirming that the Plaintiff did not exhibit any signs of abuse showed a blatant disregard for the well being of the Plaintiff.
89. Mark Bosler had an obligation to work in the best interest of the Plaintiff and to challenge the lack of reasonable efforts prior to the Plaintiff's removal from her home. Bosler negligently and carelessly breached the duty described above with disregard for the likelihood that the Plaintiff would suffer severe emotional distress as a direct and proximate result of the conduct.
90. Defendant Bernadine Trout's failure to thoroughly review evidence crucial to the Plaintiff's case, including the lack of jurisdiction of the Court in removing the Plaintiff from her home and medical reports confirming that the Plaintiff did not exhibit any signs of abuse showed a blatant disregard for the well being of the Plaintiff.
91. Bernadine Trout had an obligation to work in the best interest of the Plaintiff and to challenge the lack of reasonable efforts prior to the Plaintiff's removal from her home. Trout negligently and carelessly breached the duty described above with disregard for the likelihood that the Plaintiff would suffer severe emotional distress as a direct and proximate result of the conduct.

92. Defendants, jointly and severally, knew, or in the exercise of reasonable care should have known, that their conduct and abuse would result in serious emotional distress to Plaintiff.

93. Defendants' conduct as alleged above was extreme and outrageous, and went beyond all bounds of decency.

94. As a direct and proximate result of Defendants' wrongful actions and abuse as described above, Plaintiff suffered severe emotional distress.

WHEREFORE, Plaintiff requests judgment against Defendants as set forth below.

**X. SEVENTH CAUSE OF ACTION- NEGLIGENCE**

95. Paragraphs 1 through 94 are incorporated by reference as if fully set forth at length herein.

96. Defendant Michigan Family Independence Agency, its agents, and assigns had a duty as custodian and caretaker of Plaintiff to protect and provide a suitable environment for the Plaintiff.

97. FIA, its agents, and assigns negligently and carelessly breached the duty described above .

98. As a direct and proximate result of the Defendants' negligence, Plaintiff has suffered permanent emotional and psychological injury.

99. As a further direct and proximate result of the Defendants' negligence, Plaintiff, based upon information and belief, believes that she will be required to expend additional sums for treatment of emotional and psychological injuries suffered by her for life, exact amount of which is unknown to Plaintiff at this time.

100. The acts of the Defendants were done carelessly, maliciously, and in wanton disregard of the rights of Plaintiff.

WHEREFORE, Plaintiff requests judgment against Defendants as set forth below.

**XI. EIGHTH CAUSE OF ACTION- BREACH OF DUTY –**

**IN LOCO PARENTIS**

101. Paragraphs 1 through 100 are incorporated by reference as if fully set forth at length herein.

102. Defendant Michigan Family Independence Agency, its agents, and assigns acting in loco parentis, and in whom was placed Plaintiff's care, custody, and control owed a duty to Plaintiff to take care of, and act in the best interest of Plaintiff.

103. Defendant Michigan Family Independence Agency, its agents, and assigns breached the duty to Plaintiff by engaging and condoning in abuse and negligence of Plaintiff described above.

WHEREFORE, Plaintiff request judgment against Defendants jointly and severally:

1. In an amount in excess of \$75,000 as determined by this Honorable Court;
2. Awarding Plaintiff the costs of this action and actual attorney fees as provided in law;
3. Granting Plaintiff such other and further relief as the Court deems just and proper.

Dated: 12/18/08

By: Christine Kendrick

Christine Kendrick

Pro Se Plaintiff

4621 S. Cooper St., Suite 131-150

Arlington, TX 76017





## CITY COUNCIL ACTION REPORT

January 13, 2009

TO: Phillip L. Nelson, City Manager

FROM: William Nelson, Fire Chief  
David Roberts, Fire Marshal

SUBJECT: Mon Jin Lau Annual Fireworks Use Request – Amendment

### Background:

- Mon Jin Lau has amended its request for permission to use firecrackers at its annual Lion Dance to celebrate Chinese New Year from January 27<sup>th</sup> and 28<sup>th</sup>, 2009 to February 3<sup>rd</sup> and 4<sup>th</sup>, 2009.
- There appear to be no changes from last year's event.
- City Council has approved this request in the past.

### Financial Considerations:

- None

### Legal Considerations:

- Troy City Code Chapter 93, Fire Prevention, Section 3301.1.3, prohibits the use of fireworks unless in compliance with the Michigan Fireworks Law.
- Michigan's Fireworks Law requires that any person or group that would like to conduct a fireworks display must apply to the local unit of government for a permit. The law defines local unit of government as the council or commission of a city or village, or the township board of a township.
- The use of firecrackers at this public event is considered to be a public display.

### Policy Considerations:

- The permitting process is consistent with City Council's goal of enhancing the safety of the community.

### Options:

- Approve or deny the request.



## CITY COUNCIL ACTION REPORT

January 12, 2009

TO: Phillip L. Nelson, City Manager

FROM: John M. Lamerato, Assistant City Manager/Finance & Administration  
Susan A. Leirstein, Purchasing Director  
Steven A. Pallotta, Building Operations Director  
Cathleen A. Russ, Library Director

SUBJECT: Library Café Space Renovation

### **Background**

- Steamers Café closed in August 2008, and the contract with the owners was rescinded by City Council on August 25, 2008. (Resolution 2008-08-263-E5)
- After discussions with City staff and the Library Advisory Board, it was decided to convert the café space into a vending café and informal meeting space.
- Due to the removal of café equipment, as well as general wear and tear on the space, some renovations are necessary, in order to use the space for the proposed purpose.
- The Library Advisory Board, at their January 8, 2009 meeting, supported the proposed renovations to the café area.
- Building Operations personnel will perform most of the labor for the project.
- The total cost of the project is estimated at \$47,000.00.

### **Financial Considerations**

- Funds are available in the Library capital account for general repairs, 401.790.7975.900

### **Legal Considerations**

- There are no legal considerations associated with this item.

### **Policy Considerations**

- Troy adds value to properties through maintenance or upgrades of infrastructure and quality of life venues. (Outcome Statement II)

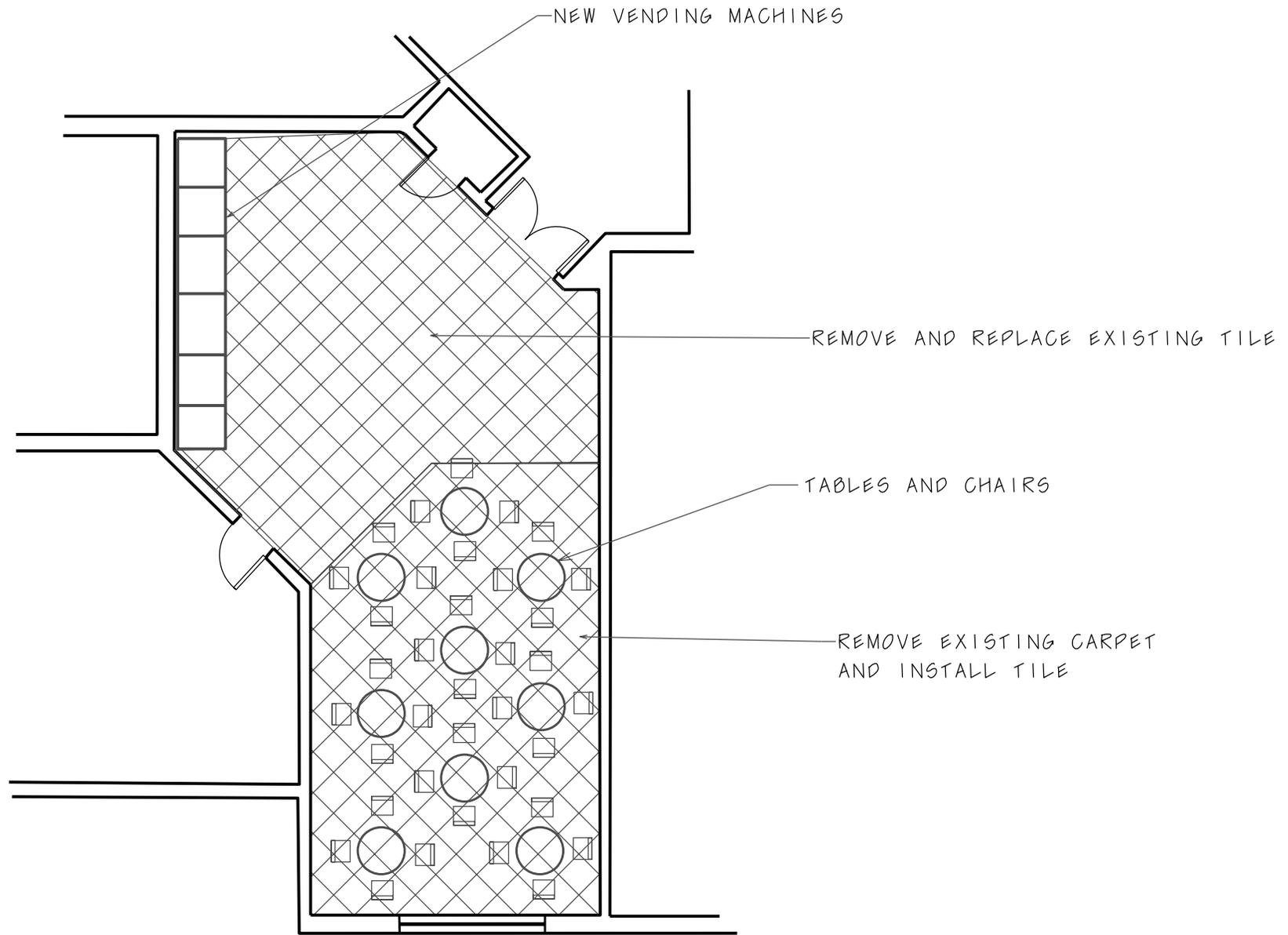
### **Options**

- City management requests authorization to renovate the café space formerly occupied by Steamers Café, in order to convert the area into a space that will be usable and available to the public, for a total estimated project cost of \$47,000.00, as detailed on Appendix A.

**APPENDIX A**

**Library Café Space Renovation  
Estimated Detailed Costs**

	<b>Price</b>
Base Cove	<b>\$500.00</b>
Ceramic tile demo and install new ( By Others )	<b>\$6,600.00</b>
Ceiling Grid	<b>\$750.00</b>
Ceiling Tiles	<b>\$1,200.00</b>
Vertical Blinds	<b>\$750.00</b>
Drywall includes complete wall construction	<b>\$2,200.00</b>
Electrical if needed for vending area circuits	<b>\$750.00</b>
Fire Suppression ( By others remove and relocate with concealed heads )	<b>\$3,500.00</b>
HVAC	<b>\$900.00</b>
Lighting	<b>\$2,000.00</b>
Paint ( 2 ) coats with primer	<b>\$1,000.00</b>
<b>Subtotal of above</b>	<b>\$20,150.00</b>
Labor cost estimated 360 hrs X 3 men X \$24.90 per hr = \$26,892.00	
Labor price includes demo	<b>\$26,892.00</b>
<b>Estimated total cost for the entire project</b>	<b>\$47,042.00</b>



# LIBRARY CAFE RENOVATIONS

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NO SCALE

**PUBLIC COMMENT: Limited to Items Not on the Agenda****REGULAR BUSINESS:**

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**E-5 Library Café Space Recommendation**

Resolution #2008-08-263  
Moved by Eisenbacher  
Seconded by Beltramini

WHEREAS, On December 3, 2007, a one-year contract for Library Café Services based upon new terms and conditions was approved to Zeyn Francis of Troy, MI, (Resolution # 2007-12-345-F17); and

WHEREAS, Zeyn Francis has defaulted on the contract due to closing the café without notice prior to the contract expiration of December 31, 2008;

THEREFORE, BE IT RESOLVED, That Troy City Council hereby **RESCINDS** with prejudice the contract for Library Café Services from Zeyn Francis.

Yes: Fleming, Kerwin, Schilling, Beltramini, Broomfield, Eisenbacher  
No: None  
Absent: Howrylak

**MOTION CARRIED**

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**E-1 Appointments to Boards and Committees: a) Mayoral Appointments: None b) City Council Appointments: Parks & Recreation Board****(b) City Council Appointments**

Resolution #2008-08-264  
Moved by Kerwin  
Seconded by Eisenbacher

RESOLVED, That Troy City Council hereby **APPOINTS** the following persons to serve on the Boards and Committees as indicated:

**Parks & Recreation Board**

Appointed by City Council (7-Regular: 3-Year Terms) (1-Troy School Board: 1-Year Term)  
(1-Troy Daze Committee: 1-Year Term ) (1-Adv. Comm. for Sr. Citizens: 1-Year Term)

Gary Hauff – Troy School District Representative Term Expires 07/31/09

Yes: Kerwin, Schilling, Beltramini, Broomfield, Eisenbacher, Fleming  
No: None  
Absent: Howrylak

**MOTION CARRIED**



## CITY COUNCIL ACTION REPORT

January 19, 2009

TO: Phillip L. Nelson, City Manager

FROM: John M. Lamerato, Assistant City Manager/Finance & Administration

SUBJECT: Ordinance to Amend Chapter 10 of the Code of the City of Troy  
(Employees' Retirement System)

At their regularly scheduled meeting on January 14, 2009 the Employees' Retirement System Board of Trustees approved amendment to Chapter 10 of the City Code (Employees' Retirement System) to add Section 61. Voluntary Separation Incentive Program for Retirement.

On November 10, 2008 City Council approved the Voluntary Separation Incentive Program for Retirement for those employees eligible to retire as of December 31, 2008 who retire between January 1, 2009 and February 28, 2009.

CITY OF TROY  
AN ORDINANCE TO AMEND  
CHAPTER 10 OF THE CODE  
OF THE CITY OF TROY

The City of Troy ordains:

Section 1. Short Title

This Ordinance shall be known and may be cited as an amendment to Chapter 10, Employee's Retirement System, of the Code of the City of Troy.

Section 2. Amendment

Section 61 shall be added as follows:

61. *Voluntary Separation Incentive Program for Retirement*

*In order to address significant budget short falls for the 2009 fiscal year, on November 10, 2008, the Troy City Council approved a limited Voluntary Separation Incentive Program for those employees eligible to retire as of December 31, 2008 and who retire between January 1, 2009 and February 28, 2009. For those employees who participate in the Voluntary Separation Program and satisfactorily complete all requirements of the Program (City Council Resolution 2008-11-331), the definition of credited service, as found in Section 1 (F) is modified to provide for one week of additional credited service for each full year of the employee's service as of December 31, 2008. Participating employees shall also receive a one time lump sum payment from the Retirement System in the amount of one week of 2008 base salary for each full year of the employee's actual credited service as of December 31, 2008. This lump sum payment is not included in the employee's Final Average Compensation, as defined in Section 1 (H).*

Section 3. Repeal

All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

Section 4. Savings

All proceedings pending, and all rights and liabilities existing, acquired or incurred, at the time this Ordinance takes effect, are hereby saved. Such proceedings may be consummated under and according to the ordinance in force at the time such proceedings were commenced. This ordinance shall not be construed to alter, affect, or abate any pending prosecution, or prevent prosecution hereafter instituted

under any ordinance specifically or impliedly repealed or amended by this ordinance adopting this penal regulation, for offenses committed prior to the effective date of this ordinance; and new prosecutions may be instituted and all prosecutions pending at the effective date of this ordinance may be continued, for offenses committed prior to the effective date of this ordinance, under and in accordance with the provisions of any ordinance in force at the time of the commission of such offense.

Section 5. Severability Clause

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

Section 6. Effective Date

This Ordinance shall become effective ten (10) days from the date hereof or upon publication, whichever shall later occur.

This Ordinance is enacted by the Council of the City of Troy, Oakland County, Michigan, at a Regular Meeting of the City Council held at City Hall, 500 W. Big Beaver, Troy, MI, on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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Louise E. Schilling, Mayor

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Tonni L. Bartholomew, MMC  
City Clerk

CHAPTER 10 - EMPLOYEES RETIREMENT SYSTEM

1. Definitions. The following words, terms and phrases, when used in this chapter, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

- (A) Accumulated contributions means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's deposit fund, together with regular interest thereon.
- (B) Beneficiary means any person, except a retirant, who is in receipt of, or who has entitlement to, a pension or other benefit, payable from the funds of the retirement system.
- (C) Board of trustees or board means the board of trustees provided for in this chapter.
- (D) Compensation means the salary or wages paid an employee for personal services rendered by him to the city. The term shall not include allowances for clothing, equipment, travel and similar items, nor shall it include the payment of sick or vacation leave that is made because of termination or retirement.
- (E) Council means the legislative body of the City of Troy.
- (F) Credited service means the total of a member's service, to the extent such service is credited to him by the board of trustees.  
  
(Rev. 07-26-93)
- (G) Employee means any person in the employ of the city.
- (H) Final average compensation means the average of the annual compensation paid a member during the three (3) highest calendar years of his service contained within the last ten (10) calendar years, immediately preceding termination of his last employment with the City.  
  
(Rev. 11-6-00)
- (I) Member means any employee who is included in the membership of the retirement system.
- (J) Pension means an annual amount payable by the retirement system throughout the future life of a person or for a temporary period as provided in this chapter. All pensions shall be paid in equal monthly installments.
- (K) Pension reserve means the present value of all payments to be made on account of any pension, computed on the basis of such mortality and other tables of experience, and regular interest, as the board of trustees shall from time to time adopt.
- (L) Regular interest means such rate of interest per annum, compounded annually, as the board of trustees shall from time to time adopt.

## Chapter 10 Employees Retirement System

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- (M) Retirant means any member who retires with a pension payable from funds of the retirement system.
- (N) Retirement means a member's withdrawal from the employ of the city with a pension payable from the funds of the retirement system.
- (O) Retirement system or system means the city employees retirement system created and established by this chapter.
- (P) Service means personal service rendered to the city by an employee of the city.

(Rev. 02-11-91)

2. Board of Trustees. The Board of Trustees is vested with the power and authority to administer, manage and operate the retirement system, and to construe and make effective the provisions of this Chapter. The Board shall consist of eight trustees as follows:

(Rev. 03-01-04)

- (A) The City Manager, by virtue of his position.
- (B) The Assistant City Manager/Finance & Administration, by virtue of his position.

(Rev. 11-6-00)

- (C) A member of Council selected by the Council.

(Rev. 02-28-94)

- (D) A citizen, who is an elector of the City, and who is not a member, retirant or beneficiary of the retirement system, and who is not a member of the Council, to be appointed by the Council.

(Rev. 09-11-78)

- (E) Three members of the retirement system to be elected by the members of the system in accordance with such rules and regulations as the Board shall from time to time adopt to govern such elections.

- (F) A retiree member in the Defined Benefit plan, who shall be appointed by the City Council, and shall serve as a non-voting member.

- (g) Of the five employee members, two must be in the Defined Benefit plan. A minimum of two of the five member trustees, as set forth in paragraphs A, B or E, must be a member of the Defined Benefit plan.

(Rev. 03-01-04)

## **Chapter 10 Employees Retirement System**

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3. Terms of Office. The regular term of office for the appointed citizen, the 3 member trustees, and the Council trustee, shall be 3 years.

(Rev. 02-28-94)

### Vacancy of Board

- 3.4 If a member trustee leaves the employ of the City he shall be considered to have resigned from the Board and the vacancy shall be filled for the unexpired portion of the term.

(Rev. 02-11-91)

### Board Quorum, Vote, Meetings, Proceedings

- 3.5 Four trustees shall constitute a quorum at any meeting of the Board of Trustees. Each trustee shall be entitled to one vote on each question before the Board and at least four concurring votes shall be required for a decision by the Board. The Board shall hold meetings regularly, at least one in each quarter year, and shall designate the time and place thereof. The Board shall adopt its own rules of procedure.

(Rev. 02-11-91)

### Board Chairman, Retirement System Officers, Employees

- 3.6 (A) The Board of Trustees shall designate from its own number a Chairman and a Vice-Chairman.
- (B) The City Treasurer shall be the Treasurer of the Retirement System.
- (C) The Assistant City Manager/Finance & Administration shall be the Administrative Officer and serve as secretary of the Retirement System and he shall be the custodian of its money and investments.
- (D) The City Attorney shall be the Legal Advisor to the Board of Trustees.
- (E) The Board of Trustees shall designate an actuary who shall be the Technical Advisor to the Board and who shall perform such other duties as are required of him under this Chapter.
- (F) The Board of Trustees may employ such other services as are approved by the City Manager and authorized by the Council.

(Rev. 06-7-99)

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### Records, Annual Reports

- 3.7 The Administrative Officer shall keep, or cause to be kept, such data as shall be necessary for an actuarial valuation of the Retirement System.

(Rev. 09-23-74)

### Experience Tables, Regular Interest, Adoption Of

- 3.8 The Board of Trustees shall from time to time adopt such mortality and other Tables of Experience, and a rate of regular interest, as are required in the proper operation of the Retirement System; provided, that no such rate of regular interest shall exceed seven percent per annum, compounded annually.

(Rev. 02-4-80)

4. Membership. The membership of the Retirement System shall include only those persons who are classified as full time on the records of the Human Resources Department of the City, and shall specifically exclude but not be limited to the following: (1) any employee who is employed by the City in a position normally requiring less than 1,000 hours of work per annum, (2) any person whose services are compensated on a contractual or fee basis, (3) volunteer firefighters as such, (4) elected officials of the City, and (5) employees classified as part time, seasonal or temporary, on the records of the Human Resources Department of the City regardless of the number of hours actually worked by the employee in any calendar year.

In any case of doubt as to the membership status of any employee, the Board shall decide the question.

(Rev. 01-22-01)

### Termination of Membership

- 4.2 Should any member cease to be employed in a position covered by the Retirement System he shall thereupon cease to be a member and his credited service at that time shall be forfeited, unless otherwise provided in this Chapter. If he is re-employed by the City in a position covered by the system he shall again become a member. Should his re-employment occur within a period of 5 years from the date he last ceased to be a member, his credited service last forfeited by him shall be restored to his credit, provided he immediately returns to the Members Deposit Fund the amount, if any, he withdrew therefrom, together with regular interest thereon from the date of withdrawal to the date of repayment. Upon a member's retirement, he shall cease to be a member of the system.

(Rev. 02-11-91)

### Service Credit

- 4.3 The Board shall fix and determine by appropriate rules and regulations the amount of service to be credited any member; provided, that in no case shall less than 10 days of service rendered by him in any calendar month be credited as a month of service, nor shall less than 10 months of service rendered by him in any calendar year be credited as a year of service, nor shall more than 1 year of service be credited any member for all service rendered by him in any calendar year.

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(Rev. 08-7-67)

- 4.4 Military Service Credit. If an employee of the City, who while employed by the City, enters the Armed Forces of the United States during any period of compulsory military service, such armed service shall be credited him as City service; provided, that (1) he re-enters the employ of the City, in a position covered by this retirement system, within 6 months from and after termination of such armed service actually required of him, and (2) he pays into the Members Deposit Fund the amount, if any, he may have withdrawn therefrom, together with regular interest from the date of withdrawal to the date of repayment, and (3) in no case shall any member be credited with more than 5 years of service for all such armed service rendered by him. In any case of doubt as to the period to be so credited any member, the Board of Trustees shall have final power to determine such period.

(Rev. 02-11-91)

- 4.5 Additional Service Credits. Any person (having been first employed by the City prior to January 22, 2001) who is in the active employ of the City as of the date of enactment of this provision, and who currently is or has previously been excluded from membership in the Retirement System pursuant to the provisions of Section 4(1) (solely due to being employed by the City in a "part time" position normally requiring less than 1,000 hours of work per annum), shall be subject to the following additional provisions:

- (A) Any such employee who as of the date of enactment of this provision has completed five (5) or more consecutive years of service in such part time position, shall immediately be eligible to become a member of the Retirement System and receive credit for such service; provided that during each such year he or she performed services in at least 10 months and completed at least 1,000 hours of work, and that such consecutive period of service is continuing as of the date of enactment of this provision.
- (B) Any such employee who after the date of enactment of this provision (and prior to January 21, 2006), completes a minimum of five (5) consecutive years of service in such part time position, shall be eligible to become a member of the Retirement System and receive credit for such service, effective as of their completion of such period of service; provided that during each such year he or she performed services in at least 10 months and completed at least 1,000 hours of work.
- (C) Any such employee who currently is or otherwise becomes a member of the Retirement System pursuant to Section 4 (due to a change in job classification), and who previously was excluded from membership as a part time employee, shall be eligible to receive credit for years of service completed in such part time position, effective as of the later of the enactment of this provision or their otherwise becoming a member; provided that only the consecutive period of service (during each year of which he or she performed services in at least 10 months and completed at least 1,000 hours of work) that commenced prior to January 22, 2001, and that was continuing at the date they became a member shall be so credited.
- (D) An employee referred to in (A) or (B) above, shall continue to be a member and receive credit for service only for such period as he or she continues to perform services in at least 10 months complete at least 1,000 hours of work in any year. An employee referred to in (C) above, shall continue to be a member and receive credit for service only for such period that he or she continues to be employed in a position that otherwise

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qualifies them for membership pursuant to the provisions of Section 4. All such employees shall be subject to the break-in-service provisions of Section 4.2, and the vesting requirements of Sections 6 and 57. In no event shall any year of service be counted more than once pursuant to these provisions.

- (E) If the first period for which an employee receives service credit hereunder occurs prior to January 1, 1998, such credited service shall be applied towards determining the amount of pension under Section 6.1 to which the employee may become entitled upon retirement; provided that the value of such pension may be transferred to the Defined Contribution Plan in accordance with such procedures as the Board may determine. If the first period for which an employee receives service credit hereunder occurs on or after such date, the Board shall determine (and the City shall contribute) those amounts that would otherwise have been required to be contributed on such employee's behalf under Section 55 with respect to such years.
- (F) Notwithstanding any provision in this Chapter to the contrary, for purposes of calculating the amount of benefit (under Section 6.1) or contribution (under Section 55) to which a member is entitled with respect to each year of credited service referred to in (A), (B), (C) and (D) above, the benefit or contribution otherwise due pursuant to this Chapter shall be prorated for each such year based on the actual number of hours worked during such year, as determined from the following schedule:

<u>Hours Worked</u>	<u>Year of Service Credit</u>
1,000 to 1,499	50%
1,500 to 1,999	75%
2,000 and over	100%

- (G) In order to become a member and/or receive service credits in accordance with this provision, an eligible employee must elect (within six (6) months of the date of enactment of this provision) to purchase such service credits, by agreeing in writing to contribute to the Retirement System those amounts that would otherwise have been required to be contributed by the employee under Section 9.1 or Section 55 with respect to such years, along with such interest as the actuary and/or Board shall determine is appropriate. Such amounts shall be deducted from payroll in accordance with such procedures as the Board may determine, provided that all amounts due shall be contributed into the Retirement System no later than the time the employee terminates his employment with the City. Failure to contribute such amounts in a timely manner will result in forfeiture of such service credits .

(Rev. 01-14-02)

4.6 Prior Governmental Retirement Service. A member of the Employees Retirement System may be eligible for prior governmental retirement service credit if all of the following requirements are satisfied:

- (A) The member must be still actively employed by the City of Troy.
- (B) The member must have a minimum of 60 months of credited service acquired as a member of the Troy Employees Retirement System.
- (C) The member must have attained the age requirements for the Troy Employees

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Retirement System.

- (D) The member must have previously acquired credited service as a member of another official governmental retirement system.

If all of the above requirements are satisfied, then a member who has not yet met the service requirements for the Troy Employees Retirement System shall be entitled to use his or her credited service from another official governmental retirement system for eligibility purposes only.

(Rev. 10-07-02)

5. Voluntary Retirement. Any member, who has attained age 55 years and has 10 or more years of credited service in force, may retire upon his written application filed with the Board of Trustees setting forth at what time, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired.
- 5.1 Normal Retirement. Normal Retirement age is 65 years. If a member who is separated from City employment on or after his attainment of age 65 years has 10 or more years of credited service in force, he shall be retired.

(Rev. 11-7-88)

6. Deferred Retirement. In the event a member who has 10 or more years of credited service leaves the employ of the City before he is eligible to retire, he shall be entitled to a pension computed according to the provisions of this chapter in force at the time of said member's separation from City employment; provided, that he does not withdraw his accumulated contributions from the Members Deposit Fund. His said pension shall begin the first day of the calendar month next following the month in which he files his application for same with the Board of trustees on or after his attainment of age 60 years.

(Rev. 04-20-92)

- 6.1(A) Straight Life Pension. Upon a member's retirement, as provided in this Chapter, if he has less than 27 years service, he shall receive a straight life pension equal to a percent of an amount computed by multiplying the number of years, and fraction of a year, of his credited service by 2.25 percent of his final average compensation listed below. Such percent shall be equal to 70 percent increased by 1/2 of 1 percent for each full month by which the member's age at the time of retirement exceeds 55 years. Provided, in no event shall such percent exceed 100 percent, and, provided that in case of disability retirement or death pension the percent shall be 100 percent. For Troy Command Officers Association (TCOA) and Troy Police Officers Association (TPOA) members, the percent of Final Average Compensation (FAC) will be 2.8% for the first 25 years and 1% per year thereafter, with a cap of 75% of final average compensation.

(Rev. 08-20-07)

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6.1(B) Age and Service Retirement. Upon a member's retirement, as provided in this Chapter, he shall receive a straight life pension equal to an amount computed by multiplying the number of years, and fraction of a year, of his credited service by 2.25%. For TCOA and TPOA members, the percent of Final Average Compensation (FAC) will be 2.8% for the first 25 years and 1% per year thereafter with a cap of 75% of final average compensation.

(Rev. 08-20-07)

6.1(C) A member who has 27 or more years service may retire on or after his attainment of age 50. TPOA and TCOA, and Troy Fire Staff Officers Association (TFSOA) members retiring after July 1, 1998 may retire as an age and service retirement after the attainment of 25 years of service. Classified and Exempt and Michigan Association of Police (MAP) members may retire as an age and service retirement after the attainment of age 55 and 25 years of service.

(Rev 08-20-07)

6.1(D) Supplemental Retirement. All members excluding TPOA and TCOA shall receive an additional pension from age 50 to age 62 to equal the amount it would have been if the percentages in the formulas in subsections A or B above were .25% greater.

(Rev. 03-01-04)

6.2 Terminal Payments. If a retirant dies before he has received in straight life pension payments an aggregate amount equal to his accumulated contributions standing to his credit in the members deposit fund at the time of his retirement, the difference between his accumulated contributions and the aggregate amount of straight life pension payments received by him shall be paid to such person as he shall have nominated by written designation duly executed and filed with the board. If there be no such designated person surviving the retirant, the difference, if any, shall be paid to his estate.

(Rev. 02-11-91)

### Pension Options.

6.3 Prior to the receipt of his first retirement payment, but not thereafter, a member may elect to receive his pension as a straight life pension payable throughout his life; or, he may elect to receive the actuarial equivalent, at that time, of his straight life pension in a reduced pension payable throughout his life, and nominate a beneficiary, in accordance with the provisions of Option A thru D as set forth below:

Option A. Joint and Survivor Pension: Upon the death of a retirant who elected Option A, his reduced pension shall be continued throughout the life and paid to such person, having an insurable interest in his life, as he shall have nominated by written designation duly executed and filed with the Board of Trustees.

Option B. Modified Joint and Survivor Pension: Upon the death of a retirant, who elected Option B, one-half of his reduced pension shall be continued throughout the life of and paid to such person, having an insurable interest in his life, as he shall have nominated by written designation duly executed and filed with the Board of Trustees.

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Option C. Joint and Survivor Pension (pop-up A): Upon the death of a retirant who elected Option C, his reduced pension shall be continued throughout the life and paid to such person, having an insurable interest in his life, as he shall have nominated by written designation duly executed and filed with the Board of Trustees. If the selected beneficiary predeceases the retirant, the pension shall revert to a straight-life pension payable throughout the remainder of his life.

Option D. Modified Joint and Survivor Pension (pop-up B): Upon the death of a retirant who elected Option D, one-half of his reduced pension shall be continued throughout the life of and paid to such person, having an insurable interest in his life, as he shall have nominated by written designation duly executed and filed with the Board of Trustees. If the selected beneficiary predeceases the retirant, the pension shall revert to a straight-life pension payable throughout the remainder of his life.

(Rev. 11-2-87)

- 7.1A Upon the application of an Exempt, Classified, or Michigan Association of Police (MAP) member, or his department head, who is below age 60 or who does not otherwise qualify for retirement, who (1) is in the employ of the City, (2) has 10 or more years of credited service [for American Federation of State, County, and Municipal Employees (AFSCME) employees hired after 2/12/96, or Michigan Association of Police (MAP) members who have 5 or more years of credited services as of 8/7/1995)], (3) becomes totally and permanently incapacitated for full time work, by reason of a personal injury or disease, and is in receipt of disability benefits from Social Security, or has received a favorable determination letter with a current effective date for the commencement of disability benefits under Social Security, may be retired by the Board of Trustees; provided, that after a medical examination of the member made by or under the direction of a Medical Committee consisting of 2 physicians, 1 of whom shall be named by the Board, and 1 by the member, the said Medical Committee reports to the Board, in writing, (1) that the member is mentally or physically totally incapacitated for full time work, (2) that his incapacity will probably be permanent, and (3) that the member should be retired. In the event that the 2 physicians constituting the Medical Committee do not agree in their findings, then the Board may, in its discretion, appoint a third physician to examine the member and based upon the report, in writing, of the third physician, the Board may retire the member.

The 10 years credited service requirement contained in this section shall be waived in the case of a member whom the Board finds (1) to be totally and permanently incapacitated for full time work as a natural and proximate result of a personal injury or disease arising out of and in the course of his actual performance of duty in the employ of the City and (2) to be in receipt of workmen's compensation on account of his disability arising out of and in the course of his City employment.

(Rev. 03-01-04)

- 7.1B Upon the application of an American Federation of State, County, and Municipal Employees (AFSCME), Troy Police Officers Association (TPOA), or Troy Command Officers Association (TCOA) member, or his department head, who is below age 60 or who does not otherwise qualify for retirement, who (1) is in the employ of the City, (2) has 5 or more years of credited service, and (3) becomes totally and permanently incapacitated for duty in the employ of the City, by reason of a personal injury or disease, may be retired by the Board of Trustees; provided, that after a medical examination of the member made by or under the direction of a Medical Committee consisting of 2 physicians, 1 of whom shall be named by the Board, and 1 by the member, the said Medical Committee reports to the Board, in writing, (1) that the member is mentally or physically totally incapacitated for duty in the employ of the City, (2) that his incapacity will probably be permanent, and (3) that the member should be retired. In the event that the 2 physicians constituting the Medical Committee do not agree in their findings, then the Board

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may, in its discretion, appoint a third physician to examine the member and based upon the report, in writing, of the third physician, the Board may retire the member. The 5 years credited service requirement contained in this section shall be waived in the case of a member whom the Board finds (1) to be totally and permanently incapacitated for duty in the employ of the City as a natural and proximate result of a personal injury or disease arising out of and in the course of his actual performance of duty in the employ of the City and (2) to be in receipt of workmen's compensation on account of his disability arising out of and in the course of his City employment.

(Rev. 03-01-04)

### 7.2 Disability Pension

- (A) Upon retirement of a member on account of disability, as provided in this Chapter, he shall receive a pension computed in accordance with the provisions of this Chapter; provided, that his straight life disability pension shall not be less than the amount it would be if he had 10 years of credited service.
- (B) Troy Police Officers Association (TPOA) Duty Disability. Upon the retirement of a member of the Troy Police Officers Association (TPOA) on account of disability, as provided in this Chapter, he shall receive a pension of not less than two-thirds of his final average compensation during the period he is in receipt of workmen's compensation on account of his disability arising out of and in the course of his City employment.

(Rev. 03-01-04)

### Re-examination of Disability Retirant

- 7.4 At least once each year during the first 5 years following a member's retirement on account of disability, and at least once in every 3 year period thereafter, the Board of Trustees may, and upon the retirant's application shall, require any disability retirant who has not attained age 55 years undergo a medical examination to be made by or under the direction of a physician designated by the Board. If the said retirant refuses to submit to such medical examination in any such period, his disability pension may be suspended by the Board until his withdrawal of such refusal. Should such refusal continue for 1 year all his rights in and to a disability pension may be revoked by the Board. If upon such medical examination of said retirant, the said physician reports to the Board that the said retirant is physically able and capable of resuming employment with the City he shall be returned to City employment and his disability pension shall terminate; provided, that the report of the said physician is concurred in by the Board. In returning the said retirant to City employment reasonable latitude shall be allowed the City in placing him in a position commensurate with his type of work and compensation at the time of his retirement.

(Rev. 05-10-65)

- 7.5 A disability retirant who is returned to City employment shall again become a member of the retirement system. His credited service at the time of his retirement shall be restored to full force and effect. He shall be given service credit for the period he was in receipt of workmen's compensation on account of his disability arising out of and in the course of his City employment; otherwise he shall not be given service credit for such period.

(Rev. 08-7-67)

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- 7.6 If a disability retirant, who has not attained age 55 years become engaged in gainful occupation, business, or employment paying him more than the difference between his annual rate of compensation at the time of his retirement and his disability pension, his pension shall be reduced to an amount which together with the amount so earned by him shall equal but not exceed his annual rate of compensation. Should the retirant's earnings change, the reduction of his pension shall be adjusted accordingly.

(Rev. 02-11-91)

8. Duty Death Pension. If a member dies as the result of personal injury or disease arising solely and exclusively out of and in the course of his employment with the City, and such death, or injury or disease resulting in such death, be found by the Board of Trustees to have been the result of his actual performance of duty in the employ of the City, the benefits provided in this section shall be paid, subject to the condition that workmen's compensation becomes payable on account of the death of the member.

- (A) His widow shall receive a pension computed as if the member had (1) retired the day preceding the date of his death, notwithstanding that he might not have been otherwise eligible to retire, (2) elected Option A and (3) nominated his widow as beneficiary; provided, that the pension shall not be less than 25 percent of the member's final average compensation. For Troy Command Officers Association (TCOA) and Troy Police Officers Association (TPOA), and Troy Command Officers Association (TCOA), and Troy Fire Staff Officers Association (TFSOA) members retiring after July 1, 1998, the percent will be 50 instead of 25.

(Rev. 03-01-04)

- (B) If there be no widow, or if the widow's pension shall cease, for any reason, the member's dependent children shall share equally in a pension equal to 25 percent of the member's final average compensation. Each child's pension shall terminate when the child has died, married, or attained age 18 years.
- (C) As used in this section, the term "Widow" means any person to whom the member was married at the time his employment with the City is terminated.

- 8.1 Non-Duty Death Pension. If any member who has 10 or more years of credited service and dies while in the employ of the City, his or her spouse shall receive a pension computed in the same manner in all respects as if the member had (1) retired the day preceding the date of death, notwithstanding that the member might not have been otherwise eligible to retire, (2) elected

Option A, and (3) nominated the member's spouse as beneficiary.

(Rev. 1-23-95)

9. Members Deposit Fund. The Members Deposit Fund shall be the fund in which shall be accumulated, at regular interest, the contributions of members, and from which shall be made refunds and transfers of accumulated contributions, as provided in this Chapter.

(Rev. 08-07-67)

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9.1 Members Contributions. A members contribution to the retirement system shall be based on the following percent of compensation: MAP 1.50; TPOA; 4.00, TCOA 4.00; Classified and Exempt 1.50; American Federation of State, County, and Municipal Employees (AFSCME) 1.50; and TFSOA 3.00.

(Rev. 08-20-07)

9.2 Payroll deductions. The contributions provided for in this Chapter shall be deducted from the compensations of each member on each and every payroll, for each and every payroll period, from the date of his entrance in the retirement system to the date his City employment terminates. Each member shall be deemed to consent and agree to the deductions made and provided for herein. Payment of his compensation less said deduction shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the service rendered by him during the period covered by such payment, except as to benefits provided by this Chapter. When deducted, each of said contributions shall be credited to the member's individual account in the Members Deposit Fund.

(Rev. 04-20-92)

9.5 Contributions Transferred. Upon a member's retirement, his accumulated contributions standing to his credit in the Members Deposit Fund shall be transferred to the Retirement Reserve Fund. Except as otherwise provided in this Chapter, at the expiration of a period of years from and after the date a member ceases to be an employee of the City, any balance standing to his credit in the Members Deposit Fund, unclaimed by the member or his legal representative, shall be transferred to the Income Fund.

(Rev. 02-11-91)

### Refund of Member's Contributions

9.6 Should any member cease to be employed by the City and not be entitled to a pension payable from funds of the Retirement System, he shall be paid the balance standing to his credit in the Members Deposit Fund, provided he files his written request for same.

(Rev. 04-20-92)

9.7 Upon the death of a member, if no pension becomes payable on account of his City employment, the balance standing to his credit in the Members Deposit Fund at the time of his death shall be paid to such person or persons as he shall have nominated by written designation duly executed and filed with the Board of Trustees. If no designated person or persons survives the member,

his accumulated contributions shall be paid to his estate.

(Rev. 02-11-91)

### Pension Reserve Fund

10.1 The Pension Reserve Fund is hereby created. It shall be the fund in which shall be accumulated the contributions made by the City to the retirement system and from which shall be made transfers of pensions reserves, as provided in this section.

## Chapter 10 Employees Retirement System

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(Rev. 11-23-64)

- 10.2 Upon the basis of such mortality and other tables of experience, and regular interest, as the Board of Trustees shall from time to time adopt, the actuary shall annually compute the pension reserves or service rendered and to be rendered by members, and the pension reserves for pensions being paid retirants and beneficiaries. The pension reserve liabilities so determined shall be financed by annual City contributions to be appropriated by the Council; said contributions:
- (A) for member's current service shall be a percent of their annual compensations which will produce an amount which if paid annually by the City during their future service will be sufficient, at the time of their retirement, to provide the pension reserves, not financed by members' future contributions, for the portions of the pensions to be paid them based upon their future service; and
  - (B) for members' accrued service shall be a percent of their annual compensations which will produce an amount which if paid annually by the City over a period of years, to be determined by the Council, will amortize, at regular interest, the unfunded pension reserves for the accrued service portions of the pensions to which they may be entitled upon retirement; and
  - (C) For pensions being paid retirants and beneficiaries shall be a percent of the annual compensations of members which will produce an amount which if paid annually by the City over a period of years, to be determined by the Council, will amortize, at regular interest, the unfunded pension reserves for pensions being paid retirants and beneficiaries.

(Rev. 11-2-87)

- 10.3 In the event the amount appropriated in the budget in any fiscal year is insufficient to pay in full the amounts due in said year to all retirants and beneficiaries of the retirement system, the amount of such insufficiency shall thereupon be provided by the City.

(Rev. 11-23-64)

- 10.4 Upon the retirement of a member the difference between the pension reserve for the pension payable on his account and his accumulated contributions shall be transferred from the Pension Reserve Fund to the Retirement Reserve Fund.
- 10.5 Retirement Reserve Fund. The Retirement Reserve Fund shall be the fund from which shall be paid all pensions as provided in this Chapter. In the event a disability retirant returns to City employment, his pension reserve at that time shall be transferred from the Retirement Reserve Fund to the Members Deposit Fund and the Pension Reserve Fund in the same proportion as the pension reserve was originally transferred. (Rev. 08-07-67)
- 10.6 Income Fund. The Income Fund shall be the fund to which shall be credited all interest, dividends, and other income from investments of the retirement system; all transfers from the Members Deposit Fund by reason of lack of claimant; and all other moneys received by the retirement system, the disposition of which is not specifically otherwise provided for in this Chapter. The Board of Trustees may accept gifts and bequests. There shall be transferred from the Income Fund all amounts required to credit regular interest to the Members Deposit Fund, Retirement Reserve Fund, and Pension Reserve Fund. Whenever the Board determines that the balance in

## Chapter 10 Employees Retirement System

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the Income Fund is more than sufficient to cover the current charges to the Fund, the Board may, by resolution provide for contingency reserves.

(Rev. 11-02-87)

11. Investment. The Board of Trustees shall be the trustees of the funds of the retirement system and shall have full power to invest and reinvest such funds as permitted by State Law.

### Restricted Use of Funds

- 11.3 All moneys and investments of the Retirement System shall be held for the exclusive purpose of meeting the disbursements for pensions and other payments authorized by this Chapter and shall be used for no other purpose whatsoever.

(Rev. 11-06-00)

### Assets Not Segregated

- 11.4 The Members Deposit Fund, Pension Reserve Fund, Retirement Reserve Fund, Income Fund, and any other Funds created by the Board of Trustees shall be interpreted to refer to the accounting records of the Retirement System and not to the actual segregation of the assets of the System in the said Funds.

(Rev. 11-23-64)

### Allowance of Regular Interest

- 11.5 The Board of Trustees shall, at the end of each fiscal year, allow and credit regular interest to the members' individual accounts in the Members Deposit Fund computed upon their individual balances at the beginning of such fiscal year; and to the mean balances for the year in the Pension Reserve Fund and the Retirement Reserve Fund. The amounts of interest so credited shall be charged to the Income Fund. In the event the balance in the Income Fund is not sufficient to cover the amounts of interest charged to it, the amount of such insufficiency shall be transferred from the Pension Reserve Fund to the Income Fund.

### No Trustee Shall Gain From Investments

- 11.6 Except as otherwise provided in this Chapter, no trustee and no employee of the City shall have any interest direct or indirect in the gains or profit arising from any investments made by the Board of Trustees. No person directly or indirectly, for himself or as an agent or partner of others, shall borrow any moneys or investments of the Retirement System, or in any manner use the same except to make current and necessary payments as are authorized by the Board. No such person shall become an endorser or surety or become in any manner an obligor for moneys loaned by or borrowed from the Board. Nothing contained herein shall be construed to impair the rights of any member, retirant, or beneficiary of the Retirement System to benefits provided by the system.

(Rev. 08-07-67)

## **Chapter 10 Employees Retirement System**

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### Method of Making Payments

- 11.7 All payments from moneys of the Retirement System shall be made by the City Treasurer; all payments shall have been previously authorized by a specific or continuing resolution adopted by the Board.

(Rev. 09-23-74)

### Correction of Errors

- 12.1 Should any change or error in the records of the City or the Retirement System result in any person receiving from the System more or less than he would have been entitled to receive had the records been correct, the Board of Trustees shall correct such error as far as is practicable shall adjust the payment of the benefit in such manner that the actuarial equivalent of the benefit to which such person was correctly entitled shall be paid.

(Rev. 11-23-64)

### Subrogation

- 12.2 In the event a person becomes entitled to a pension or other benefit payable by the Retirement System as the result of an accident or injury caused by the act of a third party, the City shall be subrogated to the rights of the said person against such third party to the extent of the benefits to which the City pays or becomes liable to pay.

### Assignments Prohibited

- 12.3 The right of a person to a pension, to the return of accumulated contributions, the pension itself, any pension option, and any other right accrued or accruing to any member, retirant or beneficiary, under the provisions of this Chapter, and all moneys belonging to the Retirement System, shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency law, or any other process of law whatsoever and shall be unassignable, except as is specifically provided in this Chapter; provided, that if a member is covered by a group insurance or repayment plan participated in by the City, and should be permitted to, and elect to, continue such coverage as a retirant, he may authorize the Board of Trustees to have deducted from his pension the payments required of him to continue coverage under such group insurance or prepayment plan and he may authorize the withholding of State and Federal taxes as provided by law; provided further, that the City shall have the right of setoff for any claim arising from embezzlement by or fraud of a member, retirant, or beneficiary.

(Rev. 10-01-79)

### Fraud Penalty

- 51 Whoever with intent to deceive shall make any statement or report required under this Chapter which is untrue, or shall falsify or permit to be falsified any record or records of the Retirement System shall be subject to punishment as provided in Chapter 1.

(Rev. 02-11-91)

## Chapter 10 Employees Retirement System

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52. Pension Suspended. Except as otherwise provided in this Chapter, in the event a retirant or beneficiary is employed or re-employed by the City in a position which requires membership, payment of his pension shall be suspended during the period of his employment or re-employment. Upon termination of such employment or re-employment in a position which requires membership, his pension shall be re-computed, and he shall receive the new re-computed pension or his prior pension shall be resumed, whichever is the greater amount.

(Rev. 01-07-85)

53. DEFINED CONTRIBUTION PLAN (DCP)

The Employees Retirement System Board of Trustees are vested with the power and authority to administer, manage and operate the Defined Contribution Plan, and to construe and make effective the provisions of this Chapter

(Rev. 11-06-00)

54. The following groups of Employees are eligible to participate in the Plan:

Classified & Exempt, AFSCME, MAP, TCOA, TFSOA, and TPOA.

(Rev. 08-20-07)

55. Contribution Provisions – The City shall contribute as follows:

The City shall contribute on behalf of each Participant (a) % of earnings for the Plan Year. Each Participant is required to contribute (b) % of earnings for the Plan Year as a condition of participation in the Plan. A Participant shall not have the right to discontinue or vary the rate of such contributions after becoming a Plan Participant.

	<u>(a) – Employer</u>	<u>(b) – Employee</u>
Classified & Exempt		
(Hired before 1/1/04)	12%	4%
(Hired after 1/1/04)	11%	4%
(Hired after 1/1/05)	10%	4%

(Rev. 08-20-07)

American Federation of State, County, and Municipal Employees (AFSCME)

(Hired prior to 2/16/98)	12%	4%
(Hired after 2/16/98)	11%	5%
(Hired after 11/17/03)	10%	5%

(Rev. 02.02.04)

Michigan Association of Police (MAP)

(Hired prior to 12/21/98)	12%	4%
(Hired after 12/21/98)	11%	5%
(Hired after 2/7/05)	10%	5%

(Rev. 08-20-07)

**Chapter 10 Employees Retirement System**

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Troy Fire Staff Officers Association (TFSOA)		
(Hired prior to 7/1/97)	13%	3%
(Hired after 7/1/97)	11%	5%
(Hired after 7/1/06)	10%	5%

(Rev. 08-20-07)

Troy Police Officers Association (TPOA)		
(Hired after 2/15/00)	11%	5%
(Hired after 10/17/05)	10%	6%

(Rev. 08-20-07)

Troy Command Officers Association (TCOA)	12%	4%
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(Rev. 03-01-04)

56. Voluntary Contributions

Each Participant may make voluntary (unmatched), after-tax contributions, subject to the limitations of Section 4.05 and Articles V and VI of the Plan.

(06-07-99)

57. Vesting Provisions

The City hereby specifies the following vesting schedule:

Each Participant who transfers from the Defined Benefit Plan shall be 100% percent vested.

For all other Participants the following vesting schedule will apply:

<u>Years of Completed Service</u>	<u>Percent Vested</u>
Three	50%
Four	75%
Five	100%

(06-07-99)

58. Loan Provisions

Loans are not permitted under the Plan.

(06-07-99)

59. Disability Pension

Participants in the DCP shall also participate in a disability plan equivalent to the defined benefit disability plan as set forth in the retirement ordinance. The City's liability for the disability benefit shall be offset by (1) an amount which may be payable pursuant to the workers' compensation act, if applicable, and (2) by the lifetime annuity value of the employee's 401 (a) defined

## Chapter 10 Employees Retirement System

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contribution retirement account, determined as of the effective date of the employee's disability-related separation from service.

Defined contributions shall include all contributions and income accumulated in the plan account whether derived by the contributions made by the employee or employer, including any amounts transferred into the plan. While the employee is receiving disability benefits or is receiving workers' compensation the City shall contribute the employer rate as contained in the ordinance of the disabled employee's taxable wage for deposit in the DCP for the employee's benefit.

(06-07-99)

### 60. Non-Duty Death Provision

Participants in the DCP shall also be covered in the event of death including non-duty death with a benefit equivalent to the defined benefit plan as set forth in the retirement ordinance. The City's liability for a death benefit shall be off-set by (1) an amount which may be payable pursuant to the workers' compensation act, if applicable, and (2) by the lifetime annuity value of the employee's 401 (a) defined contribution retirement account, determined as of the effective date of the employee's death.

(06-07-99)

### 61. Voluntary Separation Incentive Program for Retirement

In order to address significant budget short falls for the 2009 fiscal year, on November 10, 2008, the Troy City Council approved a limited Voluntary Separation Incentive Program for those employees eligible to retire as of December 31, 2008 and who retire between January 1, 2009 and February 28, 2009. For those employees who satisfactorily complete all requirements for the Voluntary Separation Incentive Program (City Council Resolution 2008-11-331), the definition of credited service, as found in Section 1 (F) is modified to allow for one week of additional credited service for each full year of the employee's service as of December 31, 2008, as well as a one time lump sum payment in the amount of one week of 2008 base salary for each full year of the employee's service as of December 31, 2008. This lump sum payment is not included in the employee's Final Average Compensation, as defined in Section 1 (H).



## CITY COUNCIL ACTION REPORT

DATE: January 19, 2009

TO: Phillip L. Nelson, City Manager

FROM: Brian P. Murphy, Assistant City Manager/Economic Development Services  
Mark F. Miller, Planning Director

SUBJECT: Preliminary Site Condominium Review – Adams Road Site Condominium, East side of Adams, South of South Boulevard, Section 6 – R-1A

### Background:

- City Council considered this item at the December 15, 2008 Regular meeting. There was no action taken at that meeting. The City Engineer prepared a memorandum addressing drainage problems described in a letter prepared by the owners of 2861 Charnwood.
- The Planning Commission recommended approval of Adams Road Preliminary Site Condominium Plan at the November 11, 2008 Regular meeting.
- The applicant is proposing a 5-unit site condominium on a 4.98-acre parcel. The development will utilize the One-Family Cluster Option (Section 34.70.00) which provides for reduced lot sizes and setbacks. The applicant is required to provide at least 30% open space; at least 25% of the open space shall be non-regulated wetlands.
- The applicant prepared a parallel plan that indicates that five units can be developed on the property using conventional R-1A area and bulk requirements.

### Financial Considerations:

- There are no financial considerations for this item.

### Legal Considerations:

- City Council has the authority to act on this application.

Policy Considerations:

- The application is consistent with the following “Outcome Statements” as established at the July 1, 2008 Special Council meeting:
  - II. Troy adds value to properties through maintenance or upgrades of infrastructure and quality of life venues.
  - III. Troy is rebuilding for a healthy economy reflecting the values of a unique community in a changing and interconnected world.

Options:

- City Council can approve the Preliminary Site Condominium Plan as submitted or with conditions.
- City Council can deny the Preliminary Site Condominium Plan.
- City Management recommends approval of the Adams Road Preliminary Site Condominium Plan.

Attachments:

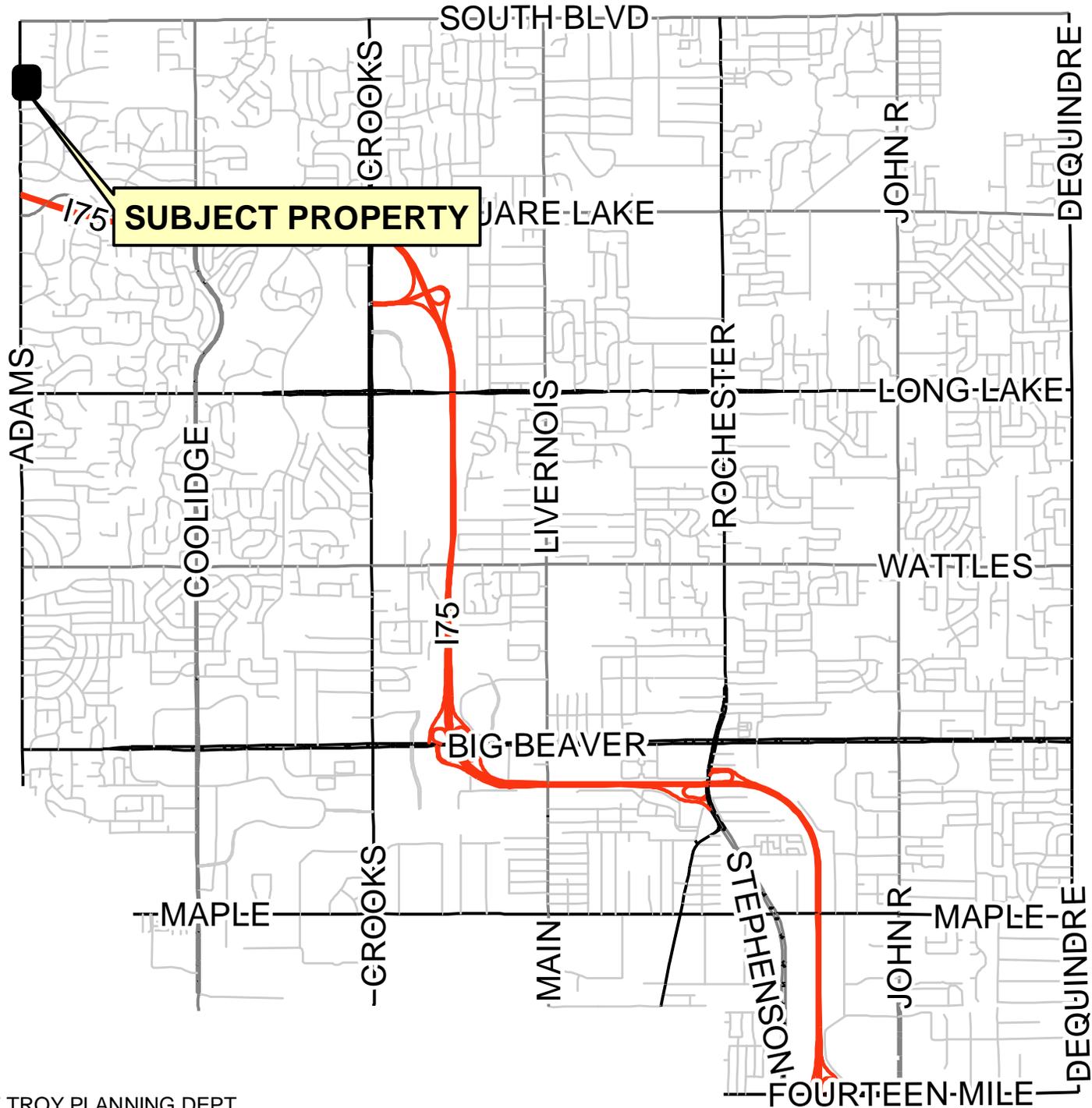
1. Maps.
2. Letter prepared by the owners of 2861 Charnwood, dated December 15, 2008.
3. Memo prepared by City Engineer, dated January 19, 2009.
4. Minutes from the November 11, 2008 Planning Commission Regular meeting.
5. Minutes from the December 15, 2008 City Council Regular meeting.

Prepared by RBS/MFM

cc: Applicant  
File/Adams Road Site Condominium

G:\SUBDIVISIONS & SITE CONDOS\Adams Road Site Condo Sec 6\CC Approval Adams Road Site Condo 01 26 09.docx

# CITY OF TROY



SITE CONDOMINIUM SITE PLAN REVIEW  
PROPOSED ADAMS ROAD SITE CONDOMINIUM  
E SIDE OF ADAMS, S OF SOUTH BLVD.  
SEC. 6

MEATH HUNT CIR

GALLOWAY BAY

DONEGAL

KILLARNEY

DUBLIN FAIR

SUBJECT PARCEL



LAKE CHARNWOOD

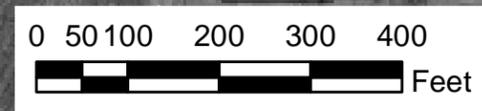
BEACH

ADAMS

LIMERICK

MALVERN

TEWKSBURY



SITE CONDOMINIUM SITE PLAN REVIEW  
PROPOSED ADAMS ROAD SITE CONDOMINIUM  
E SIDE OF ADAMS, S OF SOUTH BLVD.  
SEC. 6

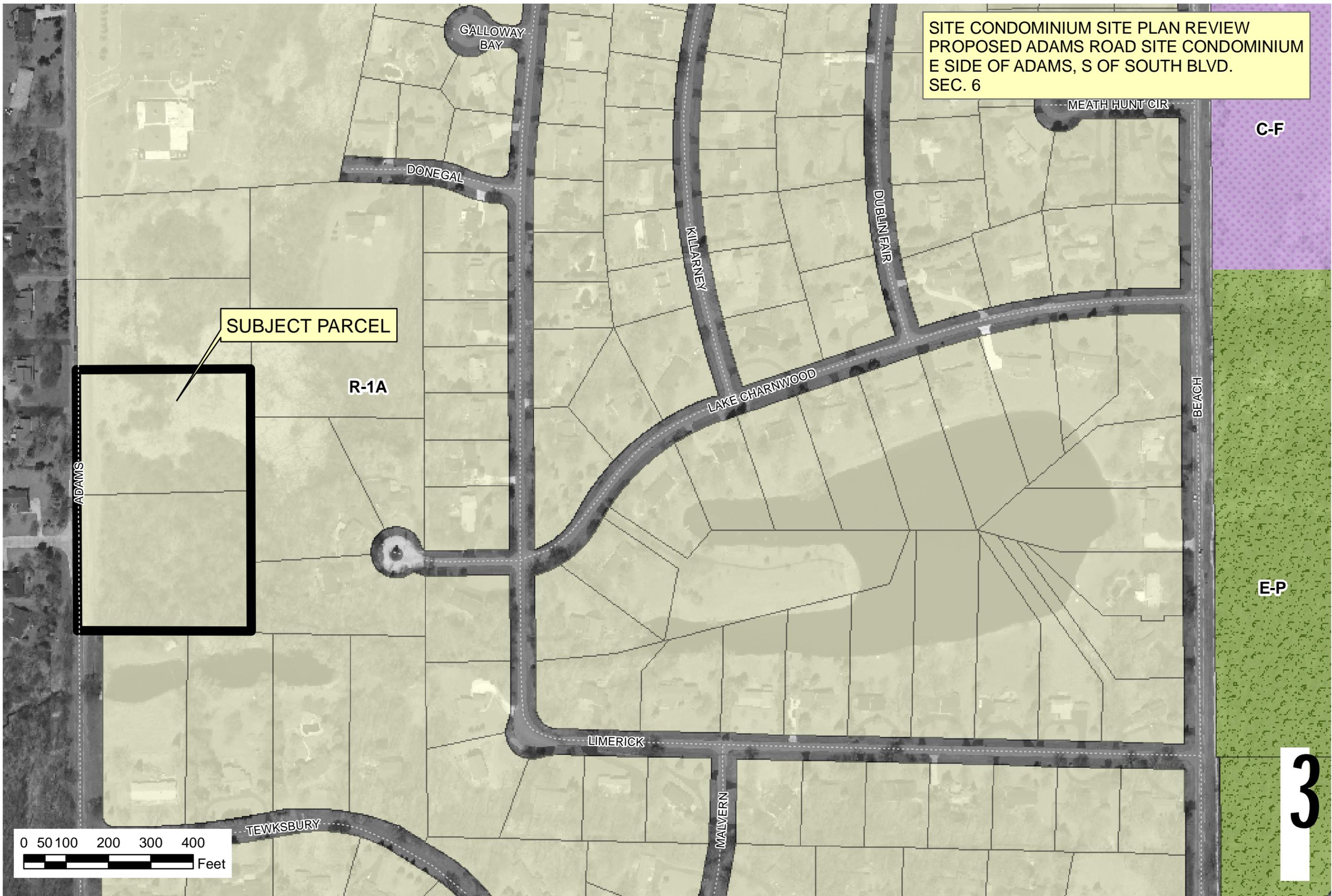
C-F

SUBJECT PARCEL

R-1A

E-P

3



## **Susan & Mark McPhail**

2861 Lake Charnwood Dr. • Troy, MI 48098  
(248) 879 9129

December 15, 2008

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

Dear Sir or Madam,

We are writing to express our objections and concerns about the proposal to renew the proposal for Adams Road Site Condominiums on parcel no. 88-20-06-103-018 and 019, located on the east side of Adams Road, south of South Boulevard.

Our home abuts this property.

The low lying portions of this area are notoriously wet. Portions of our property are in a flood plain. Many of our neighbors have persistent problems with basement flooding. During the six years we have lived here, we have experienced significant, serious changes in the land. The lawn on the south side of our home often has standing water. It is no longer mowable or walkable. The patio and pool deck (above ground) are sinking. Engineers from the City of Troy have visited our home and documented these developments as recently as last summer.

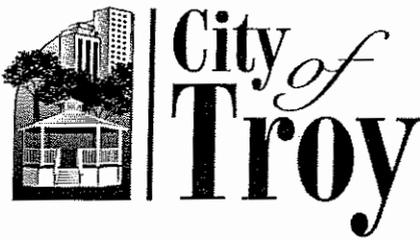
Enormous amounts of fill will be necessary to build on the property in question. Experts have told us that additional construction on adjacent, higher ground will exacerbate existing conditions for lower lying properties such as ours.

We have two questions for the City of Troy and developer in question. Isn't the city's first obligation to the safety and values of existing homes and homeowners? Which of you are liable for damages to existing homes and property caused by a decision to move this proposed development ahead in light of these documented environmental concerns?

We respectfully request that the council postpone a decision to approve renewal of this application until a thorough environmental impact study is conducted by an independent party at the developer's expense.

Sincerely,

Susan and Mark McPhail



## ENGINEERING DEPARTMENT

# Memo

**To:** Mark Miller, Planning Director  
**From:** Steven J. Vandette, City Engineer   
**Date:** 1/19/2009  
**Re:** Adams Road Preliminary Site Condominium

As a follow up to City Council's December 15, 2008 request for information pertaining to drainage problems described in a letter from Mark and Susan McPhail (owners of property at 2861 Lake Charnwood which abuts the proposed site condo), we have found documentation of contacts by the McPhails to DPW and Engineering departments.

There is one contact related to drainage. On September 10, 2007 they reported, "since buying their house 5 years ago, environment has changed so rapidly, her lawn east and west of the house is too mushy." Our review revealed that the grading of the lot is from the front where it's highest to the rear where it's lowest, except for approximately 30 feet of the east side of the lot adjacent to Lake Charnwood Road that slopes toward the road. The majority of the runoff from the lot, the home's roof and driveway runoff flows past the sides of the home toward the flood plain area west of the home. Depending on rainfall and moisture content of the soil, it is natural that these pathways for the runoff east and west of the home may be saturated from time to time. Since it was a private property matter, the City of Troy took no action in this case.

As stated in their letter, portions of their lot, the west side, are in the 100 year flood plain. This is the same flood plain that extends westward and encompasses a portion of the east side of the condo site. This natural drain provides the outlet for drainage from the McPhail's lot and also the condo site.

Given the high ground water table in the area, addition of hard surfaces and runoff from the condo site, plus a complete absence of storm sewers in this area, proper management of storm water from the condo site does make for an engineering challenge, but not an impossible task. As you are aware, this office approves the engineering plans, including site grading and drainage, based upon the City's Development Standards, which require that the development not cause or exacerbate drainage problems on contiguous properties due to surface run-off from the proposed development. This office will be working closely with the developer's architect, David Donnellon, to assure that the engineering plans meet our standards. Additionally, Mr. Donnellon has offered to include the McPhails in the review of the engineering plans so that they too can be satisfied that the development will not exacerbate any drainage problems. City engineering staff will participate with them in this process, as we have done on other developments, to assure there is a satisfactory outcome.

At this point in the development process, which is preliminary site plan, engineering plans are not required. That being the case, we are likely not able to proceed with review and development of the engineering plans with Mr. Donnellon and the McPhails until after the preliminary site plan is approved by City Council.

cc: Brian Murphy, Asst. City Manager/Services

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**SITE CONDOMINIUM SITE PLAN**

9. **SITE CONDOMINIUM SITE PLAN REVIEW** – Adams Road Site Condominium (Renewal), 5 units/lots proposed, East side of Adams, South of South Blvd., Section 6, Zoned R-1A (One Family Residential) District

Mr. Savidant presented a summary of the Planning Department report on the proposed site condominium development, and reported it is the recommendation of City Management to approve the site condominium application as submitted.

There was a brief discussion as relates to revisions to the site plan, wetland delineations and MDEQ (Michigan Department of Environmental Quality) approval.

The petitioner, David Donnellon of Choice Group, 755 W. Big Beaver Road, Troy, was present. Mr. Donnellon addressed the proposed storm water management.

Chair Schultz opened the floor for public comment.

John Quasarano of 2862 Lake Charnwood, Troy, was present. He requested to view the site plan, of which a complete set was provided to him.

Chair Schultz closed the floor for public comment.

**Resolution # PC-2008-11-133**

Moved by: Sanzica  
Seconded by: Strat

**RESOLVED**, That the Planning Commission recommends to City Council that the Preliminary Site Plan (Section 34.70.00 One-Family Cluster Option), as requested for Adams Road Site Condominium, including 5 units, located on the east side of Adams, south of South Boulevard, Section 6, within the R-1A zoning district, be granted.

Yes: All present (6)  
Absent: Maxwell, Vleck, Wright

**MOTION CARRIED**

right of way, and hereby **AUTHORIZES** the Mayor and City Clerk to execute the documents, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

---

**F-13 Allocation of 2009 Tri-Party Program Funds**

Resolution #2008-12-376-F-13

RESOLVED, That Troy City Council hereby **APPROVES** the 2009 Tri-Party program funding allocation of \$544,591.00 and the remaining 2008 Tri-Party program funds in the amount of \$50,585.00 be used, as required, for concrete slab replacements on County Roads, with \$198,392.00 being the City's share.

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**F-14 Approval to Temporarily Waive Parking Restrictions – Vanderpool**

Resolution #2008-12-376-F-14

RESOLVED, That Troy City Council hereby **WAIVES** the no parking restrictions on Vanderpool Street near 865 Vanderpool on December 20, 2008, between the hours of 5:00 PM and 10:00 PM.

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

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**F-8 Preliminary Site Condominium Review – Adams Road Site Condominium, East Side of Adams, South of South Boulevard, Section 6 – R-1A: No Action Taken by City Council**

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**F-9 Winter Maintenance Agreement, Road Commission for Oakland County**

Resolution #2008-12-377

Moved by Beltramini

Seconded Kerwin

RESOLVED, That Troy City Council hereby **APPROVES** the Winter Maintenance Agreement between the Road Commission for Oakland County and the City of Troy for Snow and Ice Control of certain primary and local roads, which are described and outlined in Exhibit A, and hereby **AUTHORIZES** the Mayor and City Clerk to execute the necessary documents, a copy of which is authorized by the provisions of 1951 PA 51 (MCL 247.651 et seq.), shall be **ATTACHED** to the original Minutes of this meeting.

Yes: All-7

**MOTION CARRIED**



## CITY COUNCIL ACTION REPORT

DATE: January 19, 2009

TO: Phillip L. Nelson, City Manager

FROM: Brian P. Murphy, Assistant City Manager/Economic Development Services  
Mark F. Miller, Planning Director

SUBJECT: Preliminary Site Condominium Review – Oak Forest Site Condominium, South side of Square Lake Road, between Willow Grove and John R Road, Section 11 – R-1C

### Background:

- The Planning Commission recommended approval of Oak Forest Preliminary Site Condominium Plan at the December 9, 2008 Regular meeting.
- The applicant is proposing a 76-unit site condominium on a 39.23-acre parcel. The development will utilize the Lot Averaging Option (Section 34.10.00) which provides for up to a 10 percent reduction in lot areas and widths.
- This project received Preliminary Approval from City Council on April 18, 2005, and was granted a one-year extension on June 5, 2006. Preliminary Approval expired on April 18, 2007.

### Financial Considerations:

- There are no financial considerations for this item.

### Legal Considerations:

- City Council has the authority to act on this application.

### Policy Considerations:

- The application is consistent with the following “Outcome Statements” as established at the July 1, 2008 Special Council meeting:

- II. Troy adds value to properties through maintenance or upgrades of infrastructure and quality of life venues.
- III. Troy is rebuilding for a healthy economy reflecting the values of a unique community in a changing and interconnected world.

Options:

- City Council can approve the Preliminary Site Condominium Plan as submitted or with conditions.
- City Council can deny the Preliminary Site Condominium Plan.

Attachments:

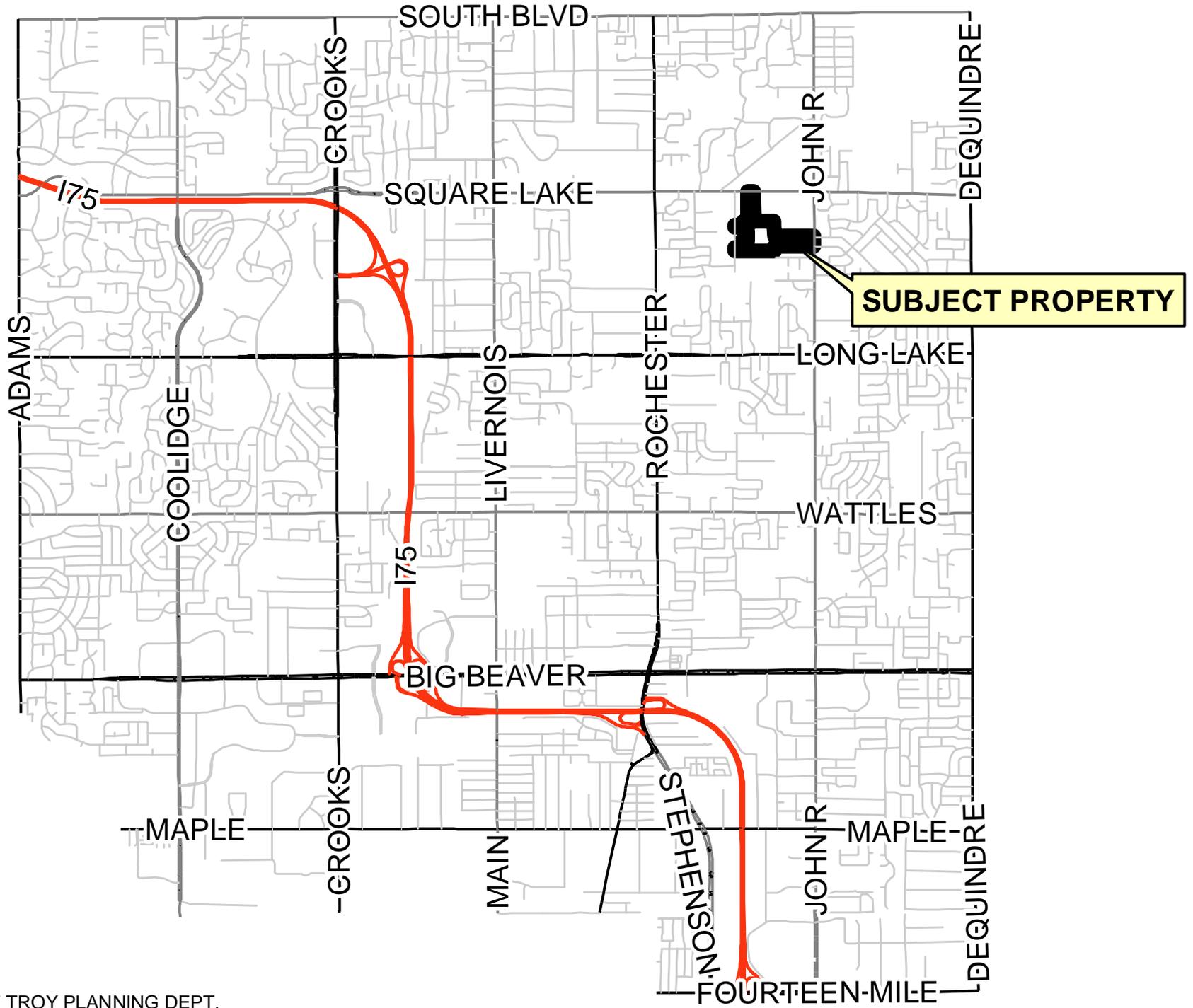
1. Maps.
2. Report prepared for Planning Commission dated December 3, 2008.
3. Minutes from the December 9, 2008 City Council Regular meeting.

Prepared by RBS/MFM

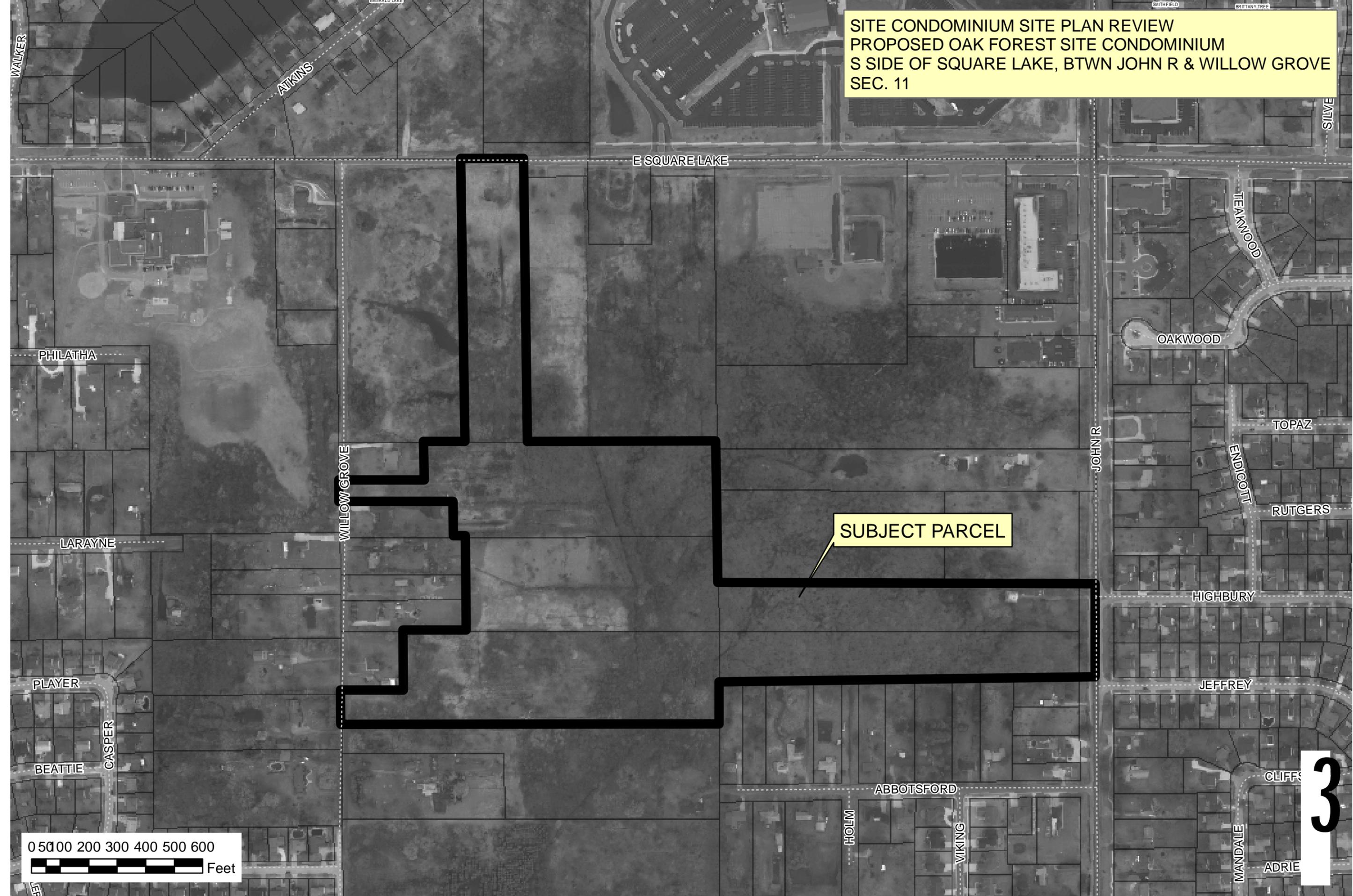
cc: Applicant  
File/Oak Forest Site Condominium

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# CITY OF TROY



SITE CONDOMINIUM SITE PLAN REVIEW  
PROPOSED OAK FOREST SITE CONDOMINIUM  
S SIDE OF SQUARE LAKE, BTWN JOHN R & WILLOW GROVE  
SEC. 11



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SITE CONDOMINIUM SITE PLAN REVIEW  
PROPOSED OAK FOREST SITE CONDOMINIUM  
S SIDE OF SQUARE LAKE, BTWN JOHN R & WILLOW GROVE  
SEC. 11

R-1D

E SQUARE LAKE

B-2

O-1

P-1

R-1C

SUBJECT PARCEL



DATE: December 3, 2008

TO: The Planning Commission

FROM: Mark F. Miller, Planning Director  
R. Brent Savidant, Principal Planner  
Ronald Figlan, Planner  
Paula Preston Bratto, Planner

SUBJECT: PRELIMINARY SITE CONDOMINIUM REVIEW – Oak Forest Site Condominium, south side of Square Lake Road, between Willow Grove and John R Road, section 11 – R-1C.

### **GENERAL INFORMATION**

Name of Owner / Applicant:

The owner and applicant is Dale Garrett of Ladd's Inc.

Location of subject property:

The property is located on the south side of Square Lake Road, between Willow Grove and John R Road, in section 11.

Size of subject parcel:

The parcel is approximately 39.23 acres in area. It has access to both Square Lake Road and John R Road.

Description of proposed development:

The applicant is proposing a 76-unit site condominium, with access to both Square Lake Road and John R Road. Two stub streets to the north on the east side of the Fetterly Drain and one stub street to the south on the west side of the Fetterly Drain are also proposed.

This project received Preliminary Approval from City Council on April 18, 2005, and was granted a one-year extension on June 5, 2006. Preliminary Approval expired on April 18, 2007.

Current use of subject property:

Two single-family homes presently sit on the property.

Current use of adjacent parcels:

North: Single family residential and vacant.  
South: Single family residential and vacant.  
East: Single family residential and vacant.  
West: Single family residential and vacant.

Current zoning classification:

The property is currently zoned R-1C One Family Residential.

Zoning classification of adjacent parcels:

North: R-1C One Family Residential.

South: R-1C One Family Residential.

East: R-1C One Family Residential.

West: R-1C One Family Residential.

Master Plan Designation:

The property is designated on the Master Plan as Single Family Residential.

**ANALYSIS**

Compliance with area and bulk requirements of the R-1C One Family Residential District:

Lot Area: Minimum lot area in the R-1C district is 10,500 square feet. However, the applicant is utilizing the Lot Averaging Option, which permits a 10 percent reduction in lot area to 9,450 square feet.

Lot Width: The minimum required lot width is 85 feet. The applicant has utilized the lot averaging option, which permits a 10 percent reduction in lot widths, to 76.5 feet.

Height: 2 stories or 25 feet.

Setbacks: Front: 30 feet.  
Side (least one): 10 feet.  
Side (total two): 20 feet.  
Rear: 40 feet.

Minimum Floor Area: 1,200 square feet.

Maximum Lot Coverage: 30%.

The applicant meets the area and bulk requirements of the R-1C One Family Residential District.

Off-street parking and loading requirements:

The applicant will be required to provide 2 off-street parking spaces per unit.

Environmental provisions, including Tree Preservation Plan:

A Tree Preservation Plan was submitted as part of the application.

Storm water detention:

The applicant is proposing two storm water detention basins. One will serve the 38 units on the east side of the drain, one will serve the 38 units on the west side of the drain.

Natural features and floodplains:

The Natural Features Map indicates there are wetlands, woodlands and a drain on the property. The MDEQ has a draft wetland permit for the site but it has not been finalized. The applicant is required to receive a permit from the MDEQ prior to commencing any construction activity such as dredging, filling, or draining within a regulated wetland.

The MDEQ typically requires conservation easements over mitigated wetlands that are approved under the MDEQ wetland permit. These areas are owned and maintained by the property owner but enforced by the MDEQ, under the parameters set up by the MDEQ conservation easement. All mitigation areas to be regulated by MDEQ conservation easements need to be clearly indicated as such prior to being reviewed by City Council.

Subdivision Control Ordinance, Article IV Design Standards

Lots: All units meet the minimum area and bulk requirements of the Zoning Ordinance.

Streets: The proposed development has direct vehicular access to both John R and Square Lake Roads. The paved portion of all proposed streets will be 28 feet wide, located within a 60-foot wide public right-of-way.

The applicant has provided two future connections to the north and one to the south.

Sidewalks: The applicant is proposing sidewalks on both sides of the proposed streets. In addition, a 12-foot wide pedestrian connection is provided to the south, between units 31 and 32.

Utilities: The parcel is served by public water and sewer.

**CITY MANAGEMENT RECOMMENDATION**

The applicant provides a 12-foot wide pedestrian connection with the Holm Street right of way to the south, between units 31 and 32. At the request of the Planning Department, the applicant provided an alternate layout showing a vehicular connection in place of the pedestrian connection. Interconnecting neighborhoods using paths or streets is generally considered a sound planning

principal. In this instance, the Holm Street right of way (platted in 1928) is unimproved and there are no plans to construct Holm between Abbotsford and the northern property line. The right of way essentially serves as the backyard for two homes in an established residential neighborhood. If a path or street is extended to the southern property line, it is unclear if and when it will ever be connected to the right of way to the south. It seems wasteful to have the applicant construct a path or street that ends at the property line. The applicant proposes five points of ingress/egress for this development, with sidewalks on both sides of all interior streets. For these reasons, City Management would support the elimination of a pathway or street at this location.

City Management recommends approval of the Oak Forest Site Condominium application, subject to the following:

1. All mitigation areas to be regulated by an MDEQ conservation easement need to be clearly indicated as such on all plans prior to being reviewed by City Council.

Furthermore, City Management requests that the Planning Commission make a determination on whether to have a pathway connection, a vehicular connection or neither, between units 31 and 32 to the Holm Street right of way to the south.

cc: Applicant  
File/Oak Forest Site Condominium

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## **SITE CONDOMINIUM SITE PLANS**

8. SITE CONDOMINIUM SITE PLAN REVIEW – Proposed Oak Forest Site Condominium, 76 units/lots proposed, South side of Square Lake Road, West of John R and East of Willow Grove, Section 11, Zoned R-1C (One Family Residential) District

Mr. Hutson declared he has a business interest with the petitioner and asked to be recused from deliberations for both Agenda items #8 and #9.

Mr. Forsyth said it would be appropriate to recuse Mr. Hutson from both Agenda items to avoid any conflict of interest.

Mr. Savidant presented a summary of the Planning Department report on the proposed site condominium development, and reported it is the recommendation of City Management to approve the Oak Forest Site Condominium application with the condition that the mitigation areas are clearly indicated on all the plans prior to being reviewed by City Council.

Mr. Savidant addressed the proposed pedestrian pathway between units 31 and 32 to the Holm Street right of way to the south. He asked members to consider and make a determination whether the pedestrian pathway should remain, be eliminated, or replaced by a stub street designed to City standards.

There was a brief discussion on if and how the plan was revised since its prior approval and how the plan relates to the Master Plan.

The petitioner, Dale Garrett, 5877 Livernois, Troy, was present. Mr. Garrett said the lots were somewhat reshuffled as a result of the completion of the drain improvements. He indicated the number of lots remains the same and that basically there are no changes to the plan since its prior approval.

Discussion continued on:

- Mitigation areas.
- Pedestrian pathway.
- Housing market trends.

Chair Schultz opened the floor for public comment.

The following residents were present and spoke in opposition of the proposed development.

Dorene Randall, 5348 Abington, Troy.

Pam Brubaker, 5775 John R, Troy.

Patricia Ullmann, 5621 Willow Grove, Troy. Ms. Ullmann addressed both Agenda items #8 and #9.

Chair Schultz closed the floor for public comment.

Mr. Maxwell asked the petitioner to address his concern that the development might be overbuilt. He also asked if the petitioner would like to respond to any of the comments given tonight by the residents.

Mr. Garrett said the site, in his opinion, is not overbuilt. He said they are impacting 1.7 acres of wetlands and constructing 2.9 acres of the 39-acre site. Mr. Garrett said that averages out to a little over two units per acre, indicating that the normal construction ratio is four units per acre. Mr. Garrett addressed the rigorous process of the MDEQ and said he is satisfied with the determination. He is confident that all regulations and City ordinances relating to permits and the MDEQ have been followed. Mr. Garrett briefly addressed the trees cut on the Oak Forest South Site Condominium site and specifically noted that the cut trees were nursery stock size.

Mr. Savidant addressed the mitigation areas, to the best of his ability, on the overhead screen.

**Resolution # PC-2008-12-148**

Moved by: Sanzica  
Seconded by: Vleck

**RESOLVED**, That the Planning Commission recommends to City Council that the Preliminary Site Plan (Section 34.30.00 Unplatted One-Family Residential Development), as requested for Oak Forest Site Condominium, including 76 units, located on the south side of Square Lake Road and west side of John R, Section 11, within the R-1C zoning district be granted, subject to the following conditions:

1. All mitigation areas to be regulated by an MDEQ conservation easement need to be clearly indicated as such on all plans prior to being reviewed by City Council.
2. The proposed pedestrian pathway between units 31 and 32 to the Holm Street right of way to the south be eliminated.

Yes: All present (5)  
Abstain: Hutson  
Absent: Strat, Ullmann, Wright

**MOTION CARRIED**



## CITY COUNCIL ACTION REPORT

DATE: January 19, 2009

TO: Phillip L. Nelson, City Manager

FROM: Brian P. Murphy, Assistant City Manager/Economic Development Services  
Mark F. Miller, Planning Director

SUBJECT: Preliminary Site Condominium Review – Oak Forest South Site Condominium, East side of Willow Grove, South of Square Lake Road, Section 11 – R-1C

### Background:

- The Planning Commission recommended approval of Oak Forest South Preliminary Site Condominium Plan at the December 9, 2008 Regular meeting.
- The applicant is proposing a 25-unit site condominium on a 10.03-acre parcel. The development will utilize the Lot Averaging Option (Section 34.10.00) which provides for up to a 10 percent reduction in lot areas and widths.
- This project received Preliminary Approval from City Council on April 18, 2005, and was granted a one-year extension on June 5, 2006. Preliminary Approval expired on April 18, 2007. Note that the original application included only 23 units.

### Financial Considerations:

- There are no financial considerations for this item.

### Legal Considerations:

- City Council has the authority to act on this application.

### Policy Considerations:

- The application is consistent with the following “Outcome Statements” as established at the July 1, 2008 Special Council meeting:

- II. Troy adds value to properties through maintenance or upgrades of infrastructure and quality of life venues.
- III. Troy is rebuilding for a healthy economy reflecting the values of a unique community in a changing and interconnected world.

Options:

- City Council can approve the Preliminary Site Condominium Plan as submitted or with conditions.
- City Council can deny the Preliminary Site Condominium Plan.

Attachments:

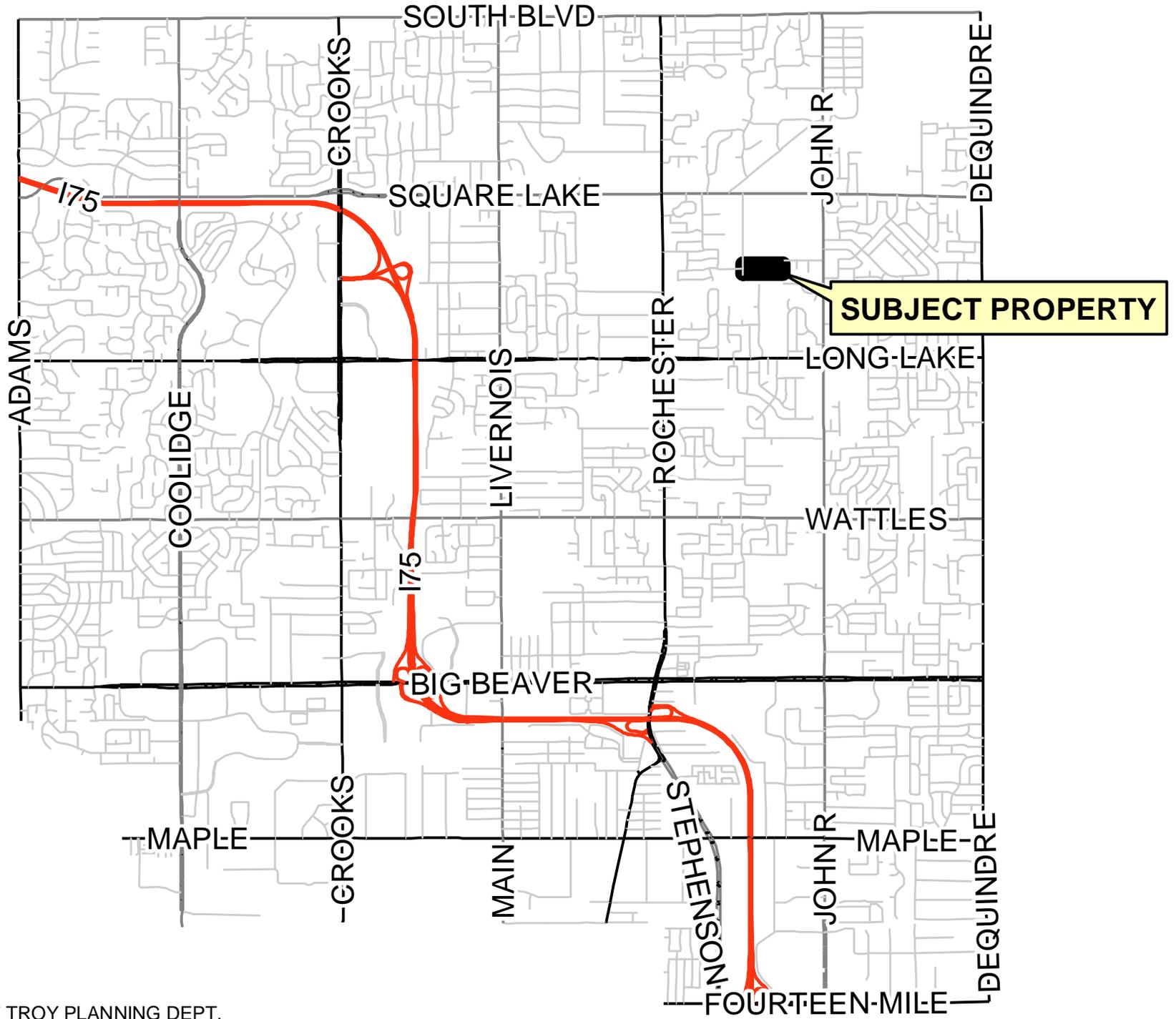
1. Maps.
2. Report prepared for Planning Commission dated December 3, 2008.
3. Minutes from the December 9, 2008 City Council Regular meeting.

Prepared by RBS/MFM

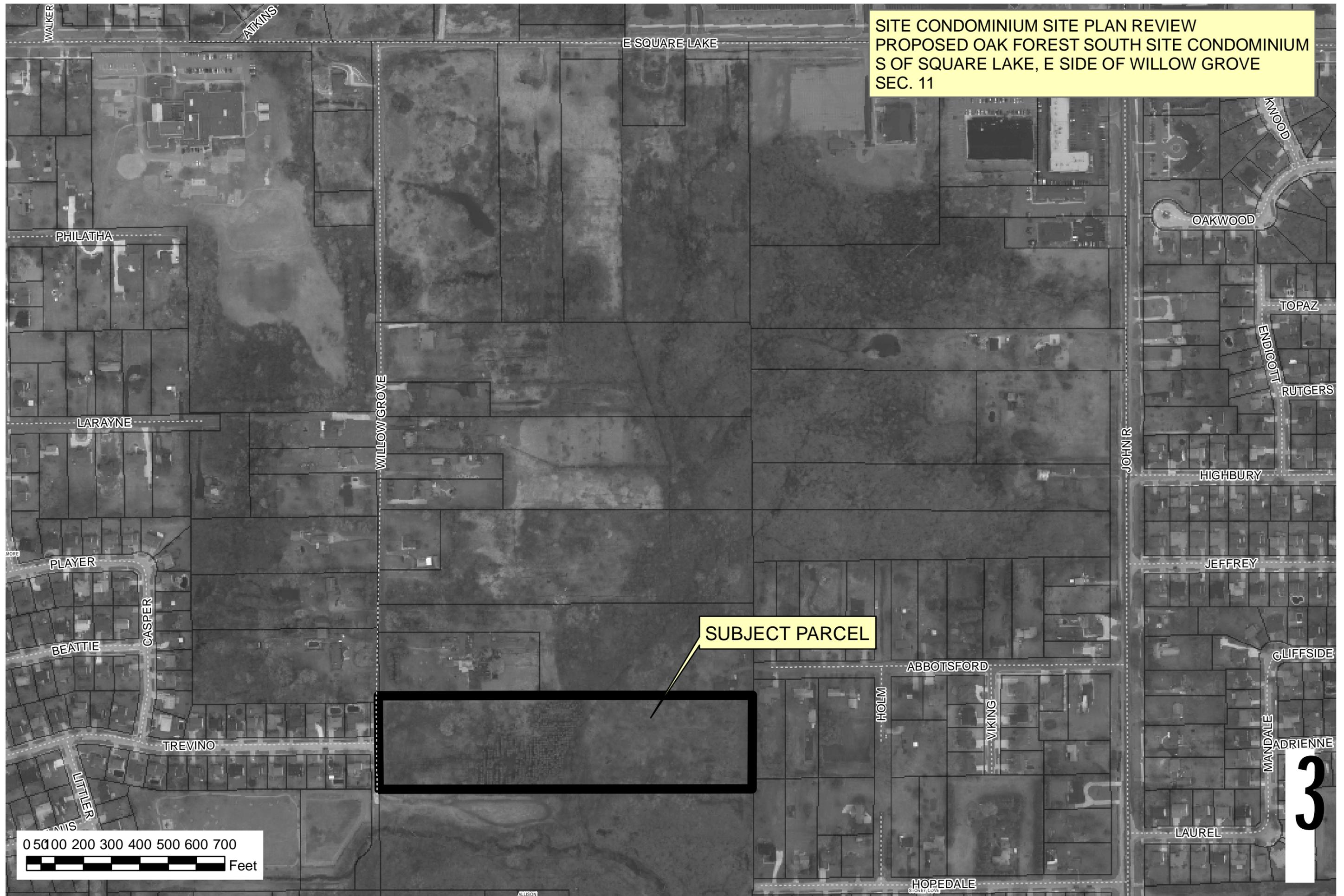
cc: Applicant  
File/Oak Forest South Site Condominium

G:\SUBDIVISIONS & SITE CONDOS\Oak Forest South Site Condominium Sec 11\CC Approval Oak Forest South Site Condo 01 26 09.docx

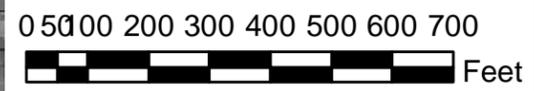
# CITY OF TROY



SITE CONDOMINIUM SITE PLAN REVIEW  
PROPOSED OAK FOREST SOUTH SITE CONDOMINIUM  
S OF SQUARE LAKE, E SIDE OF WILLOW GROVE  
SEC. 11

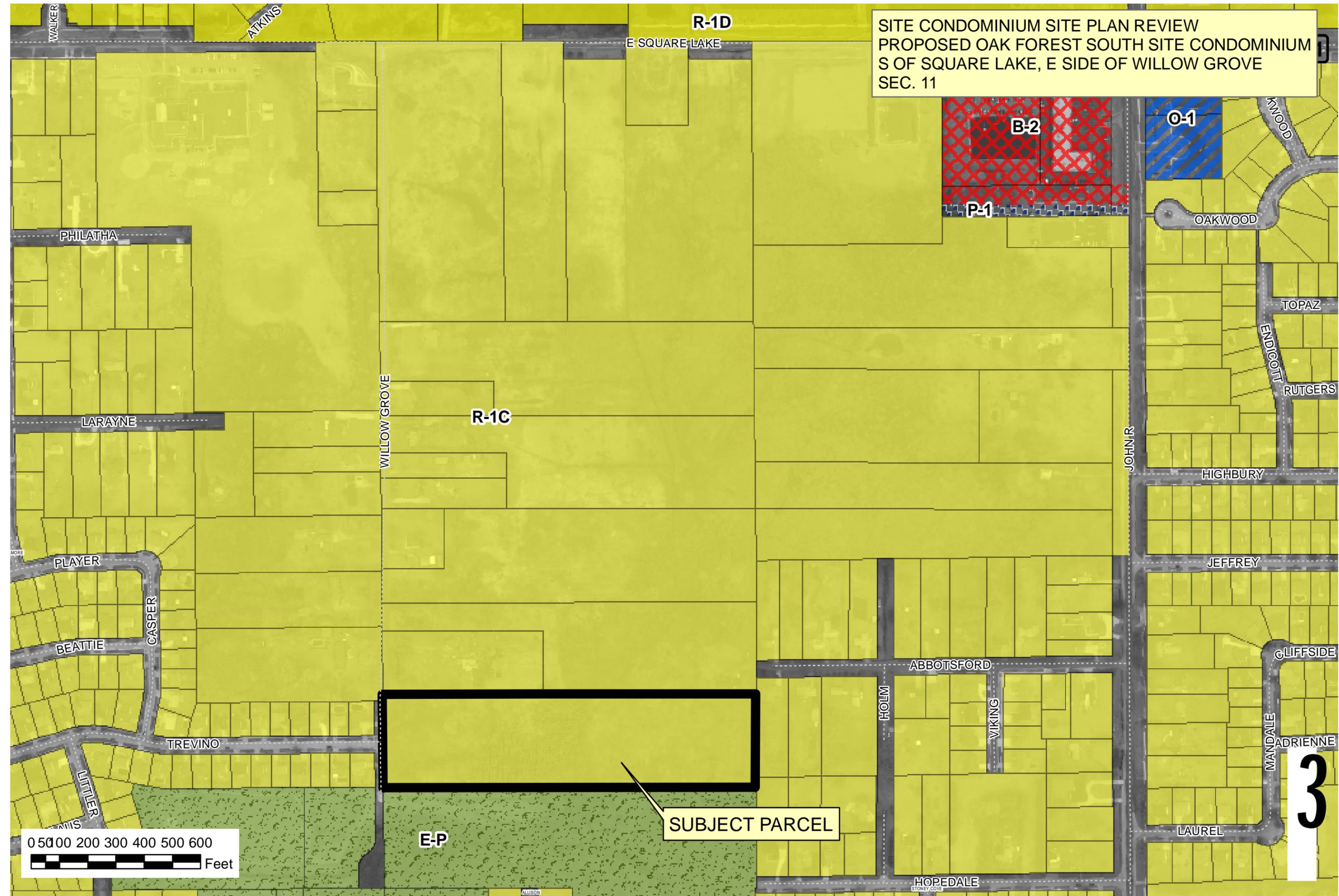


SUBJECT PARCEL



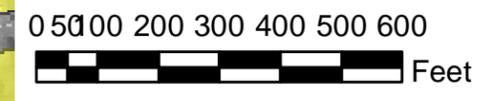
3

SITE CONDOMINIUM SITE PLAN REVIEW  
PROPOSED OAK FOREST SOUTH SITE CONDOMINIUM  
S OF SQUARE LAKE, E SIDE OF WILLOW GROVE  
SEC. 11



SUBJECT PARCEL

3



DATE: December 3, 2008

TO: The Planning Commission

FROM: Mark F. Miller, Planning Director  
R. Brent Savidant, Principal Planner  
Ronald Figlan, Planner  
Paula Preston Bratto, Planner

SUBJECT: PRELIMINARY SITE CONDOMINIUM REVIEW – Oak Forest  
South Site Condominium, east side of Willow Grove, south of  
Square Lake Road, Section 11 – R-1C.

### **GENERAL INFORMATION**

Name of Owner / Applicant:

The owner and applicant is Dale Garrett of Ladd's Inc.

Location of subject property:

The property is located on the east side of Willow Grove, south of Square Lake Road, in Section 11.

Size of subject parcel:

The parcel is approximately 10.03 acres in area.

Description of proposed development:

The applicant is proposing a 25-unit site condominium. The applicant proposes a layout with a future road stubbing at the northern property line.

This project received Preliminary Approval from City Council on April 18, 2005, and was granted a one-year extension on June 5, 2006. Preliminary Approval expired on April 18, 2007. Note that the original application included only 23 units.

Current use of subject property:

The property is presently vacant.

Current use of adjacent parcels:

North: Single family residential.  
South: Jaycee Park (City of Troy).  
East: Single family residential.  
West: Single family residential.

Current zoning classification:

The property is currently zoned R-1C One Family Residential.

Zoning classification of adjacent parcels:

North: R-1C One Family Residential.

South: E-P Environmental Protection.

East: R-1C One Family Residential.

West: R-1C One Family Residential.

Master Plan Designation:

The property is designated on the Master Plan as Single Family Residential.

**ANALYSIS**

Compliance with area and bulk requirements of the R-1C One Family Residential District:

Lot Area: Minimum lot area in the R-1C district is 10,500 square feet. However, the applicant is utilizing the Lot Averaging Option, which permits a 10 percent reduction in lot area to 9,450 square feet with lot sizes averaging 10,500 square feet.

Lot Width: The minimum required lot width is 85 feet. The applicant has utilized the lot averaging option, which permits a 10 percent reduction in lot widths, to 76.5 feet.

Height: 2 stories or 25 feet.

Setbacks: Front: 30 feet.  
Side (least one): 10 feet.  
Side (total two): 20 feet.  
Rear: 40 feet.

Minimum Floor Area: 1,200 square feet.

Maximum Lot Coverage: 30%.

The applicant meets the area and bulk requirements of the R-1C One Family Residential District.

Off-street parking and loading requirements:

The applicant will be required to provide 2 off-street parking spaces per unit.

Environmental provisions, including Tree Preservation Plan:

A Tree Preservation Plan was submitted as part of the application.

Storm water detention:

The applicant is proposing two storm water detention basins. One will serve the 11 units on the east side of the drain, one will serve the 14 units on the west side of the drain.

Natural features and floodplains:

The Natural Features Map indicates there are wetlands, woodlands and a drain on the property. The applicant is required to receive a permit from the MDEQ prior to commencing any construction activity such as dredging, filling, or draining within a regulated wetland.

Subdivision Control Ordinance, Article IV Design Standards

Blocks: The applicant proposes an approximately 1,100-foot road that ends in a cul-de-sac. A stub road is proposed to the north east of unit 20.

Lots: All units meet the minimum area and bulk requirements of the Zoning Ordinance.

Streets: The paved portion of the street will be 28 feet wide, located within a 60-foot wide public right-of-way.

Sidewalks: The applicant is proposing a 5-foot wide sidewalk on both sides of the proposed interior roads and a 5-foot wide sidewalk on the east side of Willow Grove Road. There is an opportunity for a pedestrian connection between the development and Jaycee Park to the south, through the conservation easement located between units 13 and 14.

Utilities: Detention ponds are proposed on each side of the Fetterly Drain.

**CITY MANAGEMENT RECOMMENDATION**

City Management recommends approval of the Oak Forest South Site Condominium, subject to the following condition:

1. Provide a public pathway connection between the Brookwood Street sidewalk and Jaycee Park, through the conservation easement located between units 13 and 14.

cc: Applicant  
File/Oak Forest South Site Condominium

9. SITE CONDOMINIUM SITE PLAN REVIEW – Proposed Oak Forest South Site Condominium, 24 units/lots proposed, South of Square Lake Road, East side of Willow Grove, Section 11, Zoned R-1C (One Family Residential) District

Mr. Savidant presented a summary of the Planning Department report on the proposed Oak Forest South Site Condominium, and reported it is the recommendation of City Management to approve the application with the condition to provide a public pathway connection to Jaycee Park.

The petitioner, Dale Garrett, 5877 Livernois, Troy, was present. Mr. Garrett addressed the pathway connection to Jaycee Park in relation to the conservation easement. He expressed concern in cutting trees to install the pathway.

Chair Schultz opened the floor for public comment.

Ann Bonnelli of 5612 Willow Grove, Troy, spoke in opposition.

Chair Schultz closed the floor for public comment.

A brief discussion followed on alternative options to construct a pathway that would not impose a threat to the conservation easement and wetlands.

**Resolution # PC-2008-12-149**

Moved by: Vleck  
Seconded by: Maxwell

**RESOLVED**, That the Planning Commission recommends to City Council that the Preliminary Site Plan (Section 34.30.00 Unplatted One-Family Residential Development), as requested for Oak Forest South Site Condominium, including 25 units, located south of Square Lake Road on the east side of Willow Grove, Section 11, within the R-1C zoning district be granted.

Yes: Maxwell, Sanzica, Schultz, Vleck  
No: Tagle  
Abstain: Hutson  
Absent: Strat, Ullmann, Wright

**MOTION FAILED**

Mr. Tagle said the Planning Commission should take advantage of this opportunity to provide a public pathway.

**Resolution # PC-2008-12-150**

Moved by: Tagle  
Seconded by: Schultz

**RESOLVED**, To reconsider the action just taken on this item.

Yes: All present (5)  
Abstain: Hutson  
Absent: Strat, Ullmann, Wright

**MOTION CARRIED****Resolution # PC-2008-12-151**

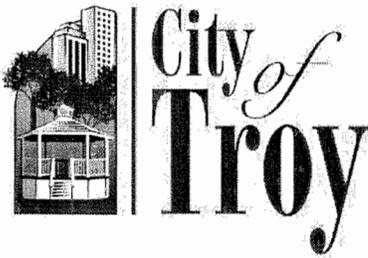
Moved by: Tagle  
Seconded by: Sanzica

**RESOLVED**, That the Planning Commission recommends to City Council that the Preliminary Site Plan (Section 34.30.00 Unplatted One-Family Residential Development), as requested for Oak Forest South Site Condominium, including 25 units, located south of Square Lake Road on the east side of Willow Grove, Section 11, within the R-1C zoning district be granted, subject to the following condition:

1. Provide a public pathway connection between the Brookwood Street sidewalk and Jaycee Park, through the conservation easement located between units 13 and 14.

Yes: All present (5)  
Abstain: Hutson  
Absent: Strat, Ullmann, Wright

**MOTION CARRIED**



## CITY COUNCIL ACTION REPORT

January 16, 2009

TO: Phillip L. Nelson, City Manager

FROM: Brian P. Murphy, Asst. City Manager/Economic Development Services  
Steven J. Vandette, City Engineer *SV*

SUBJECT: Oakland County Lane Drain Drainage District – Transfer of Surplus Drain Construction Funds and Petition for Lane Drain Project

### Background:

- The Oakland County Water Resources Commissioner's Office, formerly the Oakland County Drain Commission, is responsible for fifty-four (54) drains within the City of Troy.
- These Oakland County drains were constructed with funds obtained by assessments to the City of Troy and are maintained and improved by the use of surplus construction funds that remain in various drainage districts after construction work is completed.
- The Brotherton and Nelson Drainage districts have surplus construction funds in the amount of \$1,700,000 and \$336,000, respectively.
- The State Drain Code permits the transfer of surplus construction funds from Oakland County drain projects within Troy so long as the funds are used to alleviate drainage problems within the City of Troy.

### Council Action:

- The City is requesting that these surplus funds be transferred to the Lane Drainage District and a portion of the funds to be used for improvements to the Lane Drain. It is estimated there will be a surplus of \$800,000 when the project is complete.
- The City is petitioning the Oakland County Water Resources Commissioner's Office to construct the improvements.
- Preliminary engineering for the Lane Drain project is included in the 2008/09 City budget, account number 401.447.516.7989.073035 and has been completed. Construction funds are not budgeted.
- The proposed Lane Drain project is designed to address excessive sediment in the in-line storm water detention basin near the Aquatic Center, which has rendered the basin ineffective during a 10-year storm.
- The Lane Drain project includes:
  - Removing sediment from the detention basin

- Repairing the existing flood control structure at the basin outlet (concrete weir)
- Replacing large diameter culverts under Civic Center Drive
- Creating a sediment forebay to reduce sedimentation of the basin in the future
- Stabilizing five (5) stream bank failures upstream from the basin
- Creating landscape buffers along the stream banks and around the basin

Financial Considerations:

- All engineering and construction funding for the project would be provided by the Oakland County Lane Drain District Fund.

Legal Considerations:

- There are no legal considerations.

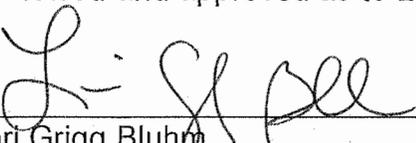
Policy Considerations:

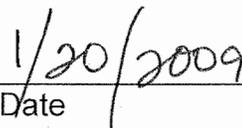
- Consistent with Goal #3 of the City of Troy Goals & Objectives policy (Maintain Relevance of Public Infrastructure to Meet Changing Public Needs).

Options:

- The Council can approve or disapprove the suggested resolutions.
- The Council can amend the suggested resolutions.

Reviewed and approved as to Legality:

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

  
\_\_\_\_\_  
Date

CONTRACT FOR THE TRANSFER OF SURPLUS CONSTRUCTION FUNDS

THIS CONTRACT, made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2009, by and among the BROTHERTON DRAINAGE DISTRICT, a Michigan statutory public corporation established pursuant to Chapter 20 of Act 40 of the Public Acts of 1956, as amended, MCL 280.461 et seq., (hereinafter referred to as the "Brotherton Drainage District"), the NELSON DRAINAGE DISTRICT, a Michigan statutory public corporation established pursuant to Chapter 20 of Act 40 of the Public Acts of 1956, as amended, MCL 280.461 et seq., (hereinafter referred to as the "Nelson Drainage District" and sometimes referred to collectively with the Brotherton Drainage District as the "Drainage Districts"), and the CITY OF TROY, a city corporation located in the County of Oakland (hereinafter referred to as the "City").

WITNESSETH:

WHEREAS, pursuant to Chapter 20 of Act 40 of the Public Acts of 1956, as amended (hereinafter referred to as the "Drain Code"), MCL 280.461 et seq., and as a matter of public health, the BROTHERTON DRAINAGE DISTRICT was established and the City has been assessed for all or part of the cost of the Brotherton Drain; and,

WHEREAS, pursuant to Chapter 20 of the Drain Code, and as a matter of public health, the NELSON DRAINAGE DISTRICT was established and the City has been assessed for all or part of the cost of the Nelson Drain; and,

WHEREAS, the construction of the Brotherton Drain is complete and the Brotherton Drainage District has surplus construction funds remaining in its construction fund (hereinafter referred to as the "Brotherton Surplus Construction Funds"); and,

WHEREAS, the construction of the Nelson Drain is complete and the Nelson Drainage District has surplus construction funds remaining in its construction fund (hereinafter referred to as the "Nelson Surplus Construction Funds"); and,

WHEREAS, pursuant to Section 497 of the Drain Code, MCL 280.497, a drainage board may contract to transfer surplus construction funds to any public corporation if that public corporation has been assessed for all or part of the cost of the drain so long as, among other things, the surplus construction funds shall be utilized by the public corporation to alleviate drainage problems in its jurisdiction; and,

WHEREAS, under the provisions of Act 227 of the Public Acts of 1885, as amended, and as a matter of public health, the LANE DRAIN SPECIAL ASSESSMENT DISTRICT was established and there exists a public health necessity for the City to reconstruct a portion of the Lane Drain in order to alleviate drainage problems in the City; and,

WHEREAS, it is proposed that the Brotherton and Nelson Surplus Construction Funds (as defined above) be transferred by the Drainage Districts to the Lane Drainage District pursuant to Section 497 of the Drain Code, MCL 280.497; and,

WHEREAS, in order to provide for the transfer of the Surplus Construction Funds by the Drainage Districts to the City, and for other related matters, it is necessary for the parties hereto to enter into this contract.

THEREFORE, IN CONSIDERATION OF THE PREMISES AND THE COVENANTS OF EACH OTHER, THE PARTIES HERETO AGREE as follows:

1. The Brotherton Drainage District and the Nelson Drainage District hereby represent and warrant that all outstanding drain orders or bonds, if any, are paid on their respective drainage district projects. Further, the Brotherton Drainage District and the Nelson Drainage District hereby identify that surplus construction funds in the amounts of approximately \$1,700,000 and \$336,000, respectively, are available for use by the City of Troy for the improvements needed on the Lane Drainage District, and the appropriate amount can be transferred to the Lane Drainage District once all projected improvement costs have been identified.

2. The Brotherton Drainage District hereby represents and warrants that (a) the Brotherton Transfer represents a portion of the Brotherton Surplus Construction Funds not needed for more than the cost of inspection, repair and maintenance of the Brotherton Drain as provided in Section 196 of the Drain Code, MCL 280.196 and (b) the Brotherton Transfer represents all or a portion of the City's pro rata share of the Brotherton Surplus Construction Funds in direct proportion to the amounts assessed and collected by the Brotherton Drainage District from the City.

3. The Nelson Drainage District hereby represents and warrants that (a) the Nelson Transfer represents a portion of the Nelson Surplus Construction Funds not needed for more than the cost of inspection, repair and maintenance of the Nelson Drain as provided in Section 196 of the Drain Code, MCL 280.196 and (b) the Nelson Transfer represents all or a portion of the City's pro rata share of the Nelson Surplus Construction Funds in direct proportion to the amounts assessed and collected by the Nelson Drainage District from the City.

4. The City covenants and agrees that upon receipt of the Surplus Construction Funds the City shall utilize the Surplus Construction Funds to alleviate drainage problems in the City of Troy.

5. All powers, duties and functions vested by this contract in the Brotherton Drainage District and the Nelson Drainage District shall be exercised and performed by the Brotherton Drainage Board and the Nelson Drainage Board, respectively, for and on behalf of its respective Drainage District, unless otherwise provided by law or in this contract.

6. In the event that any one or more of the provisions of this contract for any reason shall be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions hereof, but this contract shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

7. This contract shall become effective after its execution by each party hereto. This contract shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. This contract may be executed in any number of counterparts.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this contract to be executed and delivered by the undersigned, being duly authorized by the respective governing body of such parties, all as of the day and year first above written.

BROTHERTON DRAINAGE DISTRICT  
A Michigan Statutory Public Corporation

By: \_\_\_\_\_  
John P. McCulloch  
Oakland County Water Resources  
Commissioner, Chairperson of  
Brotherton Drain Drainage Board

NELSON DRAINAGE DISTRICT  
A Michigan Statutory Public Corporation

By: \_\_\_\_\_  
John P. McCulloch  
Oakland County Water Resources  
Commissioner, Chairperson of  
Nelson Drain Drainage Board

CITY OF TROY

By: \_\_\_\_\_  
Louise E. Schilling, Mayor

And: \_\_\_\_\_  
Tonni L. Bartholomew, City Clerk

PETITION

TO WATER RESOURCES  
COMMISSIONER OF THE  
COUNTY OF OAKLAND

Pursuant to Chapter 8 of Act 40 of the Public Acts of 1956, as amended, MCL 280.191, et seq., the City of Troy petitions the Water Resources Commissioner of the County of Oakland for the cleaning, widening, deepening, straightening and extending of the drain known and designated as the Lane Drain located and established in the City of Troy in the County of Oakland, State of Michigan.

Based upon the need to address flooding, flow conveyance, erosion and sedimentation and water quality issues, the proposed maintenance of and improvements to the Lane Drain are necessary for the public health of the City. These improvements include the removal of sediment, repair of the existing control structure (concrete weir), replacement of two sets of twin culverts, creation of a sediment forebay, stabilization of five streambank failures, creation of a landscape buffer and the accommodation for future trails and park amenities.

The cost of the proposed maintenance of and improvements to the Lane Drain are to be paid from funds that are currently or will be transferred to the Lane Drainage District. The City of Troy consents to the use of the Lane Drainage District funds to pay its percentage of the total amount assessed for the cost of the proposed maintenance of and improvements to the Lane Drain, as well as agrees to advance fund the percentage of the total amount assessed for the cost of the proposed maintenance of and improvements to the Lane Drain for any other properly assessed entity.

This petition is filed pursuant to Chapter 8 of Act 40 of the Public Acts of 1956, as amended.

A certified copy of the resolution of the governing body of the public corporation executing this petition authorizing its execution is attached hereto.

CITY OF TROY

By: \_\_\_\_\_  
Louise E. Schilling, Mayor

And: \_\_\_\_\_  
Tonni L. Bartholomew, City Clerk

Regular Meeting of the Troy City Council was held Monday, January 5, 2009, at City Hall, 500 W. Big Beaver Road. Mayor Schilling called the Meeting to order at 7:30 PM.

Jeff Totten Chaplain of the Troy Police Department gave the Invocation and the Pledge of Allegiance to the Flag was given.

**ROLL CALL**

- Mayor Louise E. Schilling
- Robin Beltramini
- Cristina Broomfield
- David Eisenbacher
- Wade Fleming
- Mayor Pro Tem Martin Howrylak (Absent)
- Mary Kerwin

---

**Vote on Resolution to Excuse Mayor Pro Tem Howrylak**

Resolution #2009-01-001  
Moved by Beltramini  
Seconded by Eisenbacher

RESOLVED, That Troy City Council hereby **EXCUSES** the absence of Mayor Pro Tem Howrylak at the Regular City Council of January 5, 2009 due to being absent from the county.

Yes: Beltramini, Broomfield, Eisenbacher, Fleming, Kerwin, Schilling  
No: None  
Absent: Howrylak

**MOTION CARRIED**

**CERTIFICATES OF RECOGNITION:**

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**A-1 No Presentations**

**CARRYOVER ITEMS:**

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**B-1 No Carryover Items**

**PUBLIC HEARINGS:**

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**C-1 No Public Hearings**

**POSTPONED ITEMS:**

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**D-1 No Postponed Items**

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**PUBLIC COMMENT: Limited to Items Not on the Agenda**

Jill Gleba – Boys & Girls Club of Troy  
Marvin Reinhardt

**REGULAR BUSINESS:**

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**E-1 Appointments to Boards and Committees: a) Mayoral Appointments: None Scheduled b) City Council Appointments: Advisory Committee for Persons with Disabilities**

**(a) Mayoral Appointments – None Scheduled**

**(b) City Council Appointments**

Resolution #2009-01-002  
Moved by Beltramini  
Seconded by Fleming

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

**Advisory Committee for Persons with Disabilities**

Appointed by Council (9-Regular; 3-Alternate) 3-Year Term

Michael Wilson - Alternate

Unexpired Term 11/01/2009

Yes: Beltramini, Broomfield, Eisenbacher, Fleming, Kerwin, Schilling  
No: None  
Absent: Howrylak

**MOTION CARRIED**

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**E-2 Nominations for Appointments to Boards and Committees: (a) Mayoral Nominations: Planning Commission (b) City Council Nominations: Cable Advisory Committee; Election Commission and Municipal Building Authority**

**(a) Mayoral Nominations**

Resolution #2009-01-003  
Moved by Schilling  
Seconded by Kerwin

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

**Planning Commission**

Appointed by Mayor (9 Regular) 3-Year Term

Lon Ullmann Term Expires 12/31/2011

Yes: Broomfield, Eisenbacher, Fleming, Kerwin, Schilling, Beltramini  
No: None  
Absent: Howrylak

**MOTION CARRIED**

**(b) City Council Nominations**

Resolution #2009-01-004  
Moved by Beltramini  
Seconded by Eisenbacher

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

**Cable Advisory Committee**

Appointed by Council (7 Regular) 3-Year Term

W. Kent Voigt Term Expires 02/28/2012

**Election Commission**

Appointed by Council (2-Regular; 1-Charter) 3-Year Term

Timothy Dewan – Democrat Rep. Term Expires 01/31/2010

**Municipal Building Authority**

Appointed by Council (5 Regular) 3-Year Term

John M. Lamerato – Asst. City Mgr/Finance & Admin Term Expires 01/31/2012

Yes: Eisenbacher, Fleming, Kerwin, Schilling, Beltramini, Broomfield  
No: None  
Absent: Howrylak

**MOTION CARRIED**

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**E-3 2008-09 Budget Amendment No. 2**

Resolution #2009-01-005  
Moved by Beltramini  
Seconded by Broomfield

RESOLVED, That Troy City Council hereby **APPROVES** the 2008-2009 Budget Amendment No. 2 as submitted, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

Yes: Fleming, Kerwin, Schilling, Beltramini, Broomfield, Eisenbacher

No: None

Absent: Howrylak

**MOTION CARRIED**

**CONSENT AGENDA:**

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

Resolution #2009-01-006-F-1a

Moved by Eisenbacher

Seconded by Beltramini

RESOLVED, That all items as presented on the Consent Agenda are hereby **APPROVED** as presented with the exception of Item F-7, which **SHALL BE CONSIDERED** after Consent Agenda (F) items, as printed.

Yes: Kerwin, Schilling, Beltramini, Broomfield, Eisenbacher, Fleming

No: None

Absent: Howrylak

**MOTION CARRIED**

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**F-2 Approval of City Council Minutes**

Resolution #2009-01-006-F-2

RESOLVED, That Troy City Council hereby **APPROVES** the Minutes of the 7:30 PM Regular City Council Meeting of December 15, 2008 as submitted.

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**F-3 Proposed City of Troy Proclamation(s): None Submitted**

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**F-4 Standard Purchasing Resolutions**

a) **Standard Purchasing Resolution 1: Award to Low Bidder – Type 'K' Copper Tubing**

Resolution #2009-01-006-F-4a

RESOLVED, That Troy City Council hereby **AWARDS** a contract to purchase Type "K" Copper Tubing to the low bidder HD Supply Waterworks of Shelby Township, MI, for an estimated total cost of \$45,306.00 at unit prices contained in the bid tabulation opened December 22, 2008, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

---

**F-5 Contract Extension – Standard and Compound Water Meters**

Resolution #2009-01-006-F-5

WHEREAS, On April 12, 2004, Troy City Council approved a two-year contract to provide standard and compound water meters with an option to renew for two additional years to the low bidder, S.L.C. Meter Service, Inc. of Davisburg, MI (Resolution #2004-04-190-E10);

WHEREAS, The option to renew was exercised and approved by Troy City Council on December 19, 2005 (Resolution #2005-12-546-E4e);

WHEREAS, The contract was extended for one-year with an increase in the trade-in allowance on 2" meters and all compound meters (Resolution #2008-01-023-F8); and

WHEREAS, S.L.C. Meter Service, Inc. has agreed to extend the contract one-year under the same terms and conditions as the original contract with a 2% decrease in the purchase price of all standard and compound meters;

THEREFORE, BE IT RESOLVED, That Troy City Council hereby **WAIVES** formal bidding procedures and a contract to purchase Standard and Compound Water Meters from S.L.C. Meter Service, Inc. of Davisburg, MI, is hereby extended at unit prices as detailed on Appendix A, a copy of which shall be **ATTACHED** to the original Minutes of this meeting, with the contract expiring December 31, 2009.

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**F-6 Interlocal Agreement for Oakland County Narcotic Enforcement Team**

Resolution #2009-01-006-F-6

WHEREAS, Oakland County has previously directed and operated an intergovernmental entity, the Oakland County Narcotic Enforcement Team (NET);

WHEREAS, The mission of NET is to investigate drug trafficking within Oakland County with the purpose of detecting and apprehending persons who violate narcotic and drug laws within Oakland County, and also to provide a means of training officers of participating agencies in the techniques of narcotic and drug law enforcement;

WHEREAS, The City of Troy has benefitted from its interagency partnership in NET, and is expected to continue to benefit from continued participation; and

WHEREAS, In order to continue to participate in NET, the City of Troy and Oakland County must enter into a mutually agreeable Interlocal Agreement;

THEREFORE, BE IT RESOLVED, That Troy City Council hereby **APPROVES** the attached Oakland County Narcotic Enforcement Team Interlocal Agreement between Oakland County and the City of Troy; and

BE IT FURTHER RESOLVED, That Troy City Council hereby **AUTHORIZES** the Mayor and City Clerk to execute the Interlocal Agreement on behalf of the City of Troy, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

---

**F-8 Approval of Purchase Agreement and Acceptance of Permanent Public Utility Easement – Rochester Road Improvements, Torpey to Barclay – Project No. 99.203.5 – Parcel #15 – Sidwell #88-20-23-100-066 – Final Decisions**

Resolution #2009-01-006-F-8

RESOLVED, That Troy City Council hereby **APPROVES** the Agreement to Purchase Realty for Public Purposes between Final Decisions, owners of property having Sidwell #88-20-23-100-066, and the City of Troy, for the acquisition of right-of-way for Rochester Road Improvements, Torpey to Barclay in the amount of \$46,400.00, plus closing costs; and

BE IT FURTHER RESOLVED, That Troy City Council hereby **AUTHORIZES** the Real Estate and Development Department to expend the necessary closing costs to complete this purchase according to the agreement; and

BE IT FURTHER RESOLVED, That Troy City Council hereby **ACCEPTS** the Permanent Public Utility Easement in the amount of \$800.00 from Final Decisions, owners of property having Sidwell #88-20-23-100-066; and

BE IT FINALLY RESOLVED, That Troy City Council hereby **DIRECTS** the City Clerk to record the Warranty Deed and Permanent Public Utility Easement with the Oakland County Register of Deeds, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

---

**F-9 Approval of Purchase Agreement and Acceptance of Permanent Public Utility Easement – Rochester Road Improvements, Torpey to Barclay – Project No. 99.203.5 – Parcel #41 – Sidwell #88-20-22-226-073 – Rainbow Center**

Resolution #2009-01-006-F-9

RESOLVED, That Troy City Council hereby **APPROVES** the Agreement to Purchase Realty for Public Purposes between Rainbow Center, owners of property having Sidwell #88-20-22-226-073, and the City of Troy, for the acquisition of right-of-way for Rochester Road Improvements, Torpey to Barclay in the amount of \$67,700.00, plus closing costs; and

BE IT FURTHER RESOLVED, That Troy City Council hereby **AUTHORIZES** the Real Estate and Development Department to expend the necessary closing costs to complete this purchase according to the agreement; and

BE IT FURTHER RESOLVED, That Troy City Council hereby **ACCEPTS** the Permanent Public Utility Easement in the amount of \$9,100.00 from Rainbow Center, owners of property having Sidwell #88-20-22-226-073 ; and

BE IT FINALLY RESOLVED, That Troy City Council hereby **DIRECTS** the City Clerk to record the Warranty Deed and Permanent Public Utility Easement with the Oakland County Register of Deeds, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

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**F-10 Mon Jin Lau Annual Fireworks Use Request**

Resolution #2009-01-006-F-10

RESOLVED, That Troy City Council hereby **ISSUES** a fireworks permit to Mon Jin Lau, located at 1515 East Maple Rd., for the use of fireworks at its annual Chinese New Year celebration on January 27<sup>th</sup> and January 28<sup>th</sup>, 2009; and

BE IT FURTHER RESOLVED, That Troy City Council hereby **DIRECTS** the Fire Prevention Division personnel to inspect the fireworks to be used along with the site to assure compliance with applicable codes and standards for such a fireworks display.

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

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**F-7 Authorization to Make Unconditioned Offers to Purchase Property for Rochester Road Improvements, Torpey to Barclay – Project No. 99.203.5 and Authorization to Institute Court Action**

Resolution #2009-01-007

Moved by Beltramini

Seconded by Kerwin

**(a) Parcel #7 – Century Plaza, LLC – Sidwell #88-20-23-156-003**

**(1) Authorization to Make Unconditioned Offer**

WHEREAS, In order to proceed with the proposed Rochester Road Improvements, between Torpey and Barclay, it is necessary for the City to obtain the needed right-of-way from Century Plaza, LLC, owners of property having Sidwell #88-20-23-156-003;

BE IT RESOLVED, That Troy City Council hereby **AUTHORIZES** the Real Estate and Development Department to make an Unconditioned Offer to purchase right-of-way for parcel #88-20-23-156-003 in the amount of \$218,100.00, plus closing costs.

**(2) Authorization to Institute Court Action**

WHEREAS, In order to proceed with the Rochester Road Improvements, between Torpey and Barclay, it is necessary for the City to obtain the needed right-of-way from Century Plaza, LLC, owners of property having Sidwell #88-20-23-156-003;

BE IT RESOLVED, That Troy City Council hereby **AUTHORIZES** the City Attorney, if necessary, to institute condemnation litigation and to execute and deliver any and all documents and papers, and to expend necessary funds expedient for the prosecution of such proceedings or settlement of such claims on proceedings by and with the express approval of this Council.

**(b) Parcel #9 – Troywood Shops, LLC – Sidwell #88-20-23-156-001**

**(1) Authorization to Make Unconditioned Offer**

WHEREAS, In order to proceed with the proposed Rochester Road Improvements, between Torpey and Barclay, it is necessary for the City to obtain the needed right-of-way from Troywood Shops, LLC, owners of property having Sidwell #88-20-23-156-001;

BE IT RESOLVED, That Troy City Council hereby **AUTHORIZES** the Real Estate and Development Department to make an Unconditioned Offer to purchase right-of-way for parcel #88-20-23-156-001 in the amount of \$129,320.00, plus closing costs.

**(2) Authorization to Institute Court Action**

WHEREAS, In order to proceed with the Rochester Road Improvements, between Torpey and Barclay, it is necessary for the City to obtain the needed right-of-way from Troywood Shops, LLC, owners of property having Sidwell #88-20-23-156-001;

BE IT RESOLVED, That Troy City Council hereby **AUTHORIZES** the City Attorney, if necessary, to institute condemnation litigation and to execute and deliver any and all documents and papers, and to expend necessary funds expedient for the prosecution of such proceedings or settlement of such claims on proceedings by and with the express approval of this Council.

**(c) Parcel #10 – Diajeff Trust – Sidwell #88-20-23-100-092**

**(1) Authorization to Make Unconditioned Offer**

WHEREAS, In order to proceed with the proposed Rochester Road Improvements, between Torpey and Barclay, it is necessary for the City to obtain the needed right-of-way from Diajeff Trust, owners of property having Sidwell #88-20-23-100-092;

BE IT RESOLVED, That Troy City Council hereby **AUTHORIZES** the Real Estate and Development Department to make an Unconditioned Offer to purchase right-of-way for parcel #88-20-23-100-092 in the amount of \$91,800.00, plus closing costs.

**(2) Authorization to Institute Court Action**

WHEREAS, In order to proceed with the Rochester Road Improvements, between Torpey and Barclay, it is necessary for the City to obtain the needed right-of-way from Diajeff Trust, owners of property having Sidwell #88-20-23-100-092;

BE IT RESOLVED, That Troy City Council hereby **AUTHORIZES** the City Attorney, if necessary, to institute condemnation litigation and to execute and deliver any and all documents and papers, and to expend necessary funds expedient for the prosecution of such proceedings or settlement of such claims on proceedings by and with the express approval of this Council.

**(d) Parcel #17 – Esther Jeffrey Trust – Sidwell #88-20-23-100-040**

**(1) Authorization to Make Unconditioned Offer**

WHEREAS, In order to proceed with the proposed Rochester Road Improvements, between Torpey and Barclay, it is necessary for the City to obtain the needed right-of-way from Esther Jeffrey Trust, owners of property having Sidwell #88-20-23-100-040;

BE IT RESOLVED, That Troy City Council hereby **AUTHORIZES** the Real Estate and Development Department to make an Unconditioned Offer to purchase right-of-way for parcel #88-20-23-100-040 in the amount of \$64,100.00, plus closing costs.

**(2) Authorization to Institute Court Action**

WHEREAS, In order to proceed with the Rochester Road Improvements, between Torpey and Barclay, it is necessary for the City to obtain the needed right-of-way from Esther Jeffrey Trust, owners of property having Sidwell #88-20-23-100-040;

BE IT RESOLVED, That Troy City Council hereby **AUTHORIZES** the City Attorney, if necessary, to institute condemnation litigation and to execute and deliver any and all documents and papers, and to expend necessary funds expedient for the prosecution of such proceedings or settlement of such claims on proceedings by and with the express approval of this Council.

**(e) Parcel #31 – Ida Rudack Trust – Sidwell #88-20-22-276-018**

**(1) Authorization to Make Unconditioned Offer**

WHEREAS, In order to proceed with the proposed Rochester Road Improvements, between Torpey and Barclay, it is necessary for the City to obtain the needed right-of-way from Ida Rudack Trust, owners of property having Sidwell #88-20-22-276-018;

BE IT RESOLVED, That Troy City Council hereby **AUTHORIZES** the Real Estate and Development Department to make an Unconditioned Offer to purchase right-of-way for parcel #88-20-22-276-018 in the amount of \$30,562.00, plus closing costs.

**(2) Authorization to Institute Court Action**

WHEREAS, In order to proceed with the Rochester Road Improvements, between Torpey and Barclay, it is necessary for the City to obtain the needed right-of-way from Ida Rudack Trust, owners of property having Sidwell #88-20-22-276-018;

BE IT RESOLVED, That Troy City Council hereby **AUTHORIZES** the City Attorney, if necessary, to institute condemnation litigation and to execute and deliver any and all documents and papers, and to expend necessary funds expedient for the prosecution of such proceedings or settlement of such claims on proceedings by and with the express approval of this Council.

**(f) Parcel #34 – William H. Price Revocable Trust – Sidwell #88-20-22-276-047**

**(1) Authorization to Make Unconditioned Offer**

WHEREAS, In order to proceed with the proposed Rochester Road Improvements, between Torpey and Barclay, it is necessary for the City to obtain the needed right-of-way from William H. Price Revocable Trust, owners of property having Sidwell #88-20-22-276-047;

BE IT RESOLVED, That Troy City Council hereby **AUTHORIZES** the Real Estate and Development Department to make an Unconditioned Offer to purchase right-of-way for parcel #88-20-22-276-047 in the amount of \$16,700.00, plus closing costs.

**(2) Authorization to Institute Court Action**

WHEREAS, In order to proceed with the Rochester Road Improvements, between Torpey and Barclay, it is necessary for the City to obtain the needed right-of-way from William H. Price Revocable Trust, owners of property having Sidwell #88-20-22-276-047;

BE IT RESOLVED, That Troy City Council hereby **AUTHORIZES** the City Attorney, if necessary, to institute condemnation litigation and to execute and deliver any and all documents and papers, and to expend necessary funds expedient for the prosecution of such proceedings or settlement of such claims on proceedings by and with the express approval of this Council.

**(g) Parcel #36 – William H. Price Revocable Trust – Sidwell #88-20-22-276-045**

**(1) Authorization to Make Unconditioned Offer**

WHEREAS, In order to proceed with the proposed Rochester Road Improvements, between Torpey and Barclay, it is necessary for the City to obtain the needed right-of-way from William H. Price Revocable Trust, owners of property having Sidwell #88-20-22-276-045;

BE IT RESOLVED, That Troy City Council hereby **AUTHORIZES** the Real Estate and Development Department to make an Unconditioned Offer to purchase right-of-way for parcel #88-20-22-276-045 in the amount of \$49,980.00, plus closing costs.

**(2) Authorization to Institute Court Action**

WHEREAS, In order to proceed with the Rochester Road Improvements, between Torpey and Barclay, it is necessary for the City to obtain the needed right-of-way from William H. Price Revocable Trust, owners of property having Sidwell #88-20-22-276-045;

BE IT RESOLVED, That Troy City Council hereby **AUTHORIZES** the City Attorney, if necessary, to institute condemnation litigation and to execute and deliver any and all documents and papers, and to expend necessary funds expedient for the prosecution of such proceedings or settlement of such claims on proceedings by and with the express approval of this Council.

**(h) Parcel #37 – Picano Land Limited Partnership – Sidwell #88-20-22-226-085**

**(1) Authorization to Make Unconditioned Offer**

WHEREAS, In order to proceed with the proposed Rochester Road Improvements, between Torpey and Barclay, it is necessary for the City to obtain the needed right-of-way from Picano Land Limited Partnership, owners of property having Sidwell #88-20-22-226-085;

BE IT RESOLVED, That Troy City Clerk hereby **AUTHORIZES** the Real Estate and Development Department to make an Unconditioned Offer to purchase right-of-way for parcel #88-20-22-226-085 in the amount of \$36,600.00, plus closing costs.

**(2) Authorization to Institute Court Action**

WHEREAS, In order to proceed with the Rochester Road Improvements, between Torpey and Barclay, it is necessary for the City to obtain the needed right-of-way from Picano Land Limited Partnership, owners of property having Sidwell #88-20-22-226-085;

BE IT RESOLVED, That Troy City Council hereby **AUTHORIZES** the City Attorney, if necessary, to institute condemnation litigation and to execute and deliver any and all documents and papers, and to expend necessary funds expedient for the prosecution of such proceedings or settlement of such claims on proceedings by and with the express approval of this Council.

**(i) Parcel #40 – Picano Land Limited Partnership – Sidwell #88-20-22-226-049**

**(1) Authorization to Make Unconditioned Offer**

WHEREAS, In order to proceed with the proposed Rochester Road Improvements, between Torpey and Barclay, it is necessary for the City to obtain the needed right-of-way from Picano Land Limited Partnership, owners of property having Sidwell #88-20-22-226-049;

BE IT RESOLVED, That Troy City Council hereby **AUTHORIZES** the Real Estate and Development Department to make an Unconditioned Offer to purchase right-of-way for parcel #88-20-22-226-049 in the amount of \$27,300.00, plus closing costs.

**(2) Authorization to Institute Court Action**

WHEREAS, In order to proceed with the Rochester Road Improvements, between Torpey and Barclay, it is necessary for the City to obtain the needed right-of-way from Picano Land Limited Partnership, owners of property having Sidwell #88-20-22-226-049;

BE IT RESOLVED, That Troy City Council hereby **AUTHORIZES** the City Attorney, if necessary, to institute condemnation litigation and to execute and deliver any and all documents and papers, and to expend necessary funds expedient for the prosecution of such proceedings or settlement of such claims on proceedings by and with the express approval of this Council.

Yes: Schilling, Beltramini, Broomfield, Eisenbacher, Fleming, Kerwin

No: None

Absent: Howrylak

**MOTION CARRIED**

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**MEMORANDUMS AND FUTURE COUNCIL AGENDA ITEMS:**


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

- a) Rezoning Application – Proposed Sonic Restaurant, East Side of John R. North of Fourteen Mile Road, Section 36 – B-2 to H-S (File Number Z-735) – January 26, 2009
  - b) Rezoning Application – Proposed Animal Advocates Veterinary Hospital, North Side of Long Lake, East of Rochester Road, Section 11, B-2 to B-3 (File Number Z-734) – January 26, 2009
  - c) Street Vacation – Myrtle Avenue (Originally Platted as Melita Avenue), East of Kilmer, North of Big Beaver, Section 22 (File Number SV 163-C) – January 26, 2009  
Noted and Filed
- 

**G-2 Memorandums: None Submitted**


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


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**H-1 No Council Referrals Advanced**


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**COUNCIL COMMENTS:**


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**I-1 Council Comments**

Council Member Eisenbacher requested timing metrics for reports of permits issued.

Mayor Schilling requested that copies of the financial summary report be available to residents. Mr. Lamerato indicated that inserts will be in the Troy Times and will go to all households.

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**REPORTS:**


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

- a) Historic District Study Committee/Final – April 1, 2008
- b) Historic District Study Committee/Final – May 5, 2008
- c) Historic District Study Committee/Final – June 2, 2008
- d) Historic District Study Committee/Final – September 2, 2008
- e) Parks and Recreation Advisory Board/Final – September 25, 2008
- f) Historic District Study Committee/Final – October 7, 2008
- g) Employees' Retirement System Board of Trustees/Final Amended – October 8, 2008
- h) Youth Council/Final – October 22, 2008
- i) Historic District Study Committee/Final – November 4, 2008
- j) Employees' Retirement System Board of Trustees/Final – November 12, 2008
- k) Board of Zoning Appeals/Final – November 13, 2008
- l) Board of Zoning Appeals/Final – November 18, 2008
- m) Planning Commission Special/Study/Final – November 25, 2008
- n) Building Code Board of Appeals/Draft – December 3, 2008
- o) Youth Council/Draft – December 17, 2008

Noted and Filed

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**J-2 Department Reports:**

- a) City of Troy Financial Summary for the Year Ended June 30, 2008  
Noted and Filed

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**J-3 Letters of Appreciation:**

- a) Letter of Thanks to Chief Nelson from Thomas Brandon, Bureau of Alcohol, Tobacco, Firearms and Explosives, Regarding the Assistance with Tactical Communications Repeater
- b) Letter of Appreciation to Mayor Schilling from Congressman-Elect Gary Peters  
Noted and Filed

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

- 
- J-5 Communication from Assistant City Manager/Economic Development Services Brian Murphy Regarding Federal Stimulus Package Projects**  
Noted and Filed

- 
- J-6 Employee Retirement System Election Results**  
Noted and Filed

**STUDY ITEMS:**

- 
- K-1 No Study Items Submitted**

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

**CLOSED SESSION:**

- 
- L-1 No Closed Session Requested**

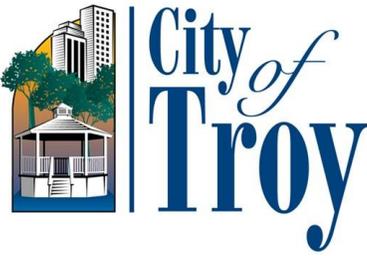
The meeting **ADJOURNED** at 8:07 PM.

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Louise E. Schilling, Mayor

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Tonni L. Bartholomew, MMC  
City Clerk



## CITY COUNCIL ACTION REPORT

January 8, 2009

TO: Phillip L. Nelson, City Manager

FROM: Susan A. Leirstein, Purchasing Director  
Gert Paraskevin, Information Technology Director  
Charles T. Craft, Chief of Police

SUBJECT: Standard Purchasing Resolution 4: Western Tel-Com State Contract - Purchase of Cable Materials and Installation Services - Carport Data Drops

### **Background**

- On April 7, 2008, City Council awarded the construction of police carports to the low bidder, Ross & Barr Inc. of Warren MI.
- Money was allocated in fiscal year 08/09 to finish the project that included network connectivity.
- Police vehicles have two major systems that require network connections. The camera system uploads digital video via wireless access points that are connected to the network. In addition, the digital video recorders can be plugged directly into the network to upload video to the server if the access points are not communicating, or if faster through-put is needed.
- The second system is the mobile data computer (MDC). These PC's need periodic updates and applications installed and at times, totally imaged or re-built. Network connectivity at the carports allows this to be done in the most efficient and effective manner possible.
- The network installed will be a combination of fiber and copper. It is requested that the job be awarded to Western Tel-Com, a State of Michigan contract holder and all prices quoted are based on the master contract.

### **Financial Considerations**

- Funding for this project is available in the Police department communications capital accounts #401.301.10.305.7978.065

### **Legal Considerations**

- There are no legal considerations associated with this item.

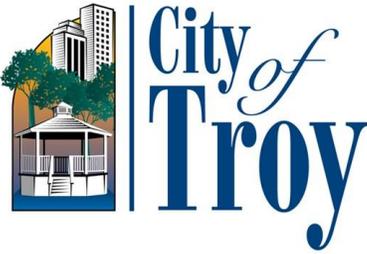
### **Policy Considerations**

- The health and safety of the community will continue to be enhanced. (Outcome Statement #1)

### **Options**

- City management recommends Troy City Council authorize the purchase of cable materials and installation services from Western Tel-Com through the State of Michigan MiDEAL Program at an estimated cost of \$12,025.00.





# CITY COUNCIL ACTION REPORT

January 19, 2009

TO: Phillip L. Nelson, City Manager

FROM: John M. Lamerato, Assistant City Manager/Finance & Administration  
Susan A. Leirstein, Purchasing Director  
Gertrude Paraskevin, Information Technology Director  
Cathleen A. Russ, Library Director

SUBJECT: Standard Purchasing Resolution 8: Best Value Award – New Automation System for Troy Public Library

## **Background**

- The Troy Public Library has participated, for an annual fee, in the Suburban Library Cooperative's (SLC) Shared Automation System since June, 1983.
- The annual charge for the current fiscal year is \$207,000. An increase of \$9,000 is expected for next year.
- To explore all options and be fiscally responsible, City management issued a request for proposal for a new integrated library system, which opened on October 29, 2008.
- 100 companies were notified via the MITN system with four proposals received from three qualified vendors.
- The library director, IT director, and relevant library staff reviewed proposals and evaluated software demonstrations from the three automation vendors.
- Polaris Library Systems received the highest score as a result of the best value process, which considered pricing, the proposals submitted, and the demonstrations.
- After all options were reviewed, it was deemed a significant cost-savings to the city to withdraw from SLC's shared system and run the library's automation system in-house. The city's IT staff, as well as a part-time system administrator at the library, will maintain the system.
- This proposal was presented to the Library Advisory Board at their January 8, 2009, meeting. The Library Advisory Board resolved that it supports the purchase of the Polaris system to replace SIRSI as Troy Public Library's automation system, because of the significant cost savings as well as the merits of the proposed new system.

## **Financial Considerations**

- A savings of approximately \$450,000 will be realized after five years.
- Funds are available in the Library's capital budget for the initial down payment of \$50,000, from A/C# 401.790.7975.090, Buildings and Improvements. The remainder of the cost to purchase the system will be allocated in the 2009/2010 capital budget.
- Payments in future years for maintenance and licensing costs will be paid from the Library's operating budget with funds re-allocated from the computer services budget for the Suburban Library Cooperative.

## **Legal Considerations**

- RFP-COT 08-33, Integrated Library System was competitively bid as required by City Charter and Code.
- The Suburban Library Cooperative has been notified of the City's intent to withdraw.

January 19, 2009

To: Phillip L. Nelson, City Manager  
Re: Best Value Award – Integrated Library System

**Policy Considerations**

- Troy adds value to properties through maintenance or upgrades of infrastructure and quality of life venues (Outcome Statement II).
- Minimize the cost and increase the efficiency and effectiveness of City government. (Goal II)

**Options**

- City management recommends awarding a contract to provide an integrated library system solution for the Troy Public Library to the highest rated bidder, Polaris Library Systems of Syracuse, NY, as a result of a best value process, for an estimated total system cost of \$202,375.00, with ongoing annual maintenance, support, subscription and licensing costs.
- In addition, the City requests authorization to purchase server hardware and software through the Regional Education Media Center (REMC) or other competitively bid contracts at an estimated cost of \$30,270.00; and reject Option #2 for hardware purchases from Polaris.

**CITY OF TROY  
 TABULATION  
 INTEGRATED LIBRARY SYSTEM  
 COMPLETE PACKAGE COST FOR 5 YEARS**

**RFP-COT 08-33**

**FIRM NAME: POLARIS**

	<b>System Cost Complete for the Sum of:</b>
<b>1. Server Software:</b>	
Server Software (includes Z39.50 server, system administration, SMTP gateway, remote patron authentication and web-based patron registration)	\$ 70,000.00
<b>2. Client Software:</b>	
Acquisitions w/fund accounting (shopping cart / selection list import (9xx order data)	\$ -
EDI	\$ -
Selection List Import (9xx)	\$ -
Bibliographic Import	\$ -
Cataloging with Authority Control:	\$ -
Serials Control (with MARC Format for Holdings)	\$ -
Circulation (with inventory and offline)	\$ -
Telephone Notification System – Outbound and Inbound	\$ 12,250.00
Self-Check Interface	<b>\$ 2,500.00</b>
Debt Collection Interface	\$ 1,200.00
Children's PAC	\$ 3,500.00
Other languages for PAC (Arabic)	\$ 7,500.00
Other languages for PAC (Chinese)	\$ 7,500.00
Outreach Services (Homebound)	\$ 5,000.00
Web-based Reporting (Simply Reports x 2 )	<b>\$ 7,500.00</b>
Inventory Manager	\$ 2,100.00
<b>3. Online Catalog</b>	
Unlimited in-house and external use web-based catalog access	\$ -
Patron Account Functionality	\$ -
eCommerce (patrons pay fines/fees via credit card)	\$ -
<b>4. License Fees</b>	
User License Fees (55* 750)	<b>\$ 41,250.00</b>
Type of License (i.e. Site, Seat, Per User, etc)	N/A
<b>5. Reporting</b>	
Reporting	\$ -
<b>6. Telephone Lines</b>	
Provide the cost to install dedicated outside telephone circuits if required.	Not Required
<b>7. Services:</b>	
Data Migration	\$ 9,550.00
Implementation Services (includes expenses)*	<b>\$ 6,550.00</b>
Training	\$ 18,350.00
<b>SUBTOTAL:</b>	<b>\$ 194,750.00</b>
Less Discount:	\$ (21,318.00)
<b>SUBTOTAL - SYSTEM COST: YEAR 1</b>	<b>\$ 173,432.00</b>

**FIRM NAME: POLARIS****Year 2 Maintenance Cost - Polaris**

Polaris Service Software	\$	12,600.00
Client Software x55	\$	8,325.00
Simply Reports x 5	\$	1,875.00
Phone Notification Outbound/Inbound	\$	1,837.00
Self-Check Interface x 5 Units	\$	450.00
Collection Agency Interface to Unique	\$	200.00
Outreach Services	\$	1,200.00
Children's interface to PAC	\$	650.00
Other Language PAC (Arabic)	\$	1,350.00
Other Language PAC (Chinese)	\$	1,350.00
	\$	<b>29,837.00</b>

**Year 3 Maintenance Cost - Polaris**

Polaris Service Software	\$	13,230.00
Client Software x 55	\$	8,741.00
Simply Reports x 5	\$	1,969.00
Phone Notification Outbound/Inbound	\$	1,929.00
Self-Check Interface x 5 Units	\$	472.00
Collection Agency Interface to Unique	\$	210.00
Outreach Services	\$	1,260.00
Children's interface to PAC	\$	682.00
Other Language PAC (Arabic)	\$	1,350.00
Other Language PAC (Chinese)	\$	1,350.00
	\$	<b>31,193.00</b>

**Year 4 Maintenance Cost - Polaris**

Polaris Service Software	\$	13,891.00
Client Software x 55	\$	9,178.00
Simply Reports x 5	\$	2,067.00
Phone Notification Outbound/Inbound	\$	2,025.00
Self-Check Interface x 5 Units	\$	496.00
Collection Agency Interface to Unique	\$	220.00
Outreach Services	\$	1,323.00
Children's interface to PAC	\$	716.00
Other Language PAC (Arabic)	\$	1,350.00
Other Language PAC (Chinese)	\$	1,350.00
	\$	<b>32,616.00</b>

**Year 5 Maintenance Cost - Polaris**

Polaris Service Software	\$	14,585.00
Client Software x 55	\$	9,637.00
Simply Reports x 5	\$	2,170.00
Phone Notification Outbound/Inbound	\$	2,126.00
Self-Check Interface x 5 Units	\$	521.00
Collection Agency Interface to Unique	\$	231.00
Outreach Services	\$	1,389.00
Children's interface to PAC	\$	752.00
Other Language PAC (Arabic)	\$	1,350.00
Other Language PAC (Chinese)	\$	1,350.00
	\$	<b>34,111.00</b>

SUBTOTAL: POLARIS COST 5 YEARS (AS PER RFP)

\$ 301,189.00

**FIRM NAME: POLARIS****ADDITIONAL PRODUCTS**

URL Detective (checks URL links in bibliographic records)	\$	1,000.00
<b>Serials Pattern Templates</b>		
51-100 Total Staff Users		\$0
<b>SUBTOTAL ADDITIONAL PRODUCTS:</b>	<b>\$</b>	<b>1,000.00</b>

**ADDITIONAL SERVICES:**

<i>Syndetic Solutions</i>	\$	11,539.00
<b>Acquisitions - EDI Vendor Training/Set-up</b>		
Per-vendor set-up fee:	\$	5,000.00
ZMARC Cataloging Record Sub - Authority Only	\$	1,275.00
ZMARC Cataloging Record Sub - Bibilographic	\$	2,475.00
ZMARC Cataloging Record Sub - Audio/Visual	\$	-
ZMARC Cataloging Record Sub - Weekly Updates	\$	1,800.00
Ecommerce for Staff Clients x 7 include 7 cardswipe units)	\$	5,250.00
<b>Migration Service:</b>		
Circulation Transaction Migration/Load	\$	3,325.00
<b>SUBTOTAL ADDITIONAL SERVICES:</b>	<b>\$</b>	<b>30,664.00</b>

**CITY HARDWARE/SOFTWARE COST:**

SIRA		
Installation	\$	270.00
Server Hardware/Software Purchases	\$	30,000.00
<b>SUBTOTAL HARDWARE/SOFTWARE COST:</b>	<b>\$</b>	<b>30,270.00</b>

**COST - YEAR 1**

Sub-Total: System Cost	\$	173,432.00
Less Additional Product Discount	\$	(3,671.00)
Additional Products	\$	1,000.00
Additional Services	\$	30,664.00
Data Extraction Cost	\$	15,000.00
Less:		
Self-Check Interface: Removed - Future Implementation	\$	(2,500.00)
Web-Based Reporting: Reduced number of licenses from 5 to 2	\$	(2,500.00)
User License Fees: Reduced number of licenses from 55 to 45	\$	(7,500.00)
Implementation Services: Reduction based on City IT Assistance	\$	(1,550.00)
<b>POLARIS YEAR 1:</b>	<b>\$</b>	<b>202,375.00</b>
<b>CITY COST:</b>		
Hardware/Software Cost	\$	30,270.00
<b>Total: Year 1 Cost:</b>	<b>\$</b>	<b>232,645.00</b>

**FIRM NAME: POLARIS****COST - YEAR 2 MAINTENANCE COST**

Polaris Maintenance Cost:	\$ 29,837.00
<i>Less:</i>	
Client Software (reduction in user licenses from 55 to 45)	\$ (2,250.00)
Simply Reports (reduction in user licenses from 5 to 2)	\$ (625.00)
Self-Check Interface x 5 Units (Removed - Future Implementation)	\$ (450.00)
<i>Additions:</i>	
Unlimited PowerPAC/Internet license	\$ 900.00
<i>Syndetic Solutions</i>	\$ 11,539.00
<i>ZMARC Subscription</i>	\$ 5,550.00
E-Commerce Staff License-credit card payments	\$ 1,050.00
URL Detective (checks URL links in bibliographic records)	\$ 150.00
Acquisitions - EDI Vendor	\$ 1,250.00
Inventory Manager	\$ 500.00
<b>POLARIS YEAR 2 - ADJUSTED:</b>	<b>\$ 47,451.00</b>

**FIRM NAME: POLARIS**  
**COST - YEAR 3 MAINTENANCE**

Polaris Maintenance Cost:	\$ 31,193.00
Less:	
Client Software (reduction in user licenses from 55 to 45)	\$ (2,666.00)
Simply Reports (reduction in user licenses from 5 to 2)	\$ (719.00)
Self-Check Interface x 5 Units (Removed - Future Implementation)	\$ (472.00)
<i>Polaris Has Agreed to Hold Their Cost for 5 Years on the Following Products:</i>	
Polaris Service Software	\$ (630.00)
Phone Notification Outbound/Inbound	\$ (92.00)
Collection Agency Interface to Unique	\$ (10.00)
Outreach Services	\$ (60.00)
Children's interface to PAC	\$ (32.00)
<i>Additions:</i>	
Unlimited PowerPAC/Internet license	\$ 900.00
<i>Syndetic Solutions</i>	\$ 12,000.00
<i>ZMARC Subscription</i>	\$ 5,772.00
E-Commerce Staff License-credit card payments	\$ 1,050.00
URL Detective (checks URL links in bibliographic records)	\$ 150.00
Acquisitions - EDI Vendor	\$ 1,250.00
Inventory Manager	\$ 500.00
<b>POLARIS YEAR 3: ADJUSTED</b>	<b>\$ 48,134.00</b>

**FIRM NAME: POLARIS**  
**COST - YEAR 4 MAINTENANCE**

Polaris Maintenance Cost:	\$ 32,616.00
<i>Less:</i>	
Client Software (reduction in user licenses from 55 to 45)	\$ (3,103.00)
Simply Reports (reduction in user licenses from 5 to 2)	\$ (817.00)
Self-Check Interface x 5 Units (Removed - Future Implementation)	\$ (496.00)
<i>Polaris Has Agreed to Hold Their Cost for 5 Years on the Following Products:</i>	
Polaris Service Software	\$ (1,291.00)
Phone Notification Outbound/Inbound	\$ (188.00)
Collection Agency Interface to Unique	\$ (20.00)
Outreach Services	\$ (123.00)
Children's interface to PAC	\$ (66.00)
<i>Additions:</i>	
Unlimited PowerPAC/Internet license	\$ 900.00
<i>Syndetic Solutions</i>	\$ 12,480.00
<i>ZMARC Subscription</i>	\$ 6,002.00
E-Commerce Staff License-credit card payments	\$ 1,050.00
URL Detective (checks URL links in bibliographic records)	\$ 150.00
Acquisitions - EDI Vendor	\$ 1,250.00
Inventory Manager	\$ 500.00
<b>POLARIS YEAR 4: ADJUSTED</b>	<b>\$ 48,844.00</b>

**FIRM NAME: POLARIS**  
**COST - YEAR 5 MAINTENANCE**

Polaris Maintenance Cost:	\$ 34,111.00
Less:	
Client Software (reduction in user licenses from 55 to 45)	\$ (3,562.00)
Simply Reports (reduction in user licenses from 5 to 2)	\$ (920.00)
Self-Check Interface x 5 Units (Removed - Future Implementation)	\$ (521.00)
<i>Polaris Has Agreed to Hold Their Cost for 5 Years on the Following Products:</i>	
Polaris Service Software	\$ (1,985.00)
Phone Notification Outbound/Inbound	\$ (289.00)
Collection Agency Interface to Unique	\$ (31.00)
Outreach Services	\$ (189.00)
Children's interface to PAC	\$ (102.00)
<i>Additions:</i>	
Unlimited PowerPAC/Internet license	\$ 900.00
Syndetic Solutions	\$ 12,979.00
ZMARC Subscription	\$ 6,242.00
E-Commerce Staff License-credit card payments	\$ 1,050.00
URL Detective (checks URL links in bibliographic records)	\$ 150.00
Acquisitions - EDI Vendor	\$ 1,250.00
Inventory Manager	\$ 500.00
<b>POLARIS YEAR 5: ADJUSTED</b>	<b>\$ 49,583.00</b>
<b>CITY ADMINISTRATION COSTS EACH YEAR:</b>	
3 Lines - \$300/per line per year	\$ 900.00
Outgoing calls per year	\$ 9,500.00
Internet Service (2 comcast lines)	\$ 1,200.00
Barcodes	\$ 2,500.00
System Administration Cost (\$20/Hr, 20Hr Wk)	\$ 20,800.00
<b>CITY ADMINISTRATION EACH YEAR:</b>	<b>\$ 34,900.00</b>

**COST SUMMARY OVER 5 YEARS --**

Year 1	\$ 202,375.00
Year 2	\$ 47,451.00
Year 3	\$ 48,134.00
Year 4	\$ 48,844.00
Year 5	\$ 49,583.00

**Cost for Polaris product over 5 Years:** **\$ 396,387.00**

**Cost for Hardware/Software:** **\$ 30,270.00**

**Cost for City Administration Services over 5 Years:**

Year 1	\$ 34,900.00
Year 2	\$ 34,900.00
Year 3	\$ 34,900.00
Year 4	\$ 34,900.00
Year 5	\$ 34,900.00

**\$ 174,500.00**

**TOTAL COMBINED COST OVER 5 YEARS:** **\$ 601,157.00**

*MINUS: SUBURBAN LIBRARY COOPERATIVE 5 YEAR COST SAVINGS* **\$ (1,071,000.00)**

**ESTIMATED COST SAVINGS OVER 5 YEARS** **\$ (469,843.00)**



EXECUTIVE SUMMARY  
INTEGRATED LIBRARY SYSTEM

STATISTICS:

- ◆ **One-hundred (100) company's were notified via the MITN e-procurement website**
- ◆ **Four (4) proposals were received from three (3) companies**
- ◆ **All three (3) companies met the pass/fail criteria**
- ◆ **All three (3) companies were invited to provide a demonstration of their product**
- ◆ **Polaris Library Systems received the highest score as a result of a best value process**

The following three (3) companies received the indicated final scores as a result of the proposal, pricing and demonstration selection criteria. Site visits were conducted at all four company locations.

Company	SCORE
Polaris Library Systems	<b>94</b>
Innovative Interfaces, Inc.	84
Sirsi Corporation (Turn-key)	65
<b>Sirsi Corporation (SAAS)</b>	63

Attachments:

- ✓ Weighted Final Scoring Including Proposal, Price and Demonstration Score
- ✓ Evaluation Process
- ✓ Original Tabulation



WEIGHTED FINAL SCORING  
INTEGRATED LIBRARY SYSTEM

City of Troy Final Score Calculation:

$$\begin{aligned}
 &40\% \times \text{Demonstration Score} \\
 &30\% \times \text{Proposal Score} \\
 &\underline{30\% \times \text{Price Score}} \\
 &100\% \qquad \qquad \qquad = \text{Final Weighted Score}
 \end{aligned}$$

In order to equate the price to the weighted evaluation process scoring, the prices had to be converted into a score with the base of 100. **NOTE:** Vendors are listed in the order of their summary score for both proposal and price, from highest to lowest. For the demonstration score, vendors are listed in the order of their score, from highest to lowest. For the final score and cumulative score the vendors are listed in the order of rating from highest to lowest.

Weighted Average Score for Price: 30%

	Weighted Criteria - [1-(Proposal Price - Low Price) / low price] x available points	Final Weighted Score (x .30)
Vendors:		
Polaris Library Systems	$[1 - (301,189.00-301,189.00)/301,189.00] \times 100 = 100$	<b>100 x .30 = 30</b>
Innovative Interfaces, Inc.	$[1 - (357,933.00-301,189.00)/301,189.00] \times 100 = 81$	81 x .30 = 24
Sirsi Corporation (Turn-key)	$[1 - (429,706.00-301,189.00)/ 301,189.00] \times 100 = 57$	57 x .30 = 17
Sirsi Corporation (SAAS)	$[1 - (455,845.00-301,189.00)/301,189.00] \times 100 = 49$	49 x .30 = 15

Weighted Average Score for Proposals: 30%

Raters:	1	2	3	4	5	6	Average	Final Weighted Score (x .30)
Vendors:								
Polaris Library Systems	109	103	99	108	110	110	106.5	<b>32</b>
Innovative Interfaces, Inc.	100	75	68	80	78	98	83.2	25
Sirsi Corporation (Turn-key)	75	53	55	74	64	59	63.3	19
Sirsi Corporation (SAAS)	75	53	55	77	62	59	63.5	19

Summary: Proposal and Price Scores

	Price Score	Proposal Score	Score
Vendors:			
Polaris Library Systems	30	32	<b>62</b>
Innovative Interfaces, Inc.	24	25	49
Sirsi Corporation (Turn-key)	17	19	36
Sirsi Corporation (SAAS)	15	19	34

All three rated firms were invited to provide a demonstration.  
(Maximum # of points - 40 -)



Weighted Average Score for Demonstration: 40%

Raters:	1	2	3	4	5	6	7	Average	Final Weighted Score (x .40)
Vendors:									
Polaris Library Systems	72	96	90	93	75	86	55	81	<b>32</b>
Innovative Interfaces, Inc.	89	88	93	76	85	92	85	87	35
Sirsi Corporation (Turn-key)	52	80	79	78	69	72	78	73	29
Sirsi Corporation (SAAS)	52	80	79	78	69	72	78	73	29

Only demonstrated the turn-key item as requested by us.

FINAL CUMULATIVE SCORE:

VENDORS:	Polaris Library Systems	Innovative Interfaces, Inc.	Sirsi Corporation (Turn-key)	Sirsi Corporation (SAAS)
Proposal Score	32	25	19	19
Price Score	30	24	17	15
Demonstration Score	32	35	29	29
FINAL SCORE	94	84	65	63

\*\*HIGHEST RATED VENDOR - RECOMMENDED AWARD



## SELECTION PROCESS

### CRITERIA FOR SELECTION

The City Committee will review the proposals. The City of Troy reserves the right to award this project to the company considered the most qualified based upon a combination of factors including but not limited to the following:

- A. Compliance with qualifications criteria
- B. Completeness of the proposal
- C. Financial strength and capacity of the firm
- D. Correlation of the proposals submitted to the needs of the City of Troy
- E. Any other factors which may be deemed to be in the City's best interest
- F. Evaluation Process

#### Phase 1: Minimum Qualifications Evaluation – Pass / Fail

Firms will be required to meet minimum established criteria in order to go to the second phase of the process.

#### Phase 2: Evaluation of Proposals

Each City Committee member will independently use a weighted score sheet to evaluate the proposals; each Committee Member will calculate a weighted score. The scores of the Committee Members will be averaged into one score for each firm for this phase of the process.

#### Phase 3: Evaluation of Demonstrations

The City will invite at least the top three (3) rated firms to participate in a demonstration. If less than three (3) candidates remain in the process, all will be asked to partake in the demonstration. Each City Committee Member will independently use a weighted score sheet to evaluate the demos; each Committee Member will calculate a weighted score. The scores of the Committee Members will be averaged into one score for each firm for this phase of the process. Those companies performing a demonstration may be supplied further instructions and requests prior to the date of the live demonstration.

#### Phase 4: Relevance of Money

Weighted Criteria – Ratio of Costs

Formula:  $\{1 - (\text{Proposal Price} - \text{Low Price}) / \text{low price} \times \text{available points} (100\text{pts})\}$

#### Phase 5: Final Scoring and Selection

The firm with the highest final weighted score will be recommended to the Troy City Council for Award.

40% Demonstration Score (100 point base)

30% Proposal Score (100 point base)

30% Price Score (100 point base)

100%

**Note: The City of Troy reserves the right to change the order or eliminate an evaluation phase if deemed in the City's best interest to do so.**



## CITY COUNCIL ACTION REPORT

January 5, 2009

TO: Phillip L. Nelson, City Manager

FROM: John M. Lamerato, Assistant City Manager, Finance and Administration  
Susan A. Leirstein, Purchasing Director  
Carol K. Anderson, Parks and Recreation Director

SUBJECT: Standard Purchasing Resolution 3: Exercise Renewal Option -  
Community Center Catering

### **Background**

- On February 26, 2007, Troy City Council awarded a contract to provide catering services at the Troy Community Center for two years with an option to renew for two additional years to Sankofa Housing (aka A and S Catering) of Detroit, MI, as a result of a best value process expiring March 31, 2009. {Resolution #2007-02-058-E4d}
- A and S Catering served 84 events in 2007/08 and achieved an 85% score on their performance evaluation after the first year. 32 events have been catered from 7/1/08 to 11/30/08.
- A market survey was not performed by the Purchasing department as the request for proposal process evaluates other factors including the menu and rate of return.

### **Financial Considerations**

- A and S Catering provides the City with an 18% share of catering revenue.
- During 2007/08, the City earned \$15,494 from this contract. Although this amount was less than the \$23,800 earned while under contract with Emerald Food Service in 2005/06, patrons are not required to use A and S Catering for their events. When A and S Catering is not used for a meal function, the group reserving the room is charged a service and cleaning fee, which resulted in approximately \$10,900 in additional revenue. In addition, the City collected \$7,100 in vending machine revenue, which was also a part of Emerald Food Service's revenue sharing plan. The contract with A and S Catering resulted in \$33,494 in revenue for 2007/08 making it the best year the Community Center ever had.
- The City's revenue share for 08/09 catering services thru 11/30/08 totals \$6,947.55.
- When bids were received in 2007 for this contract, A and S Catering's return on gross receipts of 18% was significantly higher than the other four bidders (the 2<sup>nd</sup> highest was 10%). All were given the opportunity to match the 18%; all declined.

### **Legal Considerations**

- RFP-COT 06-59 to provide two year requirements of Catering Services was competitively bid and vendors were given the opportunity to respond with their level of interest in providing services for the Troy Community Center, in accordance with Chapter 7 of the City Code.

January 5, 2009

To: Phillip L. Nelson, City Manager  
Re: Catering Contract Renewal

**Legal Considerations** - continued

- Agreement for Catering Services was reviewed and approved as to form and legality by the Law department.

**Policy Considerations**

- Troy Community Center strives for a balanced and healthy economy reflecting the values of a unique community in a changing and interconnected world. (Outcome Statement III)

**Options**

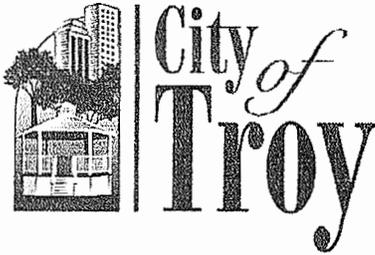
- City management and the Parks and Recreation Department recommend renewing the Troy Community Center catering contract with Sankofa Housing (aka A&S Catering) for two additional years under the same prices, terms and conditions expiring March 31, 2011.
- If the contract is not renewed, the City will re-issue a Request for Proposal to provide catering services at the Community Center.

APPROVED AS TO FORM AND LEGALITY:

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

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

Information Provided By: Kraig Schmotlach, Community Center Facility Manager



December 5, 2008

ATTN: Karl Johnson  
 Sankofa Housing  
 3034 East Jefferson, Suite 619  
 Detroit, MI 48207

Dear Mr. Johnson:

On February 26, 2007, the City of Troy entered into contract with Sankofa Housing to provide catering services at the Troy Community Center for two years with an option to renew for two additional years at the same prices, terms, and conditions as the original contract.

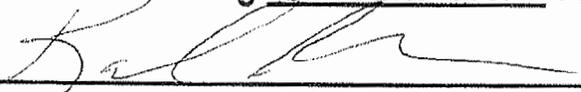
Please fax this letter back indicating if Sankofa Housing wishes to renew this contract until March 31, 2011. Our fax number is (248) 689-6497. A request by City staff to determine the successful bidder's interest in renewing the contract in no way obligates the City. The option cannot be exercised without Troy City Council approval.

If you have any questions please call me at (248) 526-2655.

**CHECK ONE:**

**Sankofa Housing is interested in renewing the contract under the same prices, terms, and conditions:**

**Sankofa Housing is not interested in renewing the contract:**

X 

**Signed: Authorized Company Representative**

**Date:** 12.8.2008

Thank you,  
 Kraig Schmottlach  
 Parks and Recreation Department  
 City of Troy

## AGREEMENT

### CATERING SERVICES AT THE TROY COMMUNITY CENTER

THIS AGREEMENT entered into on January 13, 2009, between the CITY OF TROY, 500 W. Big Beaver, Troy, Michigan, hereinafter referred to as the City, and Sankofa Housing (aka A&S Catering), hereinafter referred to as the preferred Troy Community Center Caterer or Preferred Caterer.

#### WITNESSETH:

In consideration of the City naming Sankofa Housing (aka A&S Catering) as the Preferred Troy Community Center Caterer, the Preferred Caterer agrees as follows:

1. The Preferred Caterer named above shall pay the City 18% of the gross receipts for the use of the premises from all funds derived from catering services less Michigan sales tax.
2. All payments shall be received by the City of Troy within 14 days of the last day of the month.
3. The prices charged by the Preferred Caterer are subject to approval by the City and, once established, shall not be changed without approval of the Parks and Recreation Director or designee. Prices will be re-evaluated at the conclusion of each year of the Agreement.
4. The Preferred Caterer shall have no authority or power to assign, sublet, or transfer any rights, privileges, or interests without obtaining prior written permission from the City.

5. The Preferred Caterer or his agents or employees shall not sell or permit intoxicating liquors to be consumed by minors and shall be required to be in compliance with all State and Local liquor laws and requirements.

6. The Preferred Caterer will provide all necessary equipment, supplies, food, and personnel to staff and service events authorized through the Troy Community Center.

7. The kitchen is available for the Preferred Caterer

Monday through Friday	2-10:30pm
Saturday	8am-9pm
Sunday	9am-6pm

The closing time may be extended if the finish time of the event goes beyond regular business hours as noted above. The Preferred Caterer will need to contact the facility manager when it needs to access the facility for an event, to ensure appropriate space is available to stage food/beverages for the event. The kitchen and loading dock may be used for staging only when the Preferred Caterer or City has obtained the necessary license and certification as required by the Oakland County Health Department. Once obtained, the City may allow limited food preparation/cooking. Kitchen must be cleaned after each use including removal of trash, cleaning counters and mopping floors. Failure to return the kitchen to a clean condition as determined by the City will result in additional charges to the Preferred Caterer for cleaning (currently billed @\$15/ man hour).

8. The Preferred Caterer will maintain the exterior and interior of the Hall / Banquet area in the same quality level as at the time of the award of this agreement. The Preferred Caterer must clean all food spills caused by the

catering staff. All food preparation and serving areas shall be in compliance with all City ordinances, state law, and applicable health standards. Other than tables and chairs, the Preferred Caterer will provide all set-ups of banquet areas unless other directives are provided in the specifications. The Preferred Caterer will be responsible for expenses associated with damages to the facility made by their staff either by negligence or accident.

9. Event dates are to be booked using Troy Community Center guidelines stated in the specifications. City staff, if deemed to be in the City's best interest, may update these provisions and procedures. Any changes to those procedures will be given to the Preferred Caterer in writing and will be on file in the office of the Community Center Facility Manager.

10. The Preferred Caterer agrees to remove all catering equipment (unless approved by the facility manager) and linen used, and clean tables, remove set-ups, food and trash within thirty- (30) minutes of the conclusion of the event.

11. The Preferred Caterer agrees to comply with all federal, state and local laws, rules and regulations, and ordinances and with all Oakland County Health Department regulations, and must obtain and keep current a Servsafe certification.

12. The Preferred Caterer will provide uniforms for its employees, and shall require the uniforms to be maintained in a clean and neat appearing manner. The City shall have the right to mandate that the Preferred Caterer permanently remove an employee from working at the Community Center for inappropriate behavior.

13. The Preferred Caterer shall carry liability insurance in the amount of \$1,000,000 for any actions, claims, liability or damages caused to others arising out of the operation and maintenance of premises including product liability and workmen's compensation, consistent with the sample form attached to the request for proposal documents. Furthermore, the Preferred Caterer agrees to hold the City harmless for any claims, actions, liabilities or damages arising out of the operation, maintenance, or management of the banquets.

14. All insurance policies must be approved as to form and amount by the City and copies of certificates of insurance furnished to the City. All policies, except workmen's compensation, must name the City as an additional insured.

15. Copies of all damage or accident reports submitted to insurance companies dealing with any damage or accident that may occur during an event, must also be sent to the City.

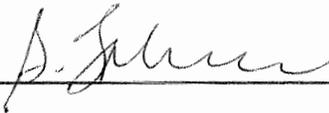
16. The Preferred Caterer shall not be in arrears for any amounts invoiced by the City.

17. The services of the Preferred Caterer are not exclusive. The City's event policy will allow customers to engage the services of other caterers, if requested, who have not been pre-qualified.

18. This agreement shall terminate on March 31, 2011, which may be extended for an additional two-year period based upon mutual consent of both parties within 90 days of agreement expiration. Either party upon provision of 90 days written notice may cancel the agreement without cause.

19. This Agreement incorporates by reference the Request for Proposal #06-59 documents and the Preferred Caterer's proposal as though fully set out herein. These documents constitute the entire Agreement and any changes thereto shall be in writing signed by both parties unless otherwise set out in the Agreement.

**WITNESS:**

- 1. 
- 2. 

**PREFERRED CATERER:**

Karl Johnson   
(Name)  
Vice President  
(Title)

**CITY OF TROY:**

By Louise E. Schilling, Mayor  
Tonni Bartholomew, City Clerk

Philip L. Nelson, City Manager or Designee  
Resolution Number: \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY:  
By \_\_\_\_\_  
Lori Grigg Bluhm, City Attorney



CITY OF TROY  
INDEMNIFICATION (Hold Harmless) CLAUSE

To the fullest extent permitted by law,

(Name of the Contractor/Vendor: Sankofa Housing (aka A&S Catering)

) agrees to defend, pay on behalf of, indemnify, and hold harmless the City of Troy, its elected and appointed officials, employees and volunteers and others working on behalf of the City of Troy against any and all claims, demands, suits, or loss, including all costs connected therewith, and for any damages which may be asserted, claimed or recovered against or from the City of Troy, its elected and appointed officials, employees, volunteers or others working on behalf of the City of Troy, by reason of personal injury, including bodily injury or death and/or property damage, including loss of use thereof, which arises out of or is in any way connected or associated with this contract/agreement.

(Contract/Agreement:

\_\_\_\_\_

)

 01-13-2009

Contractor/Vendor representative signature/date



Witness

\_\_\_\_\_  
City of Troy representative signature/date

\_\_\_\_\_  
Witness

THEREFORE, BE IT RESOLVED, That the option to renew the contract for two additional years is hereby **EXERCISED** with Majik Graphics, Inc. to provide vehicle graphic material and/or installation under the same prices, terms, and conditions as the original contract, to expire February 28, 2009.

b) **Standard Purchasing Resolution 2: Bid Award – Lowest Bidders Meeting Specifications – Turfgrass Chemical Products for Sylvan Glen and Sanctuary Lake Golf Courses**

Resolution #2007-02-058-E-4b

RESOLVED, That contracts to purchase seasonal requirements of chemicals for the Sylvan Glen and Sanctuary Lake Golf courses is hereby **AWARDED** to the lowest bidders meeting specifications as follows:

<b><u>BIDDERS</u></b>	<b><u>ITEMS</u></b>
Tri-Turf of Farmington Hills, MI	1,6,7,9,22,29,37
IKEX LLC of Tecumseh, MI	2,20
Turfgrass, Inc. of South Lyon, MI	3,4,10,11,12,16,17,19,21,23,24,28,32
Lesco, Inc. of Cleveland, OH	5,25
Great Lakes Turf LLC of Grand Rapids, MI	8,13,14,15,18,31,34,35
UAP Professional Products of Linden, MI	26,27,30,33,36

for an estimated total cost of \$178,277.95, at unit prices contained in the bid tabulation opened January 9, 2007, a copy of which shall be **ATTACHED** to the original Minutes of this meeting, with a contract expiration of December 31, 2007.

c) **Standard Purchasing Resolution 1: Award to Low Bidder – Aquatic Center Umbrellas**

Resolution #2007-02-058-E-4c

RESOLVED, That a contract to furnish nine (9) Funbrella Palm twenty-foot straight arm, non-retractable umbrellas is hereby **AWARDED** to the low bidder, Recreonics, Inc. of Louisville, KY, for an estimated total cost of \$23,345.00.

d) **Standard Purchasing Resolution 8: Best Value Award – Community Center Catering**

Resolution #2007-02-058-E-4d

RESOLVED, That a contract to provide catering services at the Troy Community Center for two (2) years with an option to renew for two additional years is hereby **AWARDED** to Sankofa Housing of Detroit, MI, the bidder with the highest score and overall return, as a result of a Best Value process which the Troy City Council determines to be in the public interest at an 18% return on gross revenue expiring March 31, 2009; and

BE IT FURTHER RESOLVED, That the award is **CONTINGENT** upon contractor submission of properly executed proposal and contract documents, including insurance certificates and all

other specified requirements; and the Mayor and City Clerk are **AUTHORIZED TO EXECUTE** the agreement when in acceptable form.

---

**E-5 Molnar v. Janice Pokley, City of Troy, et al.**

Resolution #2007-02-058-E-5

RESOLVED, That the City Attorney is hereby **AUTHORIZED** and **DIRECTED** to represent the City of Troy in any and all claims and damages in the matter of Gerald Molnar v Care House, Amy Allen, Renee Molnar, Janice Pokley, and City of Troy and to **RETAIN** any necessary expert witnesses to adequately represent the City.

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**E-6 Bid Waiver – Professional Services – Police Department Promotional Testing Services**

Resolution #2007-02-058-E-6

WHEREAS, EMPCO, Inc. has been providing testing and hiring services for the City's Police Department for 16 years; and

WHEREAS, EMPCO meets departmental needs, complies with Act 78 Commission requirements, purchased all the Michigan Municipal League's testing services and has proven to be fair and impartial;

THEREFORE, BE IT RESOLVED, That formal bidding procedures are hereby **WAIVED** and a contract to provide police lieutenant, police sergeant, and police captain promotional testing be awarded to EMPCO, Inc., at a cost not to exceed \$2,100.00 for preparing, administering and scoring the sergeants written examination; \$4,800.00 per assessment center, plus \$400.00 per candidate based on five (5) applicants; add \$3,000.00 for each multiple of five (5) or fraction thereof; and mileage reimbursement for three (3) assessors and one (1) facilitator at a rate of \$.445 per mile; and

BE IT FINALLY RESOLVED, The City Manager and Human Resources Director are hereby **AUTHORIZED TO EXECUTE** this contract with EMPCO, Inc. when in acceptable form.

---

**E-7 Amendment #1 – Tennis Court Reconstruction**

Resolution #2007-02-058-E-7

WHEREAS, On March 6, 2006, a contract to reconstruct the east and west tennis courts at Boulan Park was awarded to the lowest bidder meeting specifications, ABC Paving Company of Trenton, MI, for an estimated total cost of \$116,452.00, at prices contained in the bid tabulation opened on February 8, 2006 (Resolution #2006-03-126-E4c); and

WHEREAS, It is recommended that the contract be amended to allow for additional work, which was uncovered during the reconstruction of the east tennis courts;



# CITY COUNCIL ACTION REPORT

February 19, 2007

TO: Phillip L. Nelson, City Manager

FROM: John M. Lamerato, Assistant City Manager/Finance and Administration  
Susan A. Leirstein, Purchasing Director  
Carol K. Anderson, Parks and Recreation Director

SUBJECT: Standard Purchasing Resolution 8: Best Value Award –  
Community Center Catering

## **Background**

- On January 16, 2007, requests for proposals (RFP) were received to provide catering services at the Troy Community Center.
- 75 vendors were notified via the MITN e-procurement website. Five (5) companies responded with one statement of no bid received.
- The RFP stated that the caterer with the highest rating would set the rate of return for all responsive caterers meeting minimum requirements.
- No other vendors were willing to accept the rate of return (18%) proposed by Sankofa Housing, the highest rated proposal.
- Groups using the Community Center will be allowed to use other caterers, but the user group will pay a service and cleaning fee and be required to adhere to the attached policy. (Exhibit 1)

## **Financial Considerations**

- Based upon the return schedule of 18% of gross receipts, the Sankofa Housing proposal is the most beneficial to the City of Troy Community Center.

## **Legal Considerations**

- RFP-COT-06-59 was competitively bid and all vendors were given the opportunity to respond with their level of interest in providing catering at the Community Center.
- The award recommendation is based on best return to the City, ability to provide service and menu selection.
- The contract award is contingent on the recommended bidder's submission of proper contract and proposal documents, insurance certificates, and all other specified requirements.

## **Policy Considerations**

- By establishing catering services, the City will benefit from the highest rate of return while offering menu variety at competitive prices. (Goal II)

February 19, 2007

To: Phillip L. Nelson, City Manager  
Re: Best Value Award – Community Center Catering

**Options**

- City management and the Parks and Recreation department recommends awarding a two-year contract for Community Center Catering with an option to renew for two (2) additional years to Sankofa Housing of Detroit, Michigan, the highest rated as well as offering the highest return, as a result of best value process with an 18% return on gross revenue.

## Exhibit 1

### **Troy Community Center Food/Beverage Policy**

Groups that would like to serve food or beverages at their events in the Troy Community Center have the following options:

1. Order from the Community Center “preferred” caterer(s). If a qualifying meal is ordered, the group will receive a 35% discount on the room rental charges (excluding labor) provided the following minimum conditions are met:
  - Qualifying food order must be \$5 or more per person
  - Group size of 20
  - Two hour room rental
  
2. Order from a caterer that is not “preferred”. Groups may hire another caterer to provide food and beverages but are subject to the following charges and conditions:
  - Cleaning Fee - \$30
  - Service Fee (per person) - \$.75 for breakfast, \$1 for lunch, \$2 for dinner (There is no service fee if beverage or snacks are served)
  - Breakfast items include bagels, muffins and pastries. Snack foods include pre-packaged non-perishable items and desserts.
  - Caterer must have valid kitchen license.
  - Caterer or group will not have access to the kitchen area.
  
3. Carry in food prepared from home, store or restaurant. Groups, with the exception of non-profit groups (see below) may bring in their own food and beverages but are subject to the following charges and conditions:
  - Cleaning Fee - \$30
  - Service Fee (per person) - \$.75 for breakfast, \$1 for lunch, \$2 for dinner (There is no service fee if beverage or snacks are served)
  - Breakfast items include bagels, muffins and pastries. Snack foods include pre-packaged non-perishable items and desserts.
  - Group will not have access to the kitchen area.
  - The food being served is only available to members of the group. It cannot be served to the public.

#### Other Information

1. Any non-profit tax exempt (501c) corporations, community/civic organizations, churches, fraternal bodies, educational units or government organizations that consist of at least 75% Troy residents in attendance are permitted to carry in food prepared from home without incurring the service fee and will be subject to the cleaning fee if the room does not pass a post event inspection.
2. Individuals visiting the Community Center may consume food brought from home or purchased at a restaurant without incurring a cleaning fee or service fee as long as the food is not being served for a group function. For example, a patron may eat their individual lunch anywhere in the facility.

## Exhibit 1

3. The kitchen is not available for use by any group except by a “preferred” caterer who may use it in the process of staging their meal.



## EXECUTIVE SUMMARY

### Troy Community Center Caterers

#### STATISTICS:

- ◆ **Seventy-Five (75) Firms notified via the MITN e-procurement website**
- ◆ **Five (5) proposals were received**
- ◆ **All five (5) proposals qualified by passing the minimum requirements**
- ◆ **Sankofa Housing was the most qualified firm by receiving the highest weighted score**

The following bidders submitted a proposal and received the indicated final scores:

Firm	SCORE
<b>Sankofa Housing</b>	<b>68</b>
Cranks Catering & Food	55
Kosch Catering	45
Golden Spice	44
Emerald Food Services	38

#### Attachments:

- ✓ Weighted Final Scoring
- ✓ Evaluation Process



**WEIGHTED FINAL SCORING**  
Troy Community Center Caterers

Final Score Calculation:

$$\begin{aligned}
 &40\% \times \text{Return Score (100 pt Base)} \\
 &35\% \times \text{Menu Score (100 pt Base)} \\
 &\text{15\%} \times \text{Sample Food Score (100 pt Base)} \\
 &\text{10\%} \times \text{Other (100 pt Base)} \\
 &75\% \qquad \qquad \qquad = \text{Final Weighted Score}
 \end{aligned}$$

In order to equate the price to the weighted evaluation process scoring, the prices had to be converted into a score with the base of 100.

Return Score: 40%

Vendors:	Weighted Criteria - Difference in Return 1-(High Return - Proposal Return) / high return] x available points
Kosch Catering	[1 - (18% - 6%)/18%] x 100 = 33
Cranks Catering & Food	[1 - (18% - 10%)/18%] x 100 = 56
Emerald Food Services	[1 - (18% - 3.50%)/18%] x 100 = 19
Golden Spice	[1 - (18% - 8%)/18%] x 100 = 44
Sankofa	[1 - (18% - 18%)/18%] x 100 = 100

Menu Score: 35%

	Raters:	1	2	3	AVERAGE
Vendors:					
Kosch Catering		86	96	93	92
Cranks Catering & Food		93	99	91	94
Emerald Food Services		78	88	91	86
Golden Spice		59	87	79	75
Sankofa		63	88	89	80

FINAL WEIGHTED SCORE:

VENDORS:	Kosch Catering	Cranks Catering & Food	Emerald Food Services	Golden Spice	Sankofa **
Score					
Price Score: (x .40) =	33 x .40 = 13	56 x .40 = 22	19 x .40 = 8	44 x .40 = 18	100 x .40 = 40
Menu Score: (x .35) =	92 x .35 = 32	94 x .35 = 33	86 x .35 = 30	75 x .35 = 26	80 x .35 = 28
Final Score:	45	55	38	44	68 **

\*\* HIGHEST RATED VENDOR – RECOMMENDED AWARD



## SELECTION PROCESS

### CRITERIA FOR SELECTION

The identified City Committee will review the proposals. The City of Troy reserves the right to award this proposal to the company considered the most qualified based upon a combination of factors including but not limited to the following:

- A. Compliance with qualifications criteria
- B. Completeness of the proposal
- C. Financial strength
- D. Correlation of the proposals submitted to the needs of the City of Troy
- E. Any other factors which may be deemed to be in the City's best interest
- F. Evaluation Process

#### Phase 1: Qualifications Evaluation.

Bidders will be required to meet minimum established criteria in order to go to the second phase of the process. (Evaluation Sheet Proposal)

#### Phase 2: Menu Evaluation Process.

- o The City Committee will use a weighted scoring sheet to evaluate the required submitted menus.
- o Each Committee Member will calculate a weighted score.
- o The scores of the three Committee Members will be averaged into one score for each bidder for this phase of the process.

#### Phase 3: Food Evaluation Process (optional)

- o The City Committee will use a weighted scoring sheet to evaluate the submitted food samples.
- o Each Committee Member will calculate a weighted score.
- o The scores of the three Committee Members will be averaged into one score for each bidder for this phase of the process.

#### Phase 4: Return

Points for price will be calculated as follows:

FORMULA –

$[1 - (\text{High Return} - \text{Proposal Return}) / \text{high return}] \times \text{available points}$

The caterer with the highest rating will set the rate of return for all caterers.



**Phase 5: Other (Optional)**

Proposals may be assessed “Other” points for items not specified, but for which the Evaluation Committee deems as outstanding.

**Phase 6: Final Scoring and Selection**

The highest final weighted scored will be the caterer(s) recommended to the Troy City Council for Award.

40% x Return Score (100 pt. Base)	=	
35% x Menu Score (100 pt. Base)		=
15% x Sample Food Score (100 pt. Base)		=
<u>10% x Other (100 pt. Base)</u>	=	
100%		Final Weighted Score

Note: The City of Troy reserves the right to change the order or eliminate an evaluation phase if deemed in the City’s best interest to do so.



## CITY COUNCIL ACTION REPORT

December 30, 2008

TO: Phillip L. Nelson, City Manager

FROM: John M. Lamerato, Assistant City Manager-Finance/Administration  
Nino Licari, City Assessor

SUBJECT: Agenda Item – 2009 Poverty Exemption Guidelines

### Background:

- MCL 211.7u states: *“The real property of persons who in the opinion of the Supervisor (read Assessor for Cities) and Board of Review by reason of poverty are unable to contribute toward the public charges is exempt from taxation under this act.”*

In order to grant a Poverty Exemption, the Michigan Tax Tribunal (MTT) has ordered that each community develop a set of guidelines to determine whether the applicant qualifies for a one (1) year exemption from property taxes. (The exemption may be re-applied for each year)

The State Tax Commission (STC) has ruled that the Income Guidelines that are used as a portion of the guidelines may not be less than the Federal Poverty Guidelines established each year.

As the guidelines include an Assessed Value limit, a Total Asset limit, and possible changes to the Income Guidelines, Council is presented with updated guidelines each year for approval.

You may recall that in 2001, and prior to the STC order to use the Federal Poverty Guidelines, management had increased the income guidelines previously established by the City Assessor. The STC order to use the Federal guidelines, starting in 2002, placed our guidelines approximately \$5,000 higher than the Federal guidelines, in each category.

In 2002, Management then recommended, and Council approved, leaving our guidelines the same, until the Federal guidelines ‘catch up’. We are still averaging more than \$2,000 - \$3,000 higher in each category. Council has not changed the Income guidelines to this point.

The Assessed Value limit has increased each year by the average level of increase of the Residential Class for that year. This year the Residential Class will show an average reduction in value of 8.2%. This will lower the Assessed Value limit from \$112,380 to \$103,165.

The total asset limit, which includes the home (but not an automobile), would decrease from \$273,120 to \$270,978. This calculation includes the reduction in the average Assessed Value, and an increase in the remaining asset level of 4.4% (the established State Consumer Price Index for 2008).

Financial Considerations:

- There were 24 exemptions applied for in 2008 at the March Board of Review. Of these, nineteen (19) were granted exemptions totaling \$1,340,230 in Taxable Value (T/V). This amounts to \$12,437.33 in exempted City taxes (in 2007, 22 exemptions accounted for \$838,240 in T/V and \$7,778.87 in City taxes).

Since 2002, residents have been allowed to apply for Poverty Exemptions at the July and December Boards of Review. Generally a couple would come in July, and none in December.

This year, there were six (6) exemptions granted at the July Board (490,970 T/V), and three (3) at the December Board (290,910 T/V). These nine (9) additional exemptions accounted for exempted Taxable Value of \$1,052,858, and exempted City taxes of \$9,770.52.

The total loss of City taxes for Poverty Exemptions in 2008 was \$22,207.85. This is more than twice as much as the average in previous years.

Legal Considerations:

- The guidelines are required by the MTT and STC. The attached guidelines meet the requirements of these rulings.

Policy Considerations:

- The guidelines are a State mandated requirement. They do not conform to current Council goals.

Options:

- Council must adopt Poverty Guidelines. Council may adopt the guidelines as presented, or modify them

**POVERTY EXEMPTION GUIDELINES  
INCOME STANDARDS 2009**

The following are the Poverty thresholds as of 12-31-08 for use in setting poverty exemption guidelines for 2009 assessments:

Number of Persons Residing in Homestead	Poverty Threshold
1 person	13,959
2 persons	16,531
3 persons	18,470
4 persons	22,761
5 persons	26,419
6 persons	29,636
7 persons	33,347
8 persons	36,704
9 persons (or more) add 3,600 for each additional person	

**CITY OF TROY**  
**POVERTY EXEMPTION GUIDELINES – 2009**

**MCL 211.7u** *The real property of persons who in the judgment of the Supervisor and Board of Review by reason of poverty are unable to contribute toward the public charges is exempt from taxation under this Act.*

The City of Troy's standard for approving an exemption under the statute is based on an individual determination of hardship.

This is an exemption from taxes. If you claim poverty under the statute, you must file your claim with a Poverty Exemption Affidavit. This exemption is good for one year.

- STANDARD #1** Applicants must file a Poverty Exemption Affidavit in order to be considered for any exemption. Documentation such as, Income Tax Forms, W-2 Forms, Deeds or Land Contracts and personal identification is **mandatory**, and must be attached to the Affidavit.
- STANDARD #2** A Poverty Exemption will not be granted if the household income is greater than the Income Standards Guideline.
- STANDARD #3** A Poverty Exemption will not be granted if the Assessed Value of the home exceeds \$103,165.
- STANDARD #4** Applicants total assets cannot exceed \$270,978. This includes the value of your home.

\*The Board of Review may require a home audit and inspection, done by the Assessing Department, as part of the exemption process.

\* **The income of every person residing at the home must be reported.**

**POVERTY EXEMPTION AFFIDAVIT (for 2009 A/V Year)**

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Sidwell #)

**1. Household Income:** List all prior year income from:

- a) Wages/Tips \_\_\_\_\_
- b) Social Security \_\_\_\_\_
- c) Soc. Sec. for resident minors \_\_\_\_\_
- d) Pensions \_\_\_\_\_
- e) Interest/Dividends \_\_\_\_\_
- f) Unemployment Compensation \_\_\_\_\_
- g) Sub-Pay \_\_\_\_\_
- h) Workman's Compensation \_\_\_\_\_
- i) Aid to Dependent Children \_\_\_\_\_
- j) Medical Disability Benefits \_\_\_\_\_
- k) Lottery/Contest/Raffle \_\_\_\_\_
- l) Annuities \_\_\_\_\_
- m) Governmental Assistance \_\_\_\_\_
- n) Insurance/Lawsuit Payouts \_\_\_\_\_
- o) Alimony/Child Support \_\_\_\_\_
- p) Rental Income \_\_\_\_\_

**2. Supplemental Assistance:** List monthly amount of:

- a) Food Stamps \_\_\_\_\_
- b) Surplus Food \_\_\_\_\_
- c) Transportation \_\_\_\_\_

**3. Residence Information:**

Is your home paid for? Yes\_\_\_\_ No\_\_\_\_  
If No:  
What is your mortgage/land contract balance? \_\_\_\_\_  
What is your monthly payment? \_\_\_\_\_  
Who holds your mortgage/land contract? \_\_\_\_\_  
Do you own any other property? Yes\_\_\_\_ No\_\_\_\_  
If Yes: Attach a copy of your last tax bill.

**4. Employment information:**

Are you or your spouse currently employed?  
Self: Yes\_\_\_\_ No\_\_\_\_ Spouse: Yes\_\_\_\_ No\_\_\_\_  
Are you or your spouse unable to work (disability, etc.) ?  
Self: Yes\_\_\_\_ No\_\_\_\_ Spouse: Yes\_\_\_\_ No\_\_\_\_  
If Yes: Is this condition permanent?  
Self: Yes\_\_\_\_ No\_\_\_\_ Spouse: Yes\_\_\_\_ No\_\_\_\_  
Provide medical documentation of the disability.

**5. Children/Relatives/Boarders:**

How many children, relatives, or non-related boarders share your home? \_\_\_\_\_

Do any of the above, or anyone outside of your home, contribute Financially to your living expenses? Yes \_\_\_ No\_\_\_

If Yes: How much: per month \_\_\_\_\_ year \_\_\_\_\_

**6. Transportation:**

Do you own any automobiles? Yes \_\_\_ No \_\_\_

If Yes: Please provide the following information:

Year & Make	Price to you	Balance	Monthly payment
_____	_____	_____	_____
_____	_____	_____	_____

**7. Additional Assets:**

Please provide information about any additional assets listed.

Checking Account: Yes \_\_\_ No \_\_\_ Current Balance \_\_\_\_\_

Savings Account: Yes \_\_\_ No \_\_\_ Current Balance \_\_\_\_\_

I.R.A. Yes \_\_\_ No \_\_\_ Current Balance \_\_\_\_\_

Keogh Yes \_\_\_ No \_\_\_ Current Balance \_\_\_\_\_

Deferred Comp Yes \_\_\_ No \_\_\_ Current Balance \_\_\_\_\_

Annuities Yes \_\_\_ No \_\_\_ Current Balance \_\_\_\_\_

Stocks/Bonds/Funds Yes \_\_\_ No \_\_\_ Current Balance \_\_\_\_\_

Money Market Yes \_\_\_ No \_\_\_ Current Balance \_\_\_\_\_

Treasury Bills Yes \_\_\_ No \_\_\_ Current Balance \_\_\_\_\_

Savings Bonds Yes \_\_\_ No \_\_\_ Current Balance \_\_\_\_\_

**8. Attach copies of the following:**

- a) Federal Income Form
- b) State Income Tax Form
- c) Property Tax Credit Form
- d) W-2 Forms
- e) Copy of Deed or Land Contract
- f) Identification: Driver's License
- g) A listing of your household living expenses for the prior year. (examples: heat, electric, insurance, etc.)

**You must provide proof of income and other records of all residents of the dwelling to be considered for an exemption.**

I (We), \_\_\_\_\_ [print name(s)]  
the undersigned, do hereby affirm that the above information is,  
to the best of my (our) knowledge, true.

\_\_\_\_\_  
(Signed) Phone Number

\_\_\_\_\_  
(Signed) Phone Number

Subscribed and sworn to me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.  
My commission expires \_\_\_\_\_  
Notary Public \_\_\_\_\_

APPROVED:	NOT APPROVED:
Assessor: _____	Assessor: _____
Board Chairperson _____	Board Chairperson _____
Board Member _____	Board Member _____
Board Member _____	Board Member _____

Year \_\_\_\_\_ Assessment \_\_\_\_\_ Board of Review A/V \_\_\_\_\_

**For a March Board of Review Appeal, please submit by March 6**  
**For a July Board of Review Appeal, please submit by July 17**  
**For a December Board of Review Appeal, please submit by**  
**December 4.**

### **C. Federal Poverty Guidelines Used in the Determination of Poverty Exemptions for 2009.**

MCL 211.7u, which deals with poverty exemptions, was significantly altered by PA 390 of 1994 and was further amended by PA 620 of 2002. Please see STC Bulletin No. 5 of 1995 and page 3 of STC Bulletin No. 1 of 2003 for more detailed information.

Local governing bodies are required to adopt guidelines that set income levels for their poverty exemption guidelines and those income levels **shall not be set lower** by a city or township than the federal poverty guidelines updated annually by the U.S. Department of Health and Human Services. This means, for example, that the income level for a household of 3 persons **shall not** be set lower than \$17,600 which is the amount shown on the following chart for a family of 3 persons. The income level for a family of 3 persons may be set higher than \$17,600.

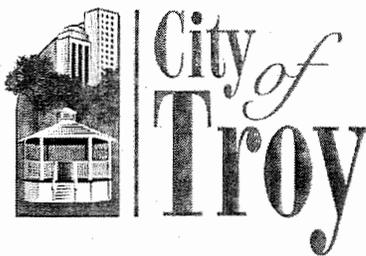
Following are the federal poverty guidelines for use in setting poverty exemption guidelines for 2009 assessments.

<b>Size of Family Unit</b>	<b>Poverty Guidelines</b>
1	\$ 10,400
2	\$ 14,000
3	\$ 17,600
4	\$ 21,200
5	\$ 24,800
6	\$ 28,400
7	\$ 32,000
8	\$ 35,600
For each additional person, add	\$ 3,600

**Note:** PA 390 of 1994 states that the poverty exemption guidelines established by the governing body of the local assessing unit shall also include an asset level test. An asset test means the amount of cash, fixed assets or other property that could be used, or converted to cash for use in the payment of property taxes. The asset test should calculate a maximum amount permitted and all other assets above that amount should be considered as available.

### **D. Multipliers for the Valuation of Free-Standing Communication Towers.**

The State Tax Commission has received a number of inquiries, both from the assessing community and from taxpayers, relating to the proper procedures for assessing freestanding communication towers. Accordingly, the Commission has determined that, in addition to providing the valuation multipliers for use in making 2009 assessments, it is appropriate to re-state a number of directives that have been made in previous Bulletins.



## CITY COUNCIL ACTION REPORT

January 8, 2009

TO: Phillip L. Nelson, City Manager

FROM: Brian P. Murphy, Assistant City Manager/Economic Development Services  
Steven J. Vandette, City Engineer  
Patricia A. Petitto, Real Estate Consultant, Greenstar & Associates, LLC

SUBJECT: Request for Approval of Purchase Agreement and  
Acceptance of Permanent Public Utility Easement  
Rochester Road Improvements, Torpey to Barclay  
Project No. 99.203.5 – Parcel 5 – Sidwell #88-20-23-156-005  
Armand J. Dagenais/Michigan College of Beauty, Inc.

### Background:

- In connection with the proposed improvements to Rochester Road, from Torpey to Barclay, the Real Estate & Development Department received a Purchase Agreement and Permanent Public Utility Easement from Armand J. Dagenais/Michigan College of Beauty, Inc. This parcel is located on the east side of Rochester Road, between Charrington and Bishop in the northwest ¼ of Section 23.

### Financial Considerations:

- An appraisal was prepared by Raymond V. Bologna, CRE, MAI, State Certified Appraiser and reviewed by Kimberly Harper, Deputy Assessor and State Licensed Appraiser. Staff believes that \$55,800, plus closing costs for the acquisition of the property described in the purchase agreement and \$1,000 for the Permanent Public Utility Easement are justifiable amounts for this acquisition.
- Eighty percent of these costs will be reimbursed from Federal funds. Funds for the City of Troy's share are included in the 2008-09 Major Road fund, account number 401479.7989.992035.

### Legal Considerations:

- The format and content of the purchase agreement and easement are consistent with documents previously accepted by City Council.

### Policy Considerations:

- The purpose of this project is to relieve congestion, improve safety and improve the flow of traffic. (Outcome Statements I, II and III)

Options:

- City Management recommends that City Council approve the attached purchase agreement and accept the attached Permanent Public Utility Easement from Armand J. Dagenais/Michigan College of Beauty, Inc. so that the City can proceed with the acquisition of this right-of-way.

PAP\G\MEMOS TO MAYOR & CC\Dagenais/MI College of Beauty Purchase Agreement & PUE

CITY OF TROY  
AGREEMENT TO PURCHASE REALTY  
FOR PUBLIC PURPOSES

The CITY OF TROY (the "Buyer"), agrees to purchase from Armand J. Dagenais/Michigan College of Beauty, Inc., a Michigan Corporation (the "Sellers"), the following described premises (the "Property"):

SEE ATTACHED EXHIBIT "A"

for a public project within the City of Troy and to pay the sum of Fifty-Five Thousand, Eight Hundred and no/100 Dollars (\$55,800) under the following terms and conditions:

1. Seller shall assist Buyer in obtaining all releases necessary to remove all encumbrances from the property so as to vest a marketable title in Buyer.

2. Seller shall pay all taxes, prorated to the date of closing, including all special assessments, now due or which may become a lien on the property prior to the conveyance.

3. Seller shall deliver the Warranty Deed upon payment of the purchase money by check drawn upon the account of the City of Troy.

4. Buyer shall, at its own expense, provide title insurance information, and the Seller shall disclose any encumbrances against the property.

5. This Agreement is binding upon the parties and closing shall occur within ninety (90) days of the date that all liens have been released and encumbrances have been extinguished to the satisfaction of the Buyer, unless extended by agreement of the parties in writing. It is further understood and agreed that this period of time is for the preparation and authorization of purchase money.

6. Buyer shall notify the Seller immediately of any deficiencies encumbering marketable title, and Seller shall then proceed to remove the deficiencies. If the Seller fails to remove the deficiencies in marketable title to Buyer's approval, the Buyer shall have the option of proceeding under the terms of this Agreement to take title in a deficient condition or to render the Agreement null and void, and any deposit tendered to the Seller shall be returned immediately to the Buyer upon demand.

7. The City of Troy's sum paid for the property being acquired represents the property being free of all environmental contamination. Although the City of Troy will not withhold or place in escrow any portion of this sum, the City reserves its rights to bring Federal and/or State and/or local cost recovery actions against the present owners and any other potentially responsible parties, arising out of a release of hazardous substances at the property.

8. Seller acknowledges that this offer to purchase is subject to final approval by Troy City Council.

9. Seller grants to Buyer temporary possession and use of the property commencing on this date and continuing to the date of closing in order that the Buyer may proceed with the public project.

10. Additional conditions, if any:

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

SELLER HEREBY ACKNOWLEDGES THAT NO PROMISES WERE MADE EXCEPT AS CONTAINED IN THIS AGREEMENT.

IN WITNESS WHEREOF, the undersigned hereunto affixed their signatures this  
8<sup>TH</sup> day of JANUARY , 2008.

In presence of:

*G. Scott Finlay*  
G. SCOTT FINLAY

*Michael P. Bastien*  
MICHAEL P. BASTIEN

CITY OF TROY (BUYER)

*Patricia A. Petitto*  
PATRICIA A. PETITTO

SELLERS:

ARMAND J. DAGENAIS/MICHIGAN  
COLLEGE OF BEAUTY, INC., A  
MICHIGAN CORPORATION

*David Dagenais, President*  
David Dagenais, President

01-28-08  
19990476  
20-23-156-005

**EXHIBIT 'A'**

**DESCRIPTION OF RIGHT OF WAY ACQUISITION**

Part of the Southwest  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  of Section 23, T2N, R11E, City of Troy, Oakland County, Michigan, described as: Beginning at the West  $\frac{1}{4}$  corner of said Section; thence N89°28'30"E 43.00 feet to the Point Of Beginning; thence N00°03'00"E 115.50 feet; thence N89°28'30"E 32.00 feet; thence S00°03'00"W 115.50 feet; thence S89°28'30"W 32.00 feet to the Point of Beginning.  
Said acquisition contains 3,696 square feet, or 0.085 acres, more or less.

PERMANENT UTILITY EASEMENT

Sidwell #88-20-23-156-005  
Parcel #5

Armand J. Dagenais/Michigan College of Beauty, Inc., a Michigan Corporation, Grantors, whose address is: 3498 Rochester, Troy, MI 48083 for and in consideration of the sum of: One Thousand and no/100 Dollars (\$1,000) paid by the CITY OF TROY, a Michigan Municipal Corporation, Grantee, whose address is 500 West Big Beaver Road, Troy, Michigan 48084 grants to the Grantee a utility easement, said easement for land situated in the City of Troy, Oakland County, Michigan described as:

SEE ATTACHED EXHIBIT "A"

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

The premises so disturbed by the exercise of any of the foregoing powers shall be reasonably restored to its original condition by the Grantee. The Grantee agrees to reimburse the Grantors all costs related to the relocation of the current sign from the proposed easement area, based on the lowest of three bids from an approved sign company.

This instrument shall be binding upon and inure to the benefit of the parties hereto, their heirs, representatives, successors and assigns and the covenants contained herein shall run with the land.

IN WITNESS WHEREOF, the undersigned hereunto affixed HIS signature(s) this 8TH day of JANUARY, 2008.

ARMAND J. DAGENAIS/MICHIGAN COLLEGE OF BEAUTY, INC., A MICHIGAN CORPORATION

David Dagenais (L.S.)  
\*David Dagenais, President

\_\_\_\_\_  
(L.S.)

STATE OF MICHIGAN )  
COUNTY OF OAKLAND )

The foregoing instrument was acknowledged before me this 8TH day of JANUARY, 2008, by David Dagenais, President, of Armand J. Dagenais/Michigan College of Beauty, Inc., a Michigan Corporation.

Patricia A. Petitto  
\* PATRICIA A. PETITTO  
Notary Public, OAKLAND County, Michigan

Acting in OAKLAND County, Michigan

My Commission Expires 12-31-11

Prepared by: Patricia A. Petitto  
City of Troy  
500 W. Big Beaver Road  
Troy, MI 48084

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

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

01-28-08  
19990476  
20-23-156-005

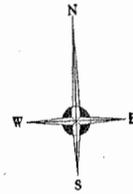
**EXHIBIT 'A'**

**DESCRIPTION OF PUBLIC UTILITY EASEMENT**

Part of the Southwest  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  of Section 23, T2N, R11E, City of Troy, Oakland County, Michigan, described as: Beginning at the West  $\frac{1}{4}$  corner of said Section; thence N89°28'30"E 75.00 feet to the Point Of Beginning; thence N00°03'00"E 115.50 feet; thence N89°28'30"E 4.00 feet; thence S00°03'00"W 115.50 feet; thence S89°28'30"W 4.00 feet to the Point of Beginning.  
Said easement contains 462 square feet, or 0.011 acres, more or less.

# RIGHT OF WAY ACQUISITION

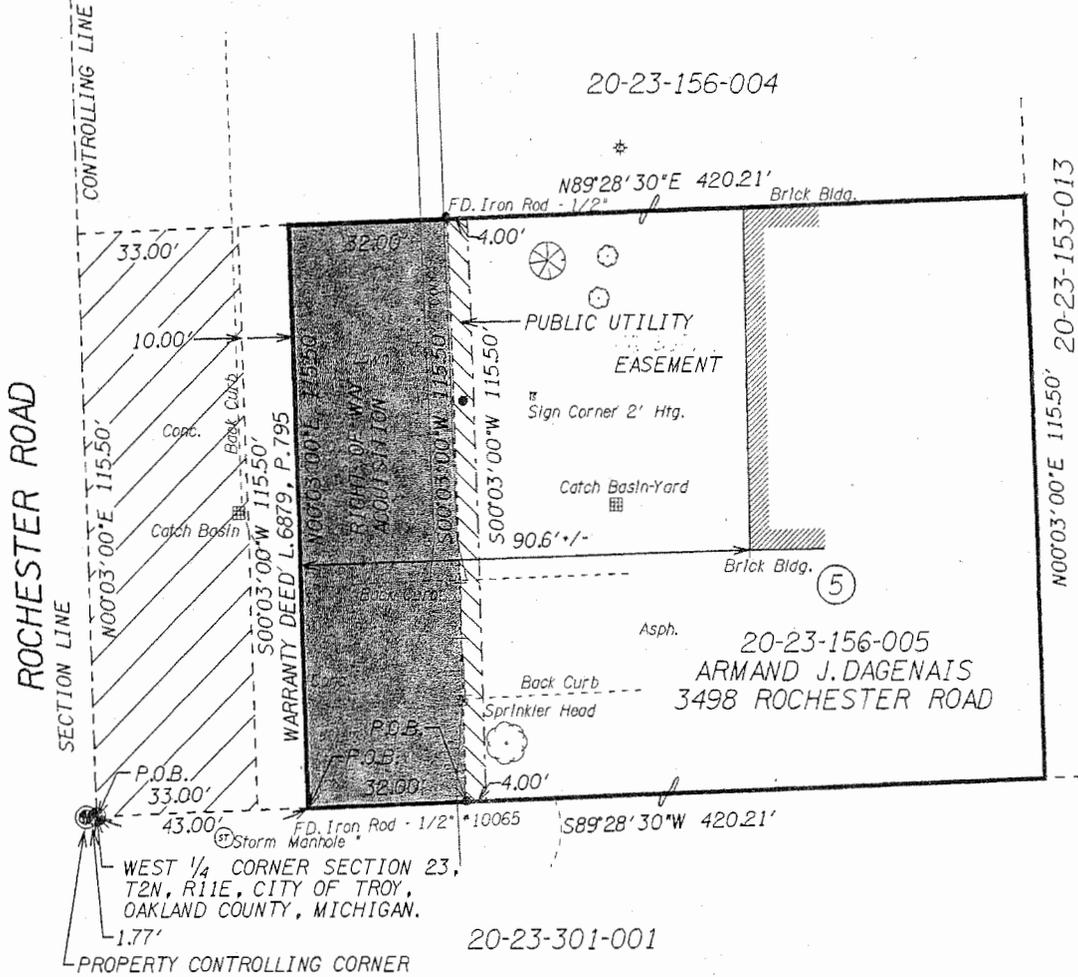
EXHIBIT 'B'  
PARCEL 5



SCALE: 1" = 30'

NOTE: DESCRIPTION TAKEN FROM RECORD.

← NORTHWEST CORNER SECTION 23,  
T2N, R11E, CITY OF TROY,  
OAKLAND COUNTY, MICHIGAN.

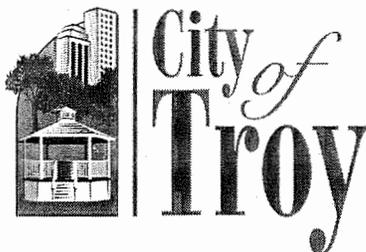


USER NAME: dhr261  
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 TIME: 05-FEB-2008 15:26

20-23-156-005  
DAVID DAGENAIS  
TOTAL AREA • 47,379 S.F.  
R.O.W. ACQUISITION • 3,696 S.F.  
STATUTORY R.O.W. • 3,812 S.F.  
REMAINDER • 39,872  
UTILITY EASEMENT • 462 S.F.

STATUTORY R.O.W. •   
 R.O.W. ACQUISITION •   
 UTILITY EASEMENT • 

JOB NO. 19990476	HUBBELL, ROTH & CLARK, INC. CONSULTING ENGINEERS 555 HULET DRIVE BLOOMFIELD HILLS, MICH.	SHEET NO. 1
DATE 01-28-08		P.O. BOX 824 48303-0824 OF 2



# CITY COUNCIL ACTION REPORT

January 8, 2009

TO: Phillip L. Nelson, City Manager

FROM: Brian P. Murphy, Assistant City Manager/Economic Development Services  
 Steven J. Vandette, City Engineer  
 Patricia A. Petitto, Real Estate Consultant, Greenstar & Associates, LLC

SUBJECT: Request for Approval of Purchase Agreement and  
 Acceptance of Permanent Public Utility Easement  
 Rochester Road Improvements, Torpey to Barclay  
 Project No. 99.203.5 – Parcel 6 – Sidwell #88-20-23-156-004  
 Mattress & Futon Plaza L.L.C.

## Background:

- In connection with the proposed improvements to Rochester Road, from Torpey to Barclay, the Real Estate & Development Department received a Purchase Agreement and Permanent Public Utility Easement from Mattress & Futon Plaza, L.L.C. This parcel is located on the east side of Rochester Road, between Charrington and Bishop in the northwest ¼ of Section 23.

## Financial Considerations:

- An appraisal was prepared by Raymond V. Bologna, CRE, MAI, State Certified Appraiser and reviewed by Kimberly Harper, Deputy Assessor and State Licensed Appraiser. Staff believes that \$99,800, plus closing costs for the acquisition of the property described in the purchase agreement and \$2,500 for the Permanent Public Utility Easement are justifiable amounts for this acquisition.
- Eighty percent of these costs will be reimbursed from Federal funds. Funds for the City of Troy's share are included in the 2008-09 Major Road fund, account number 401479.7989.992035.

## Legal Considerations:

- The format and content of the purchase agreement and easement are consistent with documents previously accepted by City Council.

## Policy Considerations:

- The purpose of this project is to relieve congestion, improve safety and improve the flow of traffic. (Outcome Statements I, II and III)

Options:

- City Management recommends that City Council approve the attached purchase agreement and accept the attached Permanent Public Utility Easement from Mattress & Futon Plaza, L.L.C. so that the City can proceed with the acquisition of this right-of-way.

PAP\G\MEMOS TO MAYOR & CC\Mattress & Futon Plaza Purchase Agreement & PUE

CITY OF TROY  
AGREEMENT TO PURCHASE REALTY  
FOR PUBLIC PURPOSES

The CITY OF TROY (the "Buyer"), agrees to purchase from Mattress & Futon Plaza L.L.C., a Michigan Limited Liability Company, aka Mattress & Futon Plaza LLC, a Michigan Limited Liability Company (the "Sellers"), the following described premises (the "Property"):

SEE ATTACHED EXHIBIT "A"

for a public project within the City of Troy and to pay the sum of Ninety-Nine Thousand, Eight Hundred and no/100 Dollars (\$99,800) under the following terms and conditions:

1. Seller shall assist Buyer in obtaining all releases necessary to remove all encumbrances from the property so as to vest a marketable title in Buyer.
2. Seller shall pay all taxes, prorated to the date of closing, including all special assessments, now due or which may become a lien on the property prior to the conveyance.
3. Seller shall deliver the Warranty Deed upon payment of the purchase money by check drawn upon the account of the City of Troy.
4. Buyer shall, at its own expense, provide title insurance information, and the Seller shall disclose any encumbrances against the property.
5. This Agreement is binding upon the parties and closing shall occur within ninety (90) days of the date that all liens have been released and encumbrances have been extinguished to the satisfaction of the Buyer, unless extended by agreement of the parties in writing. It is further understood and agreed that this period of time is for the preparation and authorization of purchase money.
6. Buyer shall notify the Seller immediately of any deficiencies encumbering marketable title, and Seller shall then proceed to remove the deficiencies. If the Seller fails to remove the deficiencies in marketable title to Buyer's approval, the Buyer shall have the option of proceeding under the terms of this Agreement to take title in a deficient condition or to render the Agreement null and void, and any deposit tendered to the Seller shall be returned immediately to the Buyer upon demand.
7. The City of Troy's sum paid for the property being acquired represents the property being free of all environmental contamination. Although the City of Troy will not withhold or place in escrow any portion of this sum, the City reserves its rights to bring Federal and/or State and/or local cost recovery actions against the present owners and any other potentially responsible parties, arising out of a release of hazardous substances at the property.
8. Seller acknowledges that this offer to purchase is subject to final approval by Troy City Council.
9. Seller grants to Buyer temporary possession and use of the property commencing on this date and continuing to the date of closing in order that the Buyer may proceed with the public project.
10. Additional conditions, if any:

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SELLER HEREBY ACKNOWLEDGES THAT NO PROMISES WERE MADE EXCEPT AS CONTAINED IN THIS AGREEMENT.

Signed

IN WITNESS WHEREOF, the undersigned hereunto affixed their signatures this  
8TH day of JANUARY, 2008.

In presence of:

Laurel Nottage  
LAUREL NOTTAGE  
William J. Huotari  
WILLIAM J. HUOTARI

CITY OF TROY (BUYER)

Patricia A. Pettit  
PATRICIA A. PETTITTO

SELLER:

MATTRESS & FUTON PLAZA L.L.C.,  
A MICHIGAN LIMITED LIABILITY  
COMPANY, AKA MATTRESS &  
FUTON PLAZA LLC, A MICHIGAN  
LIMITED LIABILITY COMPANY

Larry Rivetto  
LARRY RIVETTO, MEMBER

01-28-08  
19990476  
20-23-156-004  
rev. 02-29-08

**EXHIBIT 'A'**

**DESCRIPTION OF RIGHT OF WAY ACQUISITION**

Part of the Southwest  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  of Section 23, T2N, R11E, City of Troy, Oakland County, Michigan, described as: Beginning at a point which is  $S00^{\circ}12'22''E$  2,472.54 feet from the Northwest corner of said Section 23; thence  $N89^{\circ}15'16''E$  43.00 feet to the Point Of Beginning; thence  $N89^{\circ}15'16''E$  32.00 feet; thence  $S00^{\circ}12'22''E$  219.00 feet; thence  $S89^{\circ}15'16''W$  32.00 feet; thence  $N00^{\circ}12'22''W$  219.00 feet to the Point Of Beginning.

Said acquisition contains 7,008 square feet, or 0.16 acres, more or less.

PERMANENT UTILITY EASEMENT

Sidwell #88-20-23-156-004  
Parcel #6

Mattress & Futon Plaza L.L.C., a Michigan Limited Liability Company, aka Mattress & Futon Plaza LLC, a Michigan Limited Liability Company, Grantors, whose address is: 3516-3536 Rochester, Troy, MI 48083 for and in consideration of the sum of: Two Thousand, Five Hundred and no/100 Dollars (\$2,500) paid by the CITY OF TROY, a Michigan Municipal Corporation, Grantee, whose address is 500 West Big Beaver Road, Troy, Michigan 48084 grants to the Grantee a utility easement, said easement for land situated in the City of Troy, Oakland County, Michigan described as:

SEE ATTACHED EXHIBIT "A"

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

The premises so disturbed by the exercise of any of the foregoing powers shall be reasonably restored to its original condition by the Grantee.

This instrument shall be binding upon and inure to the benefit of the parties hereto, their heirs, representatives, successors and assigns and the covenants contained herein shall run with the land.

IN WITNESS WHEREOF, the undersigned hereunto affixed HIS signature(s) this 8TH day of JANUARY, 2008.

MATTRESS & FUTON PLAZA L.L.C., A MICHIGAN LIMITED LIABILITY COMPANY, AKA MATTRESS & FUTON PLAZA LLC, A MICHIGAN LIMITED LIABILITY COMPANY

Larry Rivetto (L.S.)  
\* LARRY RIVETTO, MEMBER

\_\_\_\_ (L.S.)  
\*

STATE OF MICHIGAN )  
COUNTY OF OAKLAND )

The foregoing instrument was acknowledged before me this 8TH day of JANUARY, 2008, by LARRY RIVETTO, MANAGER, of Mattress & Futon Plaza L.L.C., a Michigan Limited Liability Company, aka Mattress & Futon Plaza LLC, a Michigan Limited Liability Company.

Patricia A. Petitto  
\* PATRICIA A. PETITTO  
Notary Public, OAKLAND County, Michigan

Acting in OAKLAND County, Michigan

My Commission Expires 12-31-11

Prepared by: Patricia A. Petitto  
City of Troy  
500 W. Big Beaver Road  
Troy, MI 48084

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

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

01-28-08  
19990476  
20-23-156-004  
rev. 02-29-08

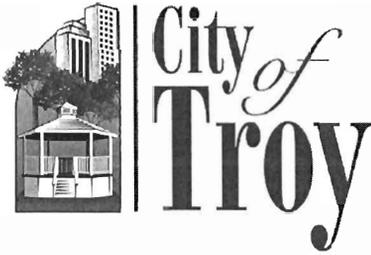
**EXHIBIT 'A'**

**DESCRIPTION OF PUBLIC UTILITY EASEMENT**

Part of the Southwest  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  of Section 23, T2N, R11E, City of Troy, Oakland County, Michigan, described as: Beginning at a point which is S00°12'22"E 2,472.54 feet from the Northwest corner of said Section 23; thence N89°15'16"E 75.00 feet to the Point of Beginning; thence N89°15'16"E 4.00 feet; thence S00°12'22"E 34.79 feet; thence N89°47'38"E 6.00 feet; thence S00°12'22"E 12.00 feet; thence S89°47'38"W 6.00 feet; thence S00°12'22"E 92.23 feet; thence N89°47'38"E 6.00 feet; thence S00°12'22"E 34.00 feet; thence S89°47'38"W 6.00 feet; thence S00°12'22"E 45.98 feet; thence S89°15'16"W 4.00 feet; thence N00°12'22"W 219.00 feet to the Point Of Beginning.

Said easement contains 1,152 square feet, or 0.026 acres, more or less.





# CITY COUNCIL ACTION REPORT

January 6, 2009

TO: Phillip L. Nelson, City Manager

FROM: John M. Lamerato, Assistant City Manager/Finance and Administration  
Carol K. Anderson, Parks and Recreation Director 

SUBJECT: Park Naming of Section 36 Park Land

## Background:

- The City has several parcels of park land that are unnamed.
- It is anticipated that these parks will be named as they are developed.
- Development of Section 36 (Milverton) park land has begun.
- At the November 20, 2008 Parks and Recreation Advisory Board meeting, the Board recommended that the process for naming the park be initiated.
- Naming the park will bring visibility and distinctiveness to the site.

## Financial Considerations:

- There are no financial considerations.

## Legal Considerations:

- There are no legal considerations.

## Policy Considerations:

- The City Council adopted a policy for naming public places specific to Parks and Recreation (attached).
- Implementing the policy for naming this site enhances the value to properties through maintenance or upgrades of infrastructure and quality of life venues. (Outcome Statement 1)

## Options:

- City management recommends City Council direct staff to initiate the process for naming the park by following the procedure as outlined in the Policy For Naming Public Places Specific To Parks And Recreation.

December 10, 2008

To: Phillip L. Nelson, City Manager

From: John M. Lamerato, Assistant City Manager/Finance and Administration  
Carol K. Anderson, Parks and Recreation Director

Subject: Parks and Recreation Advisory Board Recommendation 

At the November 20, 2008 meeting of the Parks and Recreation Advisory Board the following action was taken.

Resolution # PR – 2008 – 11 -12  
Moved by Redpath  
Seconded by Kovacs

RESOLVED, that the Parks and Recreation Advisory Board recommends to City Council that the process for naming what is now known as Section 36 park be initiated.

Yes: All

MOTION CARRIED

## **POLICY FOR NAMING PUBLIC PLACES SPECIFIC TO PARKS AND RECREATION**

### Criteria Overview

The following criteria is established for proposed names of parks and/or public places.

1. The City Council must be satisfied that the proposed names are or have been:

A. A deceased, one time resident of the City of Troy

**OR**

B. A group or organization located in Troy

**AND**

That the group or individual has demonstrated significant dedication and/or contribution to the improvement, advancement and furtherance of the facility and/or the Troy community.

2. All Troy Parks and Recreational facilities should ultimately be named. The City Council of the City of Troy reserves unto itself the authority and responsibility of naming public places including, but not limited to, public grounds and buildings.

3. Parks and recreational facility names can be that of a deceased person, a group, the function of the park or facility, or other appropriate name.

4. Park names are permanent and shall not be changed unless the name is deemed inappropriate or reflects poorly on the image of the City.

5. Park amenities/facilities within a park may be named after an individual, group or organization. If such, the names will be reviewed by the Parks and Recreation Advisory Board every five years. Should the effort and contribution of the individual/group and the condition of the amenity be satisfactory, the name will be renewed.

### Guidelines For Naming Parks After Groups/Organizations

1. A new park may be named after a group (or organization) if that group contributes 60% or more of the cost of development of that park. Any such group requesting a park be named after it shall submit the request to the Parks and Recreation Advisory Board together with reasons supporting the proposed name and documentation of a financial commitment.

2. A facility, amenity or section of a park within an existing park may be named after a group/organization, if that group fully funds the purchase and installation of the facility, amenity or equipment proposed for the section of the park. Any group requesting a facility or section of a park be named after it shall submit the request to the Parks and Recreation Advisory Board. The board will determine if the proposed facility conforms to or meets the intentions of the master park plan as defined by the Parks and Recreation department.

If such, the names will be reviewed by the Parks and Recreation Advisory Board after five years. Should the effort and contribution of the group and the conditions of the amenity be satisfactory, the name will be renewed.

3. Names featuring, representing, or including alcohol or tobacco products, or other places or products deemed unsuitable shall be rejected.

4. Parks shall not be referred to as "Memorial" in that such term generally becomes the common name and therefore would detract from the intent of naming the park after the individual being honored.

#### Guidelines For Naming After A Person

1. Parks shall carry the name of the original property owner, if such was specified in the deed or purchase agreement.

2. Parks shall be named after deceased people only when such person has made an outstanding, generally recognized contribution to the community.

#### Other Guidelines

1. Neighborhood parks may be identified with the name of the neighborhood, abutting streets, schools or other well-known landmark.

2. Any amenity/facility donated by a group, organization or individual may have a recognition sign, funded by the group/organization. Signage, plaques, etc. for individuals will not have this requirement. All signs must conform to the City of Troy's sign ordinance. City management will approve signage location, size and type, etc.

#### Procedure

The City of Troy will publicly post a request for Troy citizens to name parks and recreational facilities as the need arises. This public request for names should reach as many Troy citizens as possible and be made through multiple forms of communication. A special effort should be made to notify those neighborhoods or citizens that would most likely use the park or facility. To aid in the name selection process, people submitting a name should be informed that they should include reasons that support the name submitted.

#### **Persons or groups recommending a park name shall follow this procedure:**

1. Submit a letter outlining the request and reasons for the name.

- a. If the name proposed is for an individual, any or all of the following should be submitted: a biographical sketch, proof of significant contribution to Parks and Recreation or the Troy community, photo journal of family, projects, community contributions, awards, media articles, testimonial letters, etc.

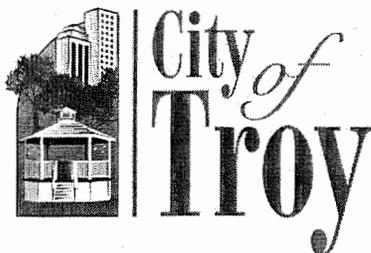
- b. Organizations/Groups recommending a park name must submit excerpts of organization's minutes approving the request and an assurance that they would pay at least 60% of the park development costs. Communications suggesting an organizational name must be accompanied by background information on the organization, its affiliation with the community, its contributions to the community and evidence of same including its charter, photographs of projects and photo copies of independent information sources (e.g. news articles, awards, etc.) confirming community efforts.

**The City Council shall follow the procedure below:**

1. Upon receipt of a request and accompanying background information the City Council will cause same to be on display and available for public inspection at public places selected by the city council for not less than 60 days during which time the public will be given the opportunity to submit written comments regarding the proposed name.
  - a. During its consideration, the City Council shall refer the request, all supporting material and public comments to the Parks and Recreation Advisory Board or any committee so designated by the City Council. Written comments will be forwarded to the Park Board or other advisory board involved in the naming process.
2. A public hearing shall be held by the Parks and Recreation Advisory Board or other committee prior to any recommendation. The Parks and Recreation Advisory Board or other committee will review proposed names and public comments, and recommend a name to the City Council, together with reasons for the recommendation.
3. After expiration of the 60 day period for public review and comment, the City Council will reserve an additional 30 days for public review of comments received after which time the matter will be available for consideration by the City Council.
4. The City Council may approve the name or, at its discretion, postpone a final decision.
5. All records, documents, photographs and papers emanating from this process shall be forever retained in the records of the City of Troy and its archives.

Revised 8-2003

Resolution #2003-08-417



# CITY COUNCIL ACTION REPORT

January 20, 2009

TO: Phillip L. Nelson, City Manager

FROM: Brian P. Murphy, Assistant City Manager/Economic Development Services  
Steven J. Vandette, City Engineer  
Patricia A. Petitto, Real Estate Consultant, Greenstar & Associates, LLC *pat*

SUBJECT: Request for Approval of Purchase Agreement and  
Acceptance of Permanent Public Utility Easement  
Rochester Road Improvements, Torpey to Barclay  
Project No. 99.203.5 – Parcel 32 – Sidwell #88-20-22-276-051  
T & T Development

## Background:

- In connection with the proposed improvements to Rochester Road, from Torpey to Barclay, the Real Estate & Development Department received a Purchase Agreement and Permanent Public Utility Easement from T & T Development. This parcel is located on the west side of Rochester Road, between Colebrook and Troywood in the northeast ¼ of Section 22.

## Financial Considerations:

- An appraisal was prepared by Raymond V. Bologna, CRE, MAI, State Certified Appraiser and reviewed by Kimberly Harper, Deputy Assessor and State Licensed Appraiser. Staff believes that \$98,060, plus closing costs for the acquisition of the property described in the purchase agreement and \$5,700 for the Permanent Public Utility Easement are justifiable amounts for this acquisition.
- Eighty percent of these costs will be reimbursed from Federal funds. Funds for the City of Troy's share are included in the 2008-09 Major Road fund, account number 401479.7989.992035.

## Legal Considerations:

- The format and content of the purchase agreement and easement are consistent with documents previously accepted by City Council.

## Policy Considerations:

- The purpose of this project is to relieve congestion, improve safety and improve the flow of traffic. (Outcome Statements I, II and III)

Options:

- City Management recommends that City Council approve the attached purchase agreement and accept the attached Permanent Public Utility Easement from T & T Development so that the City can proceed with the acquisition of this right-of-way.

PAP\G\MEMOS TO MAYOR & CC\T & T Development Purchase Agreement & PUE

CITY OF TROY  
AGREEMENT TO PURCHASE REALTY  
FOR PUBLIC PURPOSES

The CITY OF TROY (the "Buyer"), agrees to purchase from T & T Development, a Michigan Co-Partnership (the "Sellers"), the following described premises (the "Property"):

SEE ATTACHED EXHIBIT "A"

for a public project within the City of Troy and to pay the sum of Ninety-Eight Thousand, Sixty and no/100 Dollars (\$98,060) under the following terms and conditions:

1. Seller shall assist Buyer in obtaining all releases necessary to remove all encumbrances from the property so as to vest a marketable title in Buyer.
2. Seller shall pay all taxes, prorated to the date of closing, including all special assessments, now due or which may become a lien on the property prior to the conveyance.
3. Seller shall deliver the Warranty Deed upon payment of the purchase money by check drawn upon the account of the City of Troy.
4. Buyer shall, at its own expense, provide title insurance information, and the Seller shall disclose any encumbrances against the property.
5. This Agreement is binding upon the parties and closing shall occur within ninety (90) days of the date that all liens have been released and encumbrances have been extinguished to the satisfaction of the Buyer, unless extended by agreement of the parties in writing. It is further understood and agreed that this period of time is for the preparation and authorization of purchase money.
6. Buyer shall notify the Seller immediately of any deficiencies encumbering marketable title, and Seller shall then proceed to remove the deficiencies. If the Seller fails to remove the deficiencies in marketable title to Buyer's approval, the Buyer shall have the option of proceeding under the terms of this Agreement to take title in a deficient condition or to render the Agreement null and void, and any deposit tendered to the Seller shall be returned immediately to the Buyer upon demand.
7. The City of Troy's sum paid for the property being acquired represents the property being free of all environmental contamination. Although the City of Troy will not withhold or place in escrow any portion of this sum, the City reserves its rights to bring Federal and/or State and/or local cost recovery actions against the present owners and any other potentially responsible parties, arising out of a release of hazardous substances at the property.
8. Seller acknowledges that this offer to purchase is subject to final approval by Troy City Council.
9. Seller grants to Buyer temporary possession and use of the property commencing on this date and continuing to the date of closing in order that the Buyer may proceed with the public project.
10. Additional conditions, if any:

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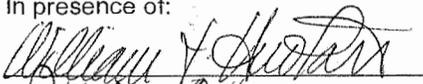
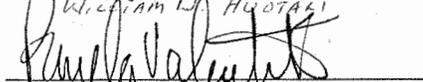


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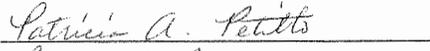
SELLER HEREBY ACKNOWLEDGES THAT NO PROMISES WERE MADE EXCEPT AS CONTAINED IN THIS AGREEMENT.

IN WITNESS WHEREOF, the undersigned hereunto affixed their signatures this 20TH day of JANUARY, 2009.

In presence of:

  
WILLIAM J. HUOTARI  
  
PAMELA VALENTIK

CITY OF TROY (BUYER)

  
PATRICIA A. PETITTO

SELLERS:

T & T Development, a Michigan  
Co-Partnership

  
\_\_\_\_\_

01-30-08  
19990476  
20-22-276-051  
rev. 03-03-08

**EXHIBIT 'A'**

**DESCRIPTION OF RIGHT OF WAY ACQUISITION**

The West 32.00 feet of the East 75.00 feet of the following described property: Commencing at the East  $\frac{1}{4}$  corner of said Section 22, T2N, R11E, City of Troy, Oakland County, Michigan, thence N00°30'00"W 469.92 feet along the East line of said Section 22 and the centerline of Rochester Road, to the Northeast corner of "Cloverdale Farms", as recorded in Liber 33 of Plats, Page 13, Oakland County Records, and the Point Of Beginning; thence S89°45'09"W 385.90 feet along the North line of said "Cloverdale Farms" to the East line of "Hidden Ridge Subdivision", as recorded in Liber 173 Plats, Page 5, 6 and 7, Oakland County Records; thence N00°30'49"W 214.37 feet along the East line of said "Hidden Ridge Subdivision"; thence N89°43'51"E 385.95 feet to the east line of said Section 22 and the centerline of said Rochester Road; thence S00°30'00"E 214.50 feet along the East line of said Section 22 and the centerline of said Rochester Road to the Point Of Beginning. Said acquisition contains 6,864 square feet, or 0.158 acres, more or less.

PERMANENT UTILITY EASEMENT

Sidwell #88-20-22-276-051  
Parcel #32

T & T Development, a Michigan Co-Partnership, Grantors, whose address is: P.O. Box 251383, West Bloomfield, MI 48325 for and in consideration of the sum of: Five Thousand, Seven Hundred and no/100 Dollars (\$5,700) paid by the CITY OF TROY, a Michigan Municipal Corporation, Grantee, whose address is 500 West Big Beaver Road, Troy, Michigan 48084 grants to the Grantee a utility easement, said easement for land situated in the City of Troy, Oakland County, Michigan described as:

SEE ATTACHED EXHIBIT "A"

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

The premises so disturbed by the exercise of any of the foregoing powers shall be reasonably restored to its original condition by the Grantee.

This instrument shall be binding upon and inure to the benefit of the parties hereto, their heirs, representatives, successors and assigns and the covenants contained herein shall run with the land.

IN WITNESS WHEREOF, the undersigned hereunto affixed HIS signature(s) this 20TH day of JANUARY, 2009.

T & T DEVELOPMENT, A MICHIGAN  
CO-PARTNERSHIP

*Gary Tringale* (L.S.)  
\* GARY TRINGALE, OWNER

\_\_\_\_\_  
\* (L.S.)

STATE OF MICHIGAN )  
COUNTY OF OAKLAND )

The foregoing instrument was acknowledged before me this 20TH day of JANUARY, 2009, by GARY TRINGALE, OWNER, of T & T Development, a Michigan Co-Partnership.

*Patricia A. Pettit*  
\* PATRICIA A. PETTIT  
Notary Public, OAKLAND County, Michigan

Acting in OAKLAND County, Michigan

My Commission Expires 12-31-11

Prepared by: Patricia A. Pettito  
City of Troy  
500 W. Big Beaver Road  
Troy, MI 48084

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

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

01-30-08  
19990476  
20-22-276-051  
rev. 03-03-08

**EXHIBIT 'A'**

**DESCRIPTION OF PUBLIC UTILITY EASEMENT**

The West 12.00 feet of the East 87.00 feet of the following described property: Commencing at the East ¼ corner of said Section 22, T2N, R11E, City of Troy, Oakland County, Michigan, thence N00°30'00"W 469.92 feet along the East line of said Section 22 and the centerline of Rochester Road, to the Northeast corner of "Cloverdale Farms", as recorded in Liber 33 of Plats, Page 13, Oakland County Records, and the Point Of Beginning; thence S89°45'09"W 385.90 feet along the North line of said "Cloverdale Farms" to the East line of "Hidden Ridge Subdivision", as recorded in Liber 173 Plats, Page 5, 6 and 7, Oakland County Records; thence N00°30'49"W 214.37 feet along the East line of said "Hidden Ridge Subdivision"; thence N89°43'51"E 385.95 feet to the east line of said Section 22 and the centerline of said Rochester Road; thence S00°30'00"E 214.50 feet along the East line of said Section 22 and the centerline of said Rochester Road to the Point Of Beginning. Said easement contains 2,574 square feet, or 0.059 acres, more or less.



A meeting of the Retiree Health Care Benefits Plan & Trust Board of Trustees was held on Wednesday, October 8, 2008, at Troy City Hall, 500 W. Big Beaver Road, Troy, MI 48084.

The meeting was called to order at 1:41 p.m.

**Trustees Present:** Nancy Bowren  
Mark Calice  
Thomas J. Gordon, II  
Martin F. Howrylak  
John M. Lamerato  
Phillip L. Nelson

**Trustees Absent:** Michael Geise  
William R. Need (Ex-Officio)

## Minutes

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Resolution # RH – 2008 – 10-09

Moved by Lamerato

Seconded by Bowren

RESOLVED, That the Minutes of the July 9, 2008 meeting be approved.

Yeas: All - 6

Absent: Geise

The next meeting is January 14, 2009 at 1:00 p.m. at Troy City Hall, Conference Room C, 500 W. Big Beaver Road, Troy, MI 48084.

The meeting adjourned at 1:47 p.m.

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Mark Calice, Chairman

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John M. Lamerato, Secretary

**TROY ETHNIC ISSUES ADVISORY BOARD**  
**Minutes for Tuesday, October 14, 2008**

I. Call to Order 7:06 pm

II. Roll Call

Present       Michelle Haight  
                   Veena Rao  
                   Kelly Jones  
                   Mayada Fakhouri  
                   Grigore Buia  
                   Aries Tao, Student Representative  
                   Lily Huang, Student Representative  
                   Cindy Stewart, City Liaison

Absent         John Witt  
                   Karen Yelder  
                   Cathy Francois  
                   Reuben Ellis

Guest:         Lori Bluhm, City Attorney

III. Approval of Minutes – September 2, 2008

Motion to approve September 2, 2008 minutes by Michelle Haight, seconded by Mayada Fakhouri. Approved unanimously.

IV. New Business

a. Introduction of new members:

- Veena Rao has been a resident since 1996 and is a lawyer with Michigan Protection and Advocacy Service. She represents children with disabilities. She came from India at age 13 and has two children, ages 7 and 9, at Troy Union Elementary School.

- Aries Tao, Student Representative, is a senior at Troy High School. She has lived here since fifth grade. She is involved in Future Problem Solvers and is an Environmental Activist. She attended Chinese School and plays piano.

b. Legal Update: City Attorney Lori Bluhm shared her goal to provide Open Meetings Act guidelines to all City Boards and Committees. Lori passed out a reference book to all members. The book contains their mission and goals as well as information on the Michigan Sunshine Laws/Open Meetings Act & FOIA. Michigan adopted “sunshine legislation” as early as 1895.

She noted that “Public Body” applies when there is a quorum of Board Members and it can apply to a sub-committee. This applies to meetings, telephone conference calls or emails when you “reply to all.” The City liaison can send items “to all,” but Board members cannot.

“Open to the Public” means anyone can attend the meetings, tape or televise the proceedings. Keep the door to the meeting room open, and if you have to close the door due to outside noise, place a sign on the door. Regarding public comments, the EIAB can limit speakers based on time limits for the meeting. All meetings must be posted.

Board/Committee minutes must be kept with date, place, time, members present and absent. If a member is absent for long periods of time, the chair can talk to them regarding their absence. Council can replace members.

Every Public Body must comply with the Open Meetings Act because a person challenging this could take them to court. Intentional violations of the OMA are misdemeanors.

Freedom of Information Act (FOIA) – Any documents in possession of a governmental body are open to FOIA. Emails, minutes, etc., are public documents.

c. Correspondence/Articles

America’s “whites” will become a minority by 2042, according to the Census Bureau – August 15, 2008.

“A Journey of Hope: Michigan’s Immigrant Experience” is September 27-November 23, 2008 at Macomb Community College.

- Teaching Tolerance Magazine – An article in the Fall 2008 edition has an article, “I Didn’t Know there were Cities in Africa,” that deals with the stereotypes on Africa and the Continent. There is a website: [teachingtolerance.org](http://teachingtolerance.org).

V. Old Business

- a. African American Support Group – Karen is attending this meeting tonight and will report on the meeting at the November meeting.
- b. Troy School District Updates – EIAB is working on opening dialogue with the School district. Kelly put together a proposal and sent it to Tim McAvoy. The proposal is to talk to PTOs/PTAs to encourage diversity within the PTO/PTA Boards. Next month Kelly will report on progress. Kelly is scheduled to speak at the Costello Board next month.
- c. Cultural Brochures – Information brochures regarding Arab, Indian, Chinese and Slovak immigrants will be highlighted initially. Regarding stores, specialty shops, cultural and religious holidays, there is a concern with accuracy. Michelle will send info to Cindy to disseminate to EIAB for input. Kelly had talked to the Sterling Heights liaison for the Diversity Board. Sterling Heights produces informational brochures to help teach tolerance and understanding and to celebrate our differences.

- d. Diversity Workshop - Padma Kuppa (Troy Interfaith Group) and Michelle Haight (EIAB) to present to all Troy administrators. Cultural Connections is four workshops beginning October 22 at Bharatyia Temple. "Arab and Indian Voice" speaking on their background, cultural traditions, addressing students needs. In December, at Shir Tikvah is "Chinese and Jewish Voice." In March 2009, African American and Muslim voice is scheduled.

EIAB has done a lot related to diversity, but they feel there is so much more to do. They feel good about the relationship with the EIAB and Troy Schools.

Staff Report: Thanks to EIAB for all of your support for Troy Daze. The weather was a complete disappointment. Cindy and Kelly sent thank you letters to all EthniCity participants. The subject of Troy Daze EthniCity will be on the November agenda to discuss the work involved and if EIAB can handle it in the future. The discussion will include a breakdown of responsibilities/duties expected of Board members.

VI. Public Comment – none

VII. Member Comment

- a. "Iqbal" by Francesco D'Adamo was assigned to be read by the entire Baker Middle School student body and parents were also encouraged to read it. The school then did projects related to child labor, equality and fair treatment. Michelle recommends the book to the EIAB.
- b. Kelly received a call from Willie Dechavez regarding the CAPA dinner on October 25. She will represent the EIAB at the dinner.

VIII. Motion to adjourn 8:20 pm.

**Next Meeting Tuesday, November 11, 2008 at 7 pm.**

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Kelly Jones, EIAB Chair

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Cindy Stewart, EIAB Recording Secretary

The Chairman, Ted Dziurman, called the meeting of the Building Code Board of Appeals to order at 8:30 A.M. on Wednesday, December 3, 2008 in the Lower Level Conference Room of the Troy City Hall.

PRESENT: Ted Dziurman  
Rick Kessler  
Bill Nelson  
Tim Richnak  
Frank Zuazo

ALSO PRESENT: Mark Stimac, Director of Building & Zoning  
Paul Evans, Inspector Supervisor  
Pam Pasternak, Recording Secretary

### **ITEM #1 – APPROVAL OF MINUTES – MEETING OF NOVEMBER 5, 2008**

Motion by Richnak  
Supported by Kessler

MOVED, to approve the minutes of the meeting of November 5, 2008 as written.

Yeas: All – 5

MOTION TO APPROVE MINUTES CARRIED

**ITEM #2 – VARIANCE REQUESTED. CITY OF TROY, REPRESENTING TROMBLEY INVESTMENT COMPANY, 3495-3503 ROCHESTER**, for relief of Chapter 85 to install a 12'-5" tall, 38 square foot ground sign near the intersection of Trombley and Rochester.

Mr. Stimac explained that the petitioner is requesting relief of Chapter 85 to install a new ground sign. This ground sign is proposed to be 12'-5" tall and 38 square feet in area. The proposed sign is to be placed 3' from the front property line along both Trombley and Rochester Road. Section 85.01.05 (B) prohibits signs over 30" tall in the corner clearance area of the intersection of two streets; further Table 85.02.05 requires ground signs measuring over 10' in height to be setback at least 20' from the front property line.

Mr. Stimac further explained that the City is proposing to widen Rochester Road. Based on the purchase of additional Rochester Road right of way at this location the existing sign needs to be relocated. The ultimate configuration of Rochester Road is proposed to be a boulevard and will result in one-way traffic in this area. People exiting on Trombley will be looking north. The proposed sign is to be 6'-6" from ground to the bottom of the sign to allow the vision of pedestrians and the top of the sign is proposed to be 12'-5" in height.

Mr. Dziurman confirmed that the City is involved because of the purchase of some of this property for a right of way acquisition. Mr. Dziurman also asked what the size of the current sign was.

**ITEM #2 – con't.**

Mr. Stimac stated that the existing sign is 4' wide and 7' tall and located 2' from the front property line.

Mr. Richnak asked what the distance of the leading edge was to the sidewalk.

Mr. Stimac stated that he thought it was 2'.

Pat Petitto, representing the City of Troy and James Jablonski one of the managing partners of Trombley Investment Company were present. Mr. Jablonski stated that he thought the edge of the sign was 2' from the sidewalk.

Mr. Stimac stated that based upon the plans submitted the proposed sign would be located 2' from the property line and 3' from the sidewalk.

Mr. Kessler asked if the sign was going to extend over the property line and Mr. Stimac stated that it did not.

The Chairman opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There are two (2) written objections in file. There are no written approvals in file.

Mr. Kessler stated that the proposed sign is going into a dedicated parking space and asked if the petitioner was planning to put landscaping around it.

Mr. Jablonski stated that there will be parking curbs and gravel around the base of the sign. They do not want to impact visibility for motorists or pedestrians.

Mr. Kessler stated that if there is more than a 4" projection from the base it would lead to a hazardous projection. A person could walk into that object and he would like to see some type of landscaping to prevent that from happening.

Mr. Jablonski said that there would be an island all the way around the base of the sign.

Mr. Richnak asked if there was an issue on the current conditions.

Mr. Stimac stated that with the current configuration of the roads the curb is 30' from where the sign is proposed to be located. The sidewalk at Rochester is at the curb line and the sidewalk at Trombley is 10' to 12' back from the traveled portion of the road. Right now traffic exiting Trombley stops 20' west of the proposed sign location. Once Rochester Road is developed traffic will be only one way.

Motion by Kessler  
Supported by Richnak

**ITEM #2 – con't.**

MOVED, to grant the City of Troy, representing Trombley Investment Company, 3495-3503 Rochester relief of Chapter 85 to install a 12'-5" tall, 38 square foot ground sign 3' from the front property line along both Trombley and Rochester Road.

- Edge detail or curb be provided around the perimeter of the sign.
- Variance is necessary due to the acquisition of right of way property.
- Future one way traffic pattern does not create a vision obstruction.
- Variance will not have an adverse effect on surrounding property.

Yeas: All – 5

MOTION TO GRANT VARIANCE CARRIED

**ITEM #3 – VARIANCE REQUESTED. BEAUMONT SERVICES CO., INC., 44201 DEQUINDRE**, for relief of the requirements of Section 1107.2 of the 2006 Michigan Plumbing Code.

Mr. Stimac explained that the petitioners are requesting relief of the requirement that the secondary roof drainage system required by Section 1107.1 of the Michigan Plumbing Code be provided as a separate system discharging above grade as required by Section 1107.2 of the Michigan Plumbing Code. Section 1611.3 of the Michigan Building Code requires that a secondary drainage system be provided to limit the ponding of water on a roof should the primary drainage system become blocked. Section 1107.2 of the Plumbing Code requires that this secondary system be a totally separate system and that the point of discharge be at an above grade location where it can normally be observed by the building occupants.

Mr. Dziurman asked if this request was similar to other requests from Beaumont Hospital.

Mr. Stimac stated that it is basically the same configuration that has come before this Board in the past.

Mr. Dziurman asked if there had been any problems with these systems.

Mr. Kevin Doyle and Mr. Chet Schroeder of Beaumont Services were present. Mr. Doyle stated that the water flow sensors go off even when there is snow melt.

Mr. Richnak asked if this alarm was at a 24-hour manned station.

Mr. Doyle stated that an alarm goes off when there is standing water that rings through to the Security Department, who in turn notifies building maintenance.

Mr. Zuazo asked what would happen if there was a power outage.

Mr. Doyle said that although not 100% sure he does believe that there is a backup power system available.

**ITEM #3 – con't.**

Mr. Kessler asked why they want to go with this system rather than what is required by the Plumbing Code.

Mr. Doyle said that if they were to comply with the Plumbing Code the discharge system would be located in an area where there is a high amount of pedestrian traffic as there is a public walkway located in this area. This has the chance to create a lot of problems. Ideally they would try to locate a discharge system over a green space.

Motion by Richnak  
Supported by Kessler

MOVED, to grant Beaumont Services Co., Inc. 44201 Dequindre, relief of the requirements of Section 1107.2 of the 2006 Michigan Plumbing Code.

Motion by Zuazo  
Supported by Kessler

Moved, to amend the motion to include a requirement that an emergency system be provided in case there is a loss of power.

Vote on Amendment.

Yeas: All – 5

**MOTION TO AMEND MOTION CARRIED**

MOVED, to grant Beaumont Services Co., Inc. 44201 Dequindre, relief of the requirements of Section 1107.2 of the 2006 Michigan Plumbing Code.

- An emergency power system will be provided in case of a power failure.
- The system proposed provides an equivalent level of safety to that required by the code.

Yeas: All – 5

**MOTION TO GRANT VARIANCE CARRIED**

The Building Code Board of Appeals meeting adjourned at 8:55 A.M.

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Ted Dziurman, Chairman

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Pamela Pasternak, Recording Secretary

The Regular Meeting of the Troy City Planning Commission was called to order by Chair Schultz at 7:30 p.m. on December 9, 2008, in the Council Chambers of the Troy City Hall.

1. ROLL CALL

Present:

Michael W. Hutson  
Mark Maxwell  
Philip Sanzica  
Robert Schultz  
John J. Tagle  
Mark J. Vleck

Absent:

Thomas Strat  
Lon M. Ullmann  
Wayne Wright

Also Present:

Mark F. Miller, Planning Director  
R. Brent Savidant, Principal Planner  
Christopher Forsyth, Assistant City Attorney  
Bradley Raine, Student Representative  
Kathy Czarnecki, Recording Secretary

Chair Schultz announced that five (5) affirmative votes are required for approval and recommending actions.

2. APPROVAL OF AGENDA

**Resolution # PC-2008-12-143**

Moved by: Tagle  
Seconded by: Sanzica

**RESOLVED**, To approve the Agenda as prepared.

Yes: All present (6)  
Absent: Strat, Ullmann, Wright

**MOTION CARRIED**

3. MINUTES

**Resolution # PC-2008-12-144**

Moved by: Maxwell  
Seconded by: Hutson

**RESOLVED**, To approve the minutes of the November 25, 2008 Special/Study Meeting as submitted.

Yes: All present (6)  
Absent: Strat, Ullmann, Wright

**MOTION CARRIED**

4. PUBLIC COMMENTS – Items not on the Agenda

There was no one present who wished to speak.

**REZONING REQUESTS**

5. PUBLIC HEARING – REZONING APPLICATION (Z 734) – Proposed Veterinary Office, North side of Long Lake Road, East of Rochester Road (1047-1055 E. Long Lake Road), Section 11, From B-2 (Community Business) to B-3 (General Business) District

Mr. Miller presented a summary of the Planning Department report on the proposed rezoning application, and reported it is the recommendation of City Management to approve the rezoning request.

John Hennessey of Hennessey Engineers, 13500 Mack Road, Southgate, was present to represent the petitioner. Mr. Hennessey said the use is harmonious with the neighborhood and would fill a need within the community.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

**Resolution # PC-2008-12-145**

Moved by: Maxwell

Seconded by: Hutson

***RESOLVED***, That the Planning Commission hereby recommends to the City Council that the B-2 to B-3 rezoning request, located on the north side of Long Lake Road, east of Rochester, within Section 11, being approximately 0.67 acres in size, be granted, because it is consistent with the intent of the Master Plan and is compatible with abutting zoning districts and uses.

Discussion on the motion on the floor.

There was a brief discussion on the principal uses permitted in the B-3 zoning district in relation to the size of the subject property.

Vote on the motion on the floor.

Yes: Hutson, Maxwell, Sanzica, Schultz, Tagle

No: Vleck

Absent: Strat, Ullmann, Wright

**MOTION CARRIED**

Mr. Vleck said he does not disagree with the proposed use, but he would prefer to see a conditional rezoning on the site so there would be more control with the integration of its use with surrounding properties.

6. PUBLIC HEARING – REZONING APPLICATION (Z 735) – Proposed Sonic Drive-In Restaurant, East side of John R Road, North of Fourteen Mile Road, Section 36, From B-2 (Community Business) to H-S (Highway Service) District

Mr. Miller presented a summary of the Planning Department report on the proposed rezoning application, and reported it is the recommendation of City Management to approve the rezoning request.

There was a brief discussion on:

- The “finger” portion of the property.
- Landscape requirements/standards in relation to the bank to the north.
- Landbanked parking.

John Gaber, attorney for the owner, 380 N. Old Woodward, Birmingham, was present to represent the petitioner. Mr. Gaber introduced John Parapetti, Sr. Vice President of Development of Urban Retail Properties, and James Butler of Professional Engineers Associates. Mr. Gaber said the proposed use is a good fit for the property and is compatible with the retail center. He addressed the principal uses permitted in the H-S zoning district in relation to the size of the property. Mr. Gaber also addressed the “finger” portion of the site and its relation to the bank in terms of landscaping and site access.

Chair Schultz addressed the site layout; specifically, the “finger” portion. He said the 8,200 square feet would most likely not be utilized. Chair Schultz indicated the petitioner was avoiding seeking a variance from the Board of Zoning Appeals (BZA).

Mr. Gaber agreed they would prefer not to go before the BZA.

Mr. Hutson said it is unlikely anyone could do anything with that ‘finger’ portion of the property. He said the proposed use is an acceptable use and he sees no harm in going forward with the proposal.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

**Resolution # PC-2008-12-146**

Moved by: Hutson  
 Seconded by: Vleck

**RESOLVED**, That the Planning Commission hereby recommends to the City Council that the B-2 to H-S rezoning request, located on the east side of John R, north of Fourteen Mile, within Section 36, being approximately 1.012 acres in size, be granted.

Yes: All present (6)  
 Absent: Strat, Ullmann, Wright

**MOTION CARRIED****STREET VACATION**

7. **PUBLIC HEARING – STREET VACATION REQUEST (SV 163-C)** – Myrtle Avenue (originally platted as Melita Avenue), East of Kilmer, North of Big Beaver, 50 feet wide and approximately 272.73 feet long, abutting Lots 19 through 22 of Burgess Bungalow Subdivision, Section 22 (located within proposed PUD #10 BBK)

Mr. Miller presented a summary of the Planning Department report on the proposed street vacation, and reported it is the recommendation of City Management to approve the request.

Cary Gitre of Landus Development, 412 Willits, Birmingham, was present to represent the petitioner.

**PUBLIC HEARING OPENED**

No one was present to speak.

**PUBLIC HEARING CLOSED****Resolution # PC-2008-12-147**

Moved by: Sanzica  
 Seconded by: Tagle

**RESOLVED**, That the Planning Commission hereby recommends to the City Council that the street vacation request, as submitted, for Myrtle Avenue, located east of Kilmer and north of Big Beaver, approximately 50 feet wide and 272.73 feet long, abutting Lots 19 through 22 of Burgess Bungalow Subdivision, Section 22, be approved.

**BE IT FURTHER RESOLVED**, That the applicant shall cause to be completed a vacated, corrected or revised plat conforming to the requirements of the Land

Division Act, MCL 560.221, et. seq., for the areas affected by this vacation request, if required by the State of Michigan.

***BE IT FINALLY RESOLVED***, That the applicant shall deliver a recorded copy of the court judgment regarding the aforesaid vacated, corrected or revised plat, if required, to the City Attorney's Office prior to any construction commencing on the parcel.

Yes: All present (6)  
Absent: Strat, Ullmann, Wright

### **MOTION CARRIED**

### **SITE CONDOMINIUM SITE PLANS**

8. SITE CONDOMINIUM SITE PLAN REVIEW – Proposed Oak Forest Site Condominium, 76 units/lots proposed, South side of Square Lake Road, West of John R and East of Willow Grove, Section 11, Zoned R-1C (One Family Residential) District

Mr. Hutson declared he has a business interest with the petitioner and asked to be recused from deliberations for both Agenda items #8 and #9.

Mr. Forsyth said it would be appropriate to recuse Mr. Hutson from both Agenda items to avoid any conflict of interest.

Mr. Savidant presented a summary of the Planning Department report on the proposed site condominium development, and reported it is the recommendation of City Management to approve the Oak Forest Site Condominium application with the condition that the mitigation areas are clearly indicated on all the plans prior to being reviewed by City Council.

Mr. Savidant addressed the proposed pedestrian pathway between units 31 and 32 to the unimproved Holm Street right of way to the south. He asked members to consider and make a determination whether the pedestrian pathway should remain, be eliminated, or replaced by a stub street designed to City standards.

There was a brief discussion on if and how the plan was revised since its prior approval and how the plan relates to the Master Plan.

The petitioner, Dale Garrett, 5877 Livernois, Troy, was present. Mr. Garrett said the lots were somewhat reshuffled as a result of the completion of the drain improvements. He indicated the number of lots remains the same and that basically there are no changes to the plan since its prior approval.

Discussion continued on:

- Mitigation areas.
- Pedestrian pathway.
- Housing market trends.

Chair Schultz opened the floor for public comment.

The following residents were present and spoke in opposition of the proposed development.

Dorene Randall, 5348 Abington, Troy.

Pam Brubaker, 5775 John R, Troy.

Patricia Ullmann, 5621 Willow Grove, Troy. Ms. Ullmann addressed both Agenda items #8 and #9.

Chair Schultz closed the floor for public comment.

Mr. Maxwell asked the petitioner to address his concern that the development might be overbuilt. He also asked if the petitioner would like to respond to any of the comments given tonight by the residents.

Mr. Garrett said the site, in his opinion, is not overbuilt. He said they are impacting 1.7 acres of wetlands and constructing 2.9 acres of the 39-acre site. Mr. Garrett said that averages out to a little over two units per acre, indicating the permitted density on the property is about four units per acre. Mr. Garrett addressed the rigorous process of the MDEQ and said he is satisfied with the determination. He is confident that all regulations and City ordinances relating to permits and the MDEQ have been followed. Mr. Garrett briefly addressed the trees cut on the Oak Forest South Site Condominium site and specifically noted that the cut trees were nursery stock size.

Mr. Savidant addressed the mitigation areas, to the best of his ability, on the overhead screen.

**Resolution # PC-2008-12-148**

Moved by: Sanzica

Seconded by: Vleck

**RESOLVED**, That the Planning Commission recommends to City Council that the Preliminary Site Plan (Section 34.30.00 Unplatted One-Family Residential Development), as requested for Oak Forest Site Condominium, including 76 units, located on the south side of Square Lake Road and west side of John R, Section 11, within the R-1C zoning district be granted, subject to the following conditions:

1. All mitigation areas to be regulated by an MDEQ conservation easement need to be clearly indicated as such on all plans prior to being reviewed by City Council.

2. The proposed pedestrian pathway between units 31 and 32 to the Holm Street right of way to the south be eliminated.

Yes: All present (5)  
 Abstain: Hutson  
 Absent: Strat, Ullmann, Wright

**MOTION CARRIED**

9. SITE CONDOMINIUM SITE PLAN REVIEW – Proposed Oak Forest South Site Condominium, 24 units/lots proposed, South of Square Lake Road, East side of Willow Grove, Section 11, Zoned R-1C (One Family Residential) District

Mr. Savidant presented a summary of the Planning Department report on the proposed Oak Forest South Site Condominium, and reported it is the recommendation of City Management to approve the application with the condition to provide a public pathway connection to Jaycee Park.

The petitioner, Dale Garrett, 5877 Livernois, Troy, was present. Mr. Garrett addressed the pathway connection to Jaycee Park in relation to the conservation easement. He expressed concern in cutting trees to install the pathway.

Chair Schultz opened the floor for public comment.

Ann Bonnelli of 5612 Willow Grove, Troy, spoke in opposition.

Chair Schultz closed the floor for public comment.

A brief discussion followed on alternative options to construct a pathway that would not impose a threat to the conservation easement and wetlands.

**Resolution # PC-2008-12-149**

Moved by: Vleck  
 Seconded by: Maxwell

**RESOLVED**, That the Planning Commission recommends to City Council that the Preliminary Site Plan (Section 34.30.00 Unplatted One-Family Residential Development), as requested for Oak Forest South Site Condominium, including 25 units, located south of Square Lake Road on the east side of Willow Grove, Section 11, within the R-1C zoning district be granted.

Yes: Maxwell, Sanzica, Schultz, Vleck  
 No: Tagle  
 Abstain: Hutson  
 Absent: Strat, Ullmann, Wright

**MOTION FAILED**

Mr. Tagle said the Planning Commission should take advantage of this opportunity to provide a public pathway.

**Resolution # PC-2008-12-150**

Moved by: Tagle  
Seconded by: Schultz

**RESOLVED**, To reconsider the action just taken on this item.

Yes: All present (5)  
Abstain: Hutson  
Absent: Strat, Ullmann, Wright

**MOTION CARRIED**

**Resolution # PC-2008-12-151**

Moved by: Tagle  
Seconded by: Sanzica

**RESOLVED**, That the Planning Commission recommends to City Council that the Preliminary Site Plan (Section 34.30.00 Unplatted One-Family Residential Development), as requested for Oak Forest South Site Condominium, including 25 units, located south of Square Lake Road on the east side of Willow Grove, Section 11, within the R-1C zoning district be granted, subject to the following condition:

1. Provide a public pathway connection between the Brookwood Street sidewalk and Jaycee Park, through the conservation easement located between units 13 and 14.

Yes: All present (5)  
Abstain: Hutson  
Absent: Strat, Ullmann, Wright

**MOTION CARRIED**

**OTHER ITEMS**

10. **PUBLIC COMMENTS** – Items on Current Agenda

There was no one present who wished to speak.

11. PLANNING COMMISSION COMMENTS

Mr. Forsyth wished all a happy holiday.

Mr. Miller announced that Zak Branigan of Carlisle/Wortman Associates would be at the January 6, 2009 Special/Study meeting to discuss new zoning districts for the Zoning Ordinance. Mr. Miller briefly addressed the two rezoning requests on tonight's agenda with respect to permitted uses.

Chair Schultz addressed the formalization of an auto zone, the Commission's productive year of 2008, and the election of officers at the next meeting.

The Regular Meeting of the Planning Commission adjourned at 9:50 p.m.

Respectfully submitted,

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Robert M. Schultz, Chair

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Kathy L. Czarnecki, Recording Secretary

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The Regular Meeting of the Troy City Planning Commission was called to order by Chair Schultz at 7:30 p.m. on December 9, 2008, in the Council Chambers of the Troy City Hall.

1. ROLL CALL

Present:

Michael W. Hutson  
Mark Maxwell  
Philip Sanzica  
Robert Schultz  
John J. Tagle  
Mark J. Vleck

Absent:

Thomas Strat  
Lon M. Ullmann  
Wayne Wright

Also Present:

Mark F. Miller, Planning Director  
R. Brent Savidant, Principal Planner  
Christopher Forsyth, Assistant City Attorney  
Bradley Raine, Student Representative  
Kathy Czarnecki, Recording Secretary

Chair Schultz announced that five (5) affirmative votes are required for approval and recommending actions.

2. APPROVAL OF AGENDA

**Resolution # PC-2008-12-143**

Moved by: Tagle  
Seconded by: Sanzica

**RESOLVED**, To approve the Agenda as prepared.

Yes: All present (6)  
Absent: Strat, Ullmann, Wright

**MOTION CARRIED**

3. MINUTES

**Resolution # PC-2008-12-144**

Moved by: Maxwell  
Seconded by: Hutson

**RESOLVED**, To approve the minutes of the November 25, 2008 Special/Study Meeting as submitted.

Yes: All present (6)  
Absent: Strat, Ullmann, Wright

**MOTION CARRIED**

4. PUBLIC COMMENTS – Items not on the Agenda

There was no one present who wished to speak.

**REZONING REQUESTS**

5. PUBLIC HEARING – REZONING APPLICATION (Z 734) – Proposed Veterinary Office, North side of Long Lake Road, East of Rochester Road (1047-1055 E. Long Lake Road), Section 11, From B-2 (Community Business) to B-3 (General Business) District

Mr. Miller presented a summary of the Planning Department report on the proposed rezoning application, and reported it is the recommendation of City Management to approve the rezoning request.

John Hennessey of Hennessey Engineers, 13500 Mack Road, Southgate, was present to represent the petitioner. Mr. Hennessey said the use is harmonious with the neighborhood and would fill a need within the community.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

**Resolution # PC-2008-12-145**

Moved by: Maxwell

Seconded by: Hutson

***RESOLVED***, That the Planning Commission hereby recommends to the City Council that the B-2 to B-3 rezoning request, located on the north side of Long Lake Road, east of Rochester, within Section 11, being approximately 0.67 acres in size, be granted, because it is consistent with the intent of the Master Plan and is compatible with abutting zoning districts and uses.

Discussion on the motion on the floor.

There was a brief discussion on the principal uses permitted in the B-3 zoning district in relation to the size of the subject property.

Vote on the motion on the floor.

Yes: Hutson, Maxwell, Sanzica, Schultz, Tagle

No: Vleck

Absent: Strat, Ullmann, Wright

**MOTION CARRIED**

Mr. Vleck said he does not disagree with the proposed use, but he would prefer to see a conditional rezoning on the site so there would be more control with the integration of its use with surrounding properties.

6. PUBLIC HEARING – REZONING APPLICATION (Z 735) – Proposed Sonic Drive-In Restaurant, East side of John R Road, North of Fourteen Mile Road, Section 36, From B-2 (Community Business) to H-S (Highway Service) District

Mr. Miller presented a summary of the Planning Department report on the proposed rezoning application, and reported it is the recommendation of City Management to approve the rezoning request.

There was a brief discussion on:

- The “finger” portion of the property.
- Landscape requirements/standards in relation to the bank to the north.
- Landbanked parking.

John Gaber, attorney for the owner, 380 N. Old Woodward, Birmingham, was present to represent the petitioner. Mr. Gaber introduced John Parapetti, Sr. Vice President of Development of Urban Retail Properties, and James Butler of Professional Engineers Associates. Mr. Gaber said the proposed use is a good fit for the property and is compatible with the retail center. He addressed the principal uses permitted in the H-S zoning district in relation to the size of the property. Mr. Gaber also addressed the “finger” portion of the site and its relation to the bank in terms of landscaping and site access.

Chair Schultz addressed the site layout; specifically, the “finger” portion. He said the 8,200 square feet would most likely not be utilized. Chair Schultz indicated the petitioner was avoiding seeking a variance from the Board of Zoning Appeals (BZA).

Mr. Gaber agreed they would prefer not to go before the BZA.

Mr. Hutson said it is unlikely anyone could do anything with that ‘finger’ portion of the property. He said the proposed use is an acceptable use and he sees no harm in going forward with the proposal.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

**Resolution # PC-2008-12-146**

Moved by: Hutson  
 Seconded by: Vleck

**RESOLVED**, That the Planning Commission hereby recommends to the City Council that the B-2 to H-S rezoning request, located on the east side of John R, north of Fourteen Mile, within Section 36, being approximately 1.012 acres in size, be granted.

Yes: All present (6)  
 Absent: Strat, Ullmann, Wright

**MOTION CARRIED****STREET VACATION**

7. **PUBLIC HEARING – STREET VACATION REQUEST (SV 163-C)** – Myrtle Avenue (originally platted as Melita Avenue), East of Kilmer, North of Big Beaver, 50 feet wide and approximately 272.73 feet long, abutting Lots 19 through 22 of Burgess Bungalow Subdivision, Section 22 (located within proposed PUD #10 BBK)

Mr. Miller presented a summary of the Planning Department report on the proposed street vacation, and reported it is the recommendation of City Management to approve the request.

Cary Gitre of Landus Development, 412 Willits, Birmingham, was present to represent the petitioner.

**PUBLIC HEARING OPENED**

No one was present to speak.

**PUBLIC HEARING CLOSED****Resolution # PC-2008-12-147**

Moved by: Sanzica  
 Seconded by: Tagle

**RESOLVED**, That the Planning Commission hereby recommends to the City Council that the street vacation request, as submitted, for Myrtle Avenue, located east of Kilmer and north of Big Beaver, approximately 50 feet wide and 272.73 feet long, abutting Lots 19 through 22 of Burgess Bungalow Subdivision, Section 22, be approved.

**BE IT FURTHER RESOLVED**, That the applicant shall cause to be completed a vacated, corrected or revised plat conforming to the requirements of the Land

Division Act, MCL 560.221, et. seq., for the areas affected by this vacation request, if required by the State of Michigan.

***BE IT FINALLY RESOLVED***, That the applicant shall deliver a recorded copy of the court judgment regarding the aforesaid vacated, corrected or revised plat, if required, to the City Attorney's Office prior to any construction commencing on the parcel.

Yes: All present (6)  
Absent: Strat, Ullmann, Wright

### **MOTION CARRIED**

### **SITE CONDOMINIUM SITE PLANS**

8. SITE CONDOMINIUM SITE PLAN REVIEW – Proposed Oak Forest Site Condominium, 76 units/lots proposed, South side of Square Lake Road, West of John R and East of Willow Grove, Section 11, Zoned R-1C (One Family Residential) District

Mr. Hutson declared he has a business interest with the petitioner and asked to be recused from deliberations for both Agenda items #8 and #9.

Mr. Forsyth said it would be appropriate to recuse Mr. Hutson from both Agenda items to avoid any conflict of interest.

Mr. Savidant presented a summary of the Planning Department report on the proposed site condominium development, and reported it is the recommendation of City Management to approve the Oak Forest Site Condominium application with the condition that the mitigation areas are clearly indicated on all the plans prior to being reviewed by City Council.

Mr. Savidant addressed the proposed pedestrian pathway between units 31 and 32 to the unimproved Holm Street right of way to the south. He asked members to consider and make a determination whether the pedestrian pathway should remain, be eliminated, or replaced by a stub street designed to City standards.

There was a brief discussion on if and how the plan was revised since its prior approval and how the plan relates to the Master Plan.

The petitioner, Dale Garrett, 5877 Livernois, Troy, was present. Mr. Garrett said the lots were somewhat reshuffled as a result of the completion of the drain improvements. He indicated the number of lots remains the same and that basically there are no changes to the plan since its prior approval.

Discussion continued on:

- Mitigation areas.
- Pedestrian pathway.
- Housing market trends.

Chair Schultz opened the floor for public comment.

The following residents were present and spoke in opposition of the proposed development.

Dorene Randall, 5348 Abington, Troy.

Pam Brubaker, 5775 John R, Troy.

Patricia Ullmann, 5621 Willow Grove, Troy. Ms. Ullmann addressed both Agenda items #8 and #9.

Chair Schultz closed the floor for public comment.

Mr. Maxwell asked the petitioner to address his concern that the development might be overbuilt. He also asked if the petitioner would like to respond to any of the comments given tonight by the residents.

Mr. Garrett said the site, in his opinion, is not overbuilt. He said they are impacting 1.7 acres of wetlands and constructing 2.9 acres of the 39-acre site. Mr. Garrett said that averages out to a little over two units per acre, indicating the permitted density on the property is about four units per acre. Mr. Garrett addressed the rigorous process of the MDEQ and said he is satisfied with the determination. He is confident that all regulations and City ordinances relating to permits and the MDEQ have been followed. Mr. Garrett briefly addressed the trees cut on the Oak Forest South Site Condominium site and specifically noted that the cut trees were nursery stock size.

Mr. Savidant addressed the mitigation areas, to the best of his ability, on the overhead screen.

**Resolution # PC-2008-12-148**

Moved by: Sanzica

Seconded by: Vleck

**RESOLVED**, That the Planning Commission recommends to City Council that the Preliminary Site Plan (Section 34.30.00 Unplatted One-Family Residential Development), as requested for Oak Forest Site Condominium, including 76 units, located on the south side of Square Lake Road and west side of John R, Section 11, within the R-1C zoning district be granted, subject to the following conditions:

1. All mitigation areas to be regulated by an MDEQ conservation easement need to be clearly indicated as such on all plans prior to being reviewed by City Council.

2. The proposed pedestrian pathway between units 31 and 32 to the Holm Street right of way to the south be eliminated.

Yes: All present (5)  
 Abstain: Hutson  
 Absent: Strat, Ullmann, Wright

**MOTION CARRIED**

9. SITE CONDOMINIUM SITE PLAN REVIEW – Proposed Oak Forest South Site Condominium, 24 units/lots proposed, South of Square Lake Road, East side of Willow Grove, Section 11, Zoned R-1C (One Family Residential) District

Mr. Savidant presented a summary of the Planning Department report on the proposed Oak Forest South Site Condominium, and reported it is the recommendation of City Management to approve the application with the condition to provide a public pathway connection to Jaycee Park.

The petitioner, Dale Garrett, 5877 Livernois, Troy, was present. Mr. Garrett addressed the pathway connection to Jaycee Park in relation to the conservation easement. He expressed concern in cutting trees to install the pathway.

Chair Schultz opened the floor for public comment.

Ann Bonnelli of 5612 Willow Grove, Troy, spoke in opposition.

Chair Schultz closed the floor for public comment.

A brief discussion followed on alternative options to construct a pathway that would not impose a threat to the conservation easement and wetlands.

**Resolution # PC-2008-12-149**

Moved by: Vleck  
 Seconded by: Maxwell

**RESOLVED**, That the Planning Commission recommends to City Council that the Preliminary Site Plan (Section 34.30.00 Unplatted One-Family Residential Development), as requested for Oak Forest South Site Condominium, including 25 units, located south of Square Lake Road on the east side of Willow Grove, Section 11, within the R-1C zoning district be granted.

Yes: Maxwell, Sanzica, Schultz, Vleck  
 No: Tagle  
 Abstain: Hutson  
 Absent: Strat, Ullmann, Wright

**MOTION FAILED**

Mr. Tagle said the Planning Commission should take advantage of this opportunity to provide a public pathway.

**Resolution # PC-2008-12-150**

Moved by: Tagle  
Seconded by: Schultz

**RESOLVED**, To reconsider the action just taken on this item.

Yes: All present (5)  
Abstain: Hutson  
Absent: Strat, Ullmann, Wright

**MOTION CARRIED**

**Resolution # PC-2008-12-151**

Moved by: Tagle  
Seconded by: Sanzica

**RESOLVED**, That the Planning Commission recommends to City Council that the Preliminary Site Plan (Section 34.30.00 Unplatted One-Family Residential Development), as requested for Oak Forest South Site Condominium, including 25 units, located south of Square Lake Road on the east side of Willow Grove, Section 11, within the R-1C zoning district be granted, subject to the following condition:

1. Provide a public pathway connection between the Brookwood Street sidewalk and Jaycee Park, through the conservation easement located between units 13 and 14.

Yes: All present (5)  
Abstain: Hutson  
Absent: Strat, Ullmann, Wright

**MOTION CARRIED**

**OTHER ITEMS**

10. **PUBLIC COMMENTS** – Items on Current Agenda

There was no one present who wished to speak.

11. PLANNING COMMISSION COMMENTS

Mr. Forsyth wished all a happy holiday.

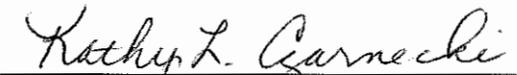
Mr. Miller announced that Zak Branigan of Carlisle/Wortman Associates would be at the January 6, 2009 Special/Study meeting to discuss new zoning districts for the Zoning Ordinance. Mr. Miller briefly addressed the two rezoning requests on tonight's agenda with respect to permitted uses.

Chair Schultz addressed the formalization of an auto zone, the Commission's productive year of 2008, and the election of officers at the next meeting.

The Regular Meeting of the Planning Commission adjourned at 9:50 p.m.

Respectfully submitted,

  
\_\_\_\_\_  
Robert M. Schultz, Chair

  
\_\_\_\_\_  
Kathy L. Czarnecki, Recording Secretary

A meeting of the Employees' Retirement System Board of Trustees was held on Wednesday, December 10, 2008, at Troy City Hall, 500 W. Big Beaver Road, Troy, MI 48084.

The meeting was called to order at 12:15 p.m.

**Trustees Present:** Nancy Bowren  
Mark Calice  
Michael Geise  
Thomas J. Gordon, II (Departed at 2:00pm)  
John M. Lamerato  
William R. Need (Ex-Officio)  
Phillip L. Nelson

**Trustees Absent:** Martin F. Howrylak

### Minutes

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#### **Resolution # ER – 2008-12-48**

Moved by Lamerato  
Seconded by Nelson

RESOLVED, That the amended Minutes of the October 18, 2008 meeting be approved.

Yeas: All – 6  
Absent: Howrylak

#### **Resolution # ER – 2008-12-49**

Moved by Nelson  
Seconded by Geise

RESOLVED, That the minutes of the November 12, 2008 meeting be approved.

Yeas: All – 6  
Absent: Howrylak

### Other Business – Corporate and Municipal Bond Review

John Grant and Rebecca Sorensen of UBS reviewed our current corporate bond holdings and the potential municipal bond mutual funds.

**Other Business – Transfer Merrill Lynch Accounts to UBS**

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**Resolution # ER – 2008-12-50**

Moved by Lamerato  
Seconded by Bowren

RESOLVED, That the board approve the transfer of Merrill Lynch accounts to UBS.  
(Jones/Labruzzo Group)

Yeas: All – 5  
Absent: Gordon, Howrylak

**Other Business – Option Authority**

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**Resolution # ER – 2008-12-51**

Moved by Lamerato  
Seconded by Bowren

RESOLVED, That up to 30 calls and or puts may be sold on each equity in the portfolio, provided that calls may not be sold if the exercise would result in a holding of less than 1,000 shares.

Yeas: All – 5  
Absent: Gordon, Howrylak

**Other Business – Retirement Requests**

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**Resolution # ER – 2008-12-52**

Moved by Lamerato  
Seconded by Nelson

RESOLVED, That the board approve the following retirement requests:

John G. Kuha, Public Works, DC, 1/10/09, 16 years, 9 months  
Allan L. Nichols, Public Works, DB, 1/10/09, 29 years, 10 months  
Richard E. Hay, Police, DB, 12/27/08, 34 years, 5 months  
Donald E. Zimmerman, Police, DB, 12/27/08, 30 years, 3 months  
Barry Whiteside, Police, DB, 12/27/08, 30 years, 4 months  
Dean Kittendorf, Police, DB, 1/24/09, 33 years, 6 months  
Roger Lynn, Building Operations, DC, 9/6/08, 5 years, 6 months  
Robert J. Rossman, Police, DB, 12/27/08, 34 years, 6 months  
Charles Campbell, Public Works, DC, 1/10/09, 27 years, 10 months

Yeas: All – 6  
Absent: Howrylak

**Other Business – Retirement Request**

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**Resolution # ER – 2008-12-53**

Moved by Lamerato

Seconded by Geise

RESOLVED, That the board approve the following retirement requests:

Nancy Bowren, Finance, DB, 1/01/09, 29 years, 11 months

Yeas: All – 5  
Absent: Howrylak  
Abstain: Bowren

**Investments**

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**Resolution # ER – 2008-12-54**

Moved by Bowren

Seconded by Geise

RESOLVED, That the board buy and sell the following investments:

**Sell:** Wyndham Worldwide

**Buy:** 6,000 shares Scana Corp  
3,000 shares Tractor Supply  
5,000 shares ALCOA  
2,500 shares AT&T  
\$1,000,000 Eaton Vance National Municipal A Fund  
\$500,000 Western Union, 5.4% due 11/17/11  
\$500,000 BellSouth, 5.2% due 9/15/14

Yeas: All – 5  
Absent: Gordon, Howrylak,

**Public Comment**

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None.

The next meeting is January 14, 2009 at 1:30 p.m. at Troy City Hall, Conference Room C, 500 W. Big Beaver Road, Troy, MI 48084.

The meeting adjourned at 2:40 p.m.

\_\_\_\_\_  
Mark Calice, Chairman

\_\_\_\_\_  
John M. Lamerato, Secretary

JML/bt\Retirement Board\2008\12.10.08 – Minutes\_Final

The Chairman, Matthew Kovacs, called the meeting of the Board of Zoning Appeals to order at 7:33 P.M. on Tuesday, December 16, 2008 in Council Chambers of the Troy City Hall.

PRESENT: Michael Bartnik (arrived at 7:37 P.M.)  
 Glenn Clark  
 Kenneth Courtney  
 Edward Kempen  
 Matthew Kovacs  
 David Lambert  
 Tom Strat

ALSO PRESENT: Mark Stimac, Director of Building & Zoning  
 Allan Motzny, Assistant City Attorney  
 Pamela Pasternak, Recording Secretary

**ITEM #1 – APPROVAL OF MINUTES – MEETING OF NOVEMBER 13, 2008 &  
 MEETING OF NOVEMBER 18, 2008**

Mr. Lambert asked that page 7 of the minutes of the meeting of November 13, 2008 be amended to read “Mr. Lambert stated that he understands the petitioner's needs, but would like clarification from staff on the natural features provision and how it would justify a variance.”

Motion by Lambert  
 Supported by Clark

MOVED, to approve the minutes of the meeting of November 13, 2008 as amended.

Yeas: 5 – Clark, Courtney, Kovacs, Lambert, Strat  
 Absent: 1 – Bartnik  
 Abstain: 1 - Kempen

**MOTION TO APPROVE MINUTES OF NOVEMBER 13, 2008 AS AMENDED  
 CARRIED**

Motion by Lambert  
 Supported by Clark

MOVED, to approve the minutes of the meeting of November 18, 2008 as written.

Yeas: 5 – Lambert, Strat, Clark, Courtney, Kovacs  
 Absent: 1 – Bartnik  
 Abstain: 1 – Kempen

**MOTION TO APPROVE MINUTES OF NOVEMBER 18, 2008 AS WRITTEN CARRIED**

Mr. Bartnik arrived at 7:37 P.M.

**ITEM #2 – APPROVAL OF ITEM #3 AND ITEM #4**

Motion by Courtney  
Supported by Lambert

Yeas: All – 7

**RESOLVED**, that Item #3 and Item #4 are hereby approved in accordance with the suggested resolutions printed in the Agenda Explanation.

**ITEM #3 - RENEWAL REQUESTED. COMMUNITY BOWLING CENTERS, 1950 E. SQUARE LAKE**, for renewal of relief to maintain a 6’ high earth berm in lieu of the 6’ high masonry-screening wall required by Section 39.10.01 at the west property line where it abuts residential zoning.

MOVED, to grant Community Bowling Centers, 1950 E. Square Lake, a three (3)-year renewal of relief to maintain a 6’ high earth berm in lieu of the 6’ high masonry-screening wall required by Section 39.10.01 at the west property line, where it abuts residential zoning.

- The adjacent property is used for a purpose other than a single-family residence.
- We have no objections or complaints on file.

**ITEM #4 – RENEWAL REQUESTED. RENEWAL REQUESTED. ST. LUCY CROATIAN CATHOLIC CHURCH, 200 E. WATTLES**, for renewal of relief of the 4’-6” high masonry screening wall required by Section 39.10.01 along the east and west sides of off-street parking where this property abuts residential zoned property.

MOVED, to grant St. Lucy Croatian Catholic Church, 200 E. Wattles, a three (3)-year renewal of relief of the required 4’-6” high masonry screening wall required by Section 39.10.01 along the east and west sides of off-street parking where this property abuts residential zoned property.

- The adjacent property is used for a purpose other than a single-family residence.
- Conditions remain the same.
- We have no complaints or objections on file.

**ITEM #5 – APPROVAL REQUESTED. LAWRENCE DALBEC, 376 COLEBROOK**, for approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property.

Mr. Stimac explained that the petitioner is seeking approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential

**ITEM #5 – con't.**

property. The Chevrolet box truck described in the application does not meet the exceptions found in Section 40.66.00 of chapter 39 of the Troy City Ordinance.

Mr. Bartnik asked if the petitioner would be able to build another garage on this property.

Mr. Stimac stated that if given a moment he would calculate the amount of accessory structures on the property and give Mr. Bartnik that information.

Mr. Dalbec was present and stated that he has had this type of vehicle parked on his property for thirty (30) years. His neighbors do not have a problem with the truck as it is parked out of sight and many did not know a commercial vehicle was on the property. Mr. Dalbec is a small business man and with the economy the way it is, it would be a hardship for him to add another building or to have to pay to have it stored at another location. Mr. Dalbec said that he keeps his truck in good working order and clean and painted. This vehicle does not have a negative impact on the neighborhood and is never parked on the road.

Mr. Kovacs explained to Mr. Dalbec that the requirements have changed and when the Board is voting on whether or not the vehicle could stay they must look at the requirements as written on the commercial vehicle application. Mr. Kovacs stated that Mr. Dalbec indicated on his application that he met the requirements of Item B stating that he did not have anywhere to put another building to house this vehicle.

Mr. Dalbec said that he would have to take down the present garage to put in a larger garage in the back of the property. Because the truck is 10' high, he would have to put up a garage with a 12' door. The present location of the truck is between two garages and there are a number of trees in the area.

Mr. Kovacs said that he believes Mr. Dalbec has met the criteria in item C, but is not sure that Mr. Dalbec has shown enough due diligence in exploring the possibility of putting up another building or storing the vehicle off-site. Mr. Kovacs then asked if Mr. Dalbec could modify the existing garage by putting in a higher door.

Mr. Kovacs asked what the size of the current garage is.

Mr. Dalbec said that it is 22' x 24' with an addition on the back of the garage that is 17' x 28'. Mr. Dalbec said that he was not sure if another building could be constructed. There are a lot of trees surrounding the property that he would also lose if he had to put up a larger structure.

Mr. Kovacs asked why Mr. Dalbec did not feel he could modify the existing door of the garage.

**ITEM #5 – con't.**

Mr. Dalbec did not believe that he could do this because of the existing roof line.

Mr. Lambert stated that there is a garage shown at the front of the property and asked if the garage added to the back of this building was approximately the same height.

Mr. Dalbec said that it was and he uses it mainly for storage of lawn equipment and some work equipment. Mr. Dalbec also stated that he does not have anyone come to the house for work.

Mr. Kovacs said that he thinks the truck is tucked into the space nicely and does not have a problem with the criteria in Item C.

Mr. Bartnik stated that Mr. Dalbec indicated that there is not enough room to negotiate the truck around the driveway and asked how close it was to the house to the west of his property.

Mr. Dalbec said that the garage is about 17' away from the property line. Mr. Dalbec also explained that part of the neighbor's garage is on his property and this vehicle is parked between two garages.

Mr. Bartnik asked how much of the neighbor's garage was on Mr. Dalbec's property and Mr. Dalbec stated it was about 4'.

Mr. Strat asked what was behind the truck.

Mr. Dalbec said that there is a shed behind the truck.

Mr. Strat asked if Mr. Dalbec works from his home and Mr. Dalbec said that he did.

Mr. Strat asked if there was an approval letter from the neighbor that lives next door.

Mr. Dalbec was not sure if a letter had come in from the homeowner across the street.

Mr. Courtney said that the homeowner at 356 Colebrook would not be able to see this vehicle as it is so well hidden. Mr. Courtney stated that he feels it would affect the neighbor across the street more than the next door neighbor.

Mr. Courtney said that he is opposed to trucks on residential property; however, this vehicle is very well hidden.

The Chairman opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There are six (6) written approvals on file. There are no written objections on file.

**ITEM #5 – con't.**

Mr. Stimac addressed Mr. Bartnik's earlier questions regarding additional accessory structures on this property and said that basically there are two types of accessory structures, attached and detached. It appears that the ground floor of the home is 1,369 square feet and the attached garage is 1,211 square feet allowing an additional 150 square feet of attached garage. The site has an area of 15,300 square feet which would allow up to a 756 square foot detached accessory building. There is an existing detached building at the south end of the driveway and another located on the far east side of the site. That square footage of these buildings is unknown at this time, and would have to be deducted from the 756 square footage allowed for detached accessory buildings.

Motion by Courtney  
Supported by Clark

MOVED, to grant Lawrence Dalbec, 376 Colebrook, approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property.

- Vehicle is well concealed and would not have a negative impact to surrounding property.
- Not reasonable to have petitioner put more storage space on this property.
- Petitioner has met the criteria in Item B and Item C.
- Approval would be for a period of two (2) years.

Mr. Strat asked if there was a time limit on this approval.

Mr. Stimac explained that the Board can grant approval for a period up to two (2) years.

Mr. Bartnik stated that he did not believe the petitioner met the criteria in Item C and believes that there is a negative impact to surrounding property.

Mr. Kovacs said that he does believe that the petitioner met the criteria in Item C as the vehicle is well hidden and does not know exactly what is reasonable in these times to expect the petitioner to do.

Mr. Bartnik said that he believes the petitioner could do something to the existing structure so that this vehicle would fit into the existing garage. Mr. Bartnik asked what the petitioner would be able to do with this garage.

Mr. Dalbec said that he would have to put in a 12' door and trusses and would build a garage that is 2 stories high in the front of the house. Presently there are two (2) personal vehicles inside the garage and it would be very difficult to fit this vehicle inside of the garage. In this economy it is very hard to spend \$20,000.00 or \$30,000.00 to re-construct the garage.

**ITEM #5 – con't.**

Mr. Bartnik asked what other alternatives the petitioner has explored regarding offsite storage of this vehicle.

Mr. Dalbec stated that he has not looked into other locations.

Mr. Courtney said that a two-year time limit would allow the petitioner to look into other solutions.

Mr. Bartnik said he thinks two years is a long time and believes six months would be sufficient.

Mr. Strat asked how high the truck was.

Mr. Dalbec said that it is 10' high and in order to have enough room for the door to clear the vehicle, a new door would have to be 12' high.

Mr. Lambert said that he disagrees and believes Item C applies because of the neighbors and neighborhood and is concerned about the wording in Item B. Mr. Lambert suggested that the Board approve it for a one-year time frame if the Board concurs that the petitioner meets the criteria in Item B.

Motion by Lambert  
Supported by Courtney

MOVED, to amend the motion made by Mr. Courtney.

- Approval to be granted for one-year.

Vote on the amendment.

Yeas: 6 – Lambert, Strat, Bartnik, Clark, Courtney, Kempen  
Nays: 1 – Kovacs

**MOTION TO AMEND CARRIED**

Mr. Kovacs stated that he voted no on this amendment as he did not feel it was necessary.

Vote on amended motion:

MOVED, to grant Lawrence Dalbec, 376 Colebrook, approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property.

**ITEM #5 – con't.**

- Vehicle is well concealed and would not have a negative impact to surrounding property.
- Not reasonable to have petitioner put more storage space on this property.
- Petitioner has met the criteria in Item B and Item C.
- Approval would be for a period of one (1) year.

Yeas: 6 – Strat, Clark, Courtney, Kempen, Kovacs, Lambert

Nays: 1 – Bartnik

**MOTION TO GRANT APPROVAL FOR ONE-YEAR CARRIED**

**ITEM #6 – VARIANCE REQUESTED. BARBARA BURNSTEEL, 1111 VERMONT**, for relief of the Ordinance to construct a 528 square foot detached garage that will result in 37.7% of the rear yard being occupied by accessory buildings where Section 40.45.02 limits the area of accessory buildings in rear yards to not more than 25% of the required rear yard area.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct a 528 square foot detached garage. The proposed garage as shown would occupy 37.7% of the required rear yard. Section 40.45.02 limits the area of accessory buildings in required rear yards to not more than 25% of the required rear yard area. This lot is a legal non-conforming lot as it is only 40' wide and 4,800 square feet in area.

A discussion began regarding rear yard setbacks in this area as well as the percentage of accessory buildings allowed on this parcel.

Mr. Clark also asked if there was an additional out building on this property.

Mr. Stimac said that he was not aware of any other buildings on this property.

Ms. Burnsteel was present and stated that she enjoys a number of crafts and would like to be able to have a place to park her car as well as room to work on her crafts. This home was constructed in the 1920's and in repayment of a loan for a friend Ms. Burnsteel was given a large amount of lumber. Right now she is paying over \$220.00 for storage of this material and she would like to be able to get it out of storage and use it. A two-car garage would also help to maintain the value of this property.

Mr. Bartnik asked if Ms. Burnsteel had a garage at this time.

Ms. Burnsteel said that the only thing she had was a 6' garden shed and this would be removed if she was able to put up this garage.

Mr. Courtney stated that Ms. Burnsteel could take 178 square feet off of the garage and construct it without a variance.

**ITEM #6 – con't.**

Ms. Burnsteel said that would be a one-car garage and she would not have the extra room she is looking for.

Mr. Kovacs opened the Public Hearing.

Michael Agnetti, 1120 Colebrook was present and stated that he lives across the street from the petitioner and supports this request.

No one else wished to be heard and the Public Hearing was closed.

There is one (1) written approval on file and one (1) verbal approval. There are no objections on file.

Mr. Kovacs said that in his opinion this is not an unreasonable request.

Mr. Strat stated that the size and configuration of this lot creates a hardship.

Motion by Bartnik  
Supported by Strat

MOVED, to grant Barbara Burnsteel, 1111 Vermont, relief of the Ordinance to construct a 528 square foot detached garage that will result in 37.7% of the rear yard being occupied by accessory buildings where Section 40.45.02 limits the area of accessory buildings in rear yards to not more than 25% of the required rear yard area.

- Configuration and size of lot creates a hardship.
- Variance does not establish a prohibited use in a Zoning District.
- Conforming is unnecessarily burdensome.
- Absent a variance petitioner would not have full enjoyment of property rights.

Yeas: All – 7

MOTION TO GRANT VARIANCE CARRIED

**ITEM #7 – MARK MILLER, CITY OF TROY PLANNING DIRECTOR.** Mr. Miller will present the new City of Troy Master Plan.

Mr. Miller gave the Board a presentation of the new Troy Master Plan.

The Board of Zoning Appeals meeting adjourned at 9:00 P.M.

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Matthew Kovacs, Chairman

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Pamela Pasternak, Recording Secretary

The Special/Study Meeting of the Troy City Planning Commission was called to order by Chair Schultz at 7:30 p.m. on January 6, 2009 in the Council Board Room of the Troy City Hall.

1. ROLL CALL

Present:

Donald Edmunds  
Michael W. Hutson  
Mark Maxwell  
Philip Sanzica  
Robert M. Schultz  
Thomas Strat  
John J. Tagle  
Lon M. Ullmann

Absent:

Mark J. Vleck

Also Present:

Mark F. Miller, Planning Director  
R. Brent Savidant, Principal Planner  
Christopher Forsyth, Assistant City Attorney  
Zak Branigan, Carlisle/Wortman Associates, Inc.

2. APPROVAL OF AGENDA

**Resolution # PC-2009-01-001**

Moved by: Hutson  
Seconded by: Maxwell

**RESOLVED**, To approve the Agenda as submitted.

Yes: All present (8)  
Absent: Vleck

**MOTION CARRIED**

3. MINUTES

**Resolution # PC-2009-01-002**

Moved by: Tagle  
Seconded by: Sanzica

**RESOLVED**, To approve the minutes of the December 9, 2008 Regular meeting as submitted.

Yes: Edmunds, Hutson, Maxwell, Sanzica, Schultz, Tagle, Ullmann  
Abstain: Strat  
Absent: Vleck

**MOTION CARRIED**

4. PUBLIC COMMENT – For Items Not on the Agenda

There was no one present who wished to speak.

5. BOARD OF ZONING APPEALS (BZA) REPORT

Mr. Strat stated there were few items considered at the December 12, 2008 BZA meeting that were significant to the Planning Commission.

6. DOWNTOWN DEVELOPMENT AUTHORITY (DDA) REPORT

Mr. Miller reported there was no DDA meeting in December 2008.

7. PLANNING AND ZONING REPORT

Mr. Miller stated that City Council postponed two proposed rezoning applications (Z-732 and Z-733) to provide an opportunity for the applicants to submit conditional rezoning applications.

Mr. Miller also announced upcoming City Council items.

**STUDY ITEMS**

8. ZONING ORDINANCE COMPREHENSIVE REWRITE (ZOTA 234) – Discussion with Representatives of Carlisle/Wortman Associates, Inc.

Mr. Miller introduced the item.

Zak Branigan of Carlisle/Wortman Associates, Inc. made a PowerPoint presentation that identified all land use classifications in the Master Plan in relation to the existing underlying zoning. The intent of the presentation was to get the Planning Commission to start thinking about potential zoning districts in the proposed Zoning Ordinance.

General discussion followed.

9. NEIGHBORHOOD NODE OVERLAY ZONE

Mr. Miller introduced the item.

Mr. Miller explained that the City has recently received a number of rezoning applications involving properties that are located near intersections that are

designated as Neighborhood Nodes in the Master Plan. The nodes permit a mix of land uses; however, the current Zoning Ordinance does not include flexible development provisions called for by Neighborhood Nodes described in the Master Plan.

It has been determined by both the Planning Department and the Planning Commission that developing flexible provisions for Neighborhood Nodes is a high priority. The Planning Department prepared a rough outline of Neighborhood Node provisions.

General discussion followed. It was generally agreed that the Planning Department should continue developing draft language for this item.

### OTHER ITEMS

10. PUBLIC COMMENT – Items on Current Agenda

There was no one present who wished to speak.

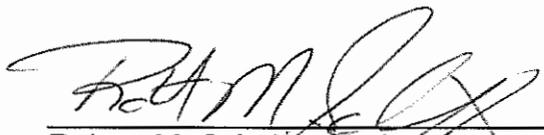
11. PLANNING COMMISSION COMMENT

There was general discussion.

### ADJOURN

The Special/Study Meeting of the Planning Commission adjourned at 9:35 p.m.

Respectfully submitted,

  
\_\_\_\_\_  
Robert M. Schultz, Chair

  
\_\_\_\_\_  
R. Brent Savidant, Principal Planner

The Chairman, Ted Dziurman, called the meeting of the Building Code Board of Appeals to order at 8:30 A.M., on Wednesday, January 7, 2009 in the Lower Level Conference Room of the Troy City Hall.

PRESENT: Ted Dziurman  
Rick Kessler  
Tim Richnak  
Dave Roberts  
Frank Zuazo

ALSO PRESENT: Mark Stimac, Director of Building & Zoning  
Pamela Pasternak, Recording Secretary

### **ITEM #1 – APPROVAL OF MINUTES – MEETING OF DECEMBER 3, 2008**

Motion by Richnak  
Supported by Kessler

MOVED, to approve the minutes of the meeting of December 3, 2008 as written.

Yeas: All – 5

MOTION TO APPROVE MINUTES CARRIED

**ITEM #2 – VARIANCE REQUESTED. WARREN EMERSON, FACILITIES PROJECT MANAGER, SMART, 2021 BARRETT**, for relief of Chapter 83 to install new fencing at the Smart facility on Barrett.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to install a 10' high fence in the yards between the building and both Barrett and Maplelawn. This property is in the M-1 (Light Industrial) Zoning District. Section 3 of Chapter 83 of the Troy City Code prohibits fences from being installed in the yards between the building and any frontage street on non-residentially zoned property.

Mr. Warren Emerson, Project Manager for SMART and Mr. Darrell Taylor, Risk Management Manager for SMART were present.

Mr. Taylor stated that this is one of the few locations that does not have fencing around it. Homeland Security has determined that fencing is required to protect this facility as it is to be used as a temporary resource in time of emergency. The storage building houses approximately 200 buses and SMART does not have the funding to provide 24-hour security personnel. The main networking system is housed at this facility and the main concern is to protect the facility from terrorism.

Mr. Dziurman asked if there was a lot of vandalism in this area.

**ITEM #2 – con't.**

Mr. Taylor stated that they do want the fencing to protect this area from vandalism but to provide protection again terrorism. This location has fuel tanks for emergency responders.

Mr. Dziurman asked if personnel are on site 24-hours a day.

Mr. Taylor stated there are light crews on the off hours but there are no designated security personnel on site.

Mr. Richnak asked if the building that housed the buses had windows.

Mr. Taylor said that there are large bay doors but there are no windows.

Mr. Richnak asked if this building had alarms on the doors.

Mr. Taylor explained that they are in the process of installing a camera and card system. The cameras will be monitored in their dispatch area.

Mr. Richnak explained that he is the Director of the City's Public Works Department and they have taken a number of steps to provide an area for both Police and Fire in case of an emergency. Much of the same equipment that is at the Smart Facility is also located at his site and the area is not totally surrounded by fencing. Mr. Richnak stated that he did not see the necessity for fencing on the northeast side of this building and feels that if the area was alarmed personnel would be able to see if a problem was developing.

Mr. Taylor stated that the fire suppression could be disabled and a diversion created and this would affect transportation for all of Oakland County.

Mr. Emerson stated that he feels the building that houses the buses is the most vulnerable area.

Mr. Kessler asked if there was 24-hour security.

Mr. Taylor stated there is not, as the necessary funding is not available. Federal funding would help them set up this fencing.

Mr. Kessler stated that the Fence Ordinance would allow them to put up a fence without a variance. There are a lot of strategic places that could be a target of terrorism in Troy. Mr. Kessler does not believe that the garage that houses the buses is necessarily one of these. Mr. Kessler stated that he does understand their concern but the Fence Ordinance does not allow fencing in the front setback. There are a number of changes that could be made at the existing facility, such as moving the fuel tanks to the back of the building and the site could be secured in other ways. Mr. Kessler also stated that

**ITEM #2 – con't.**

there are a number of nice looking buildings on this street and he would like to see this site stay in line with what the Ordinance requires.

Mr. Taylor brought up the fact that the asphalt company across the street has fencing around it.

Mr. Richnak stated that he believes at the time the building was constructed Troy was mostly farmland and the Fence Ordinance was not in effect. Mr. Richnak also stated that he doesn't know if the asphalt plant will always be around, although that is a completely separate issue and Mr. Richnak does believe the petitioner has room to compromise so that this variance request could be smaller. There are other ways to protect the sprinkler valves. Mr. Richnak said that the petitioner should look at ways to protect this site long term and believes this fence could be moved back and the façade of the building used as part of the protection they are looking for.

The Chairman opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There is one (1) written objection on file. There are no written approvals on file.

Mr. Dziurman suggested that the petitioner may want to postpone this request in order to look at the site and determine if there are other ways to protect the site.

Mr. Taylor stated that they are more than willing to look at ways to meet the City half-way. It would take many years to make the major changes to this facility that were suggested, but he does believe they can put up the fence with modifications.

Mr. Roberts suggested that the petitioners prioritize the areas of the facility that would need protection the soonest.

Mr. Taylor said that are concerned about the operation of the facility and how to protect their assets.

Mr. Roberts said that they can look into better ways to protect the overhead doors, which would include alarms.

Mr. Taylor said that they are installing cameras as they do not have the funding to provide security guards.

Mr. Stimac asked if they use the north overhead door regularly.

Mr. Taylor said that they did not and felt that they could do something with that door.

**ITEM #2 – con't.**

Mr. Stimac suggested that they could put fencing around the tank farms, pumps and central driveway.

Mr. Richnak said that he did not believe they needed fencing along Maplelawn, but could secure the doors with alarms.

Mr. Stimac said that they could provide other methodology to protect the sprinkler valves and fuel tanks.

A discussion began regarding the placement of the fencing from the south side of the building to the northern most corner. One of the suggestions was to put up a metal building around the PIV valves. Whether the petitioner put up a metal building or a fence that was locked, the Fire Department would need to have access to be able to enter this site in case of emergency.

Mr. Kessler asked if the gates were open during the hours of operation.

Mr. Taylor said that they are working on a fence system that will require an opener that will be located on each bus. Other vehicles will have to use an intercom system in order to enter the site.

Mr. Kessler stated that he thought the petitioner may wish to postpone this request in order to re-evaluate the site. Mr. Kessler stated that the Board would also require some type of landscape screening to minimize the look of this fence.

Mr. Richnak stated that the petitioner could put in some type of arborvitae to use as a screening method.

Mr. Emerson said that they would re-visit their request and reduce the variance request as much as possible.

Mr. Kessler said that the petitioner could look into re-locating the tanks to the back of the building.

Mr. Taylor stated that they had just modified these fuel tanks and did not believe anything would be done for the next twenty years. It is very difficult for them to get Federal funding to help with these changes.

Mr. Kessler suggested that the petitioners could look into adding roll up shutters with security grilles to be put in when the area was not occupied.

Mr. Zuazo told the petitioner to inform the DEQ any time they wish to move the fuel tanks so that they can make sure it is done properly.

**ITEM #2 – con't.**

Mr. Roberts told the petitioner to notify the Fire Department of any security changes that are being done in order to be compliant with the requirements of the Fire Department.

Mr. Emerson asked if the height of the fence was a problem.

Mr. Stimac stated that if the fence was in the proper setback, the 10' height would not be problem.

Motion by Richnak  
Supported by Roberts

MOVED, to postpone the request of Warren Emerson, Facilities Project Manager, SMART, 2021 Barrett, for relief of Chapter 83 to install new fencing at the SMART facility on Barrett until the meeting of March 4, 2009.

- To allow the petitioner to re-visit his request to see if other measures can be taken for security.
- To allow the petitioner to determine exactly which area would require this fence.

Yeas:            All – 5

**MOTION TO POSTPONE THIS REQUEST UNTIL MARCH 4, 2009 CARRIED**

Mr. Stimac informed the Board that variances were granted for wall signs at 150, 250 and 350 Stephenson with the stipulation that the name of the company, Valeo, would not be located on an existing ground sign. At the time the variance was granted for 150 Stephenson, a Sign Permit had been issued that allowed a ground sign on the property that listed the name of the company, Valeo. Incorrect information was given by the petitioner at the time this variance was granted and Mr. Stimac asked the Board members to visit the site and determine what if anything should be done. All of the wall signs that were granted variances by this Board are in place.

Mr. Richnak asked that this request be placed on the Agenda for the meeting of February 4, 2009 for discussion. This will allow Board members the opportunity to go out and look at this site.

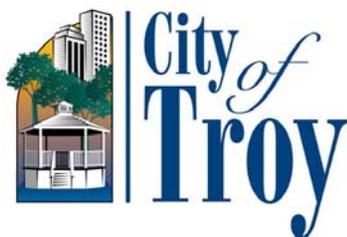
The Building Code Board of Appeals meeting adjourned at 9:25 A.M.

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Ted Dziurman, Chairman

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Pam Pasternak, Recording Secretary



## CITY COUNCIL REPORT

January 6, 2009

TO: Phillip L. Nelson, City Manager

FROM: John M. Lamerato, Assistant City Manager/Finance & Administration  
Susan A. Leirstein, Purchasing Director

SUBJECT: Final Reporting – BidNet On-Line Auction and  
C. Cryderman & Associates Auctioneer Services – November 2008

### Background

- Resolution #2004-02-075 established the auction fee of 5% and provided approval to use BidCorp with the provision that other on-line auction service options would be considered. BidNet moved forward and implemented the on-line surplus auction service for the MITN System (Michigan Inter-governmental Trade Network), which can be accessed through the City of Troy home web page. MITN is the official e-procurement website used by the City for posting bids, tabulations, quotations, and award information. It was a Purchasing goal that one e-procurement site would be operational for all functions.
- Resolution #2007-03-089-E4b established the auction fee for vehicles and heavy equipment with Chuck Cryderman & Associates LLC at 5% for on-site and 10% for off-site auctions. Included in the specifications for the auction contract is the ability of our auctioneer to take the City's auction items to other auction locations. Chuck Cryderman & Associates, LLC suggested using the 731 North Canal location in Lansing, Michigan, in coordination with the State auction. All transportation, reporting, and advertising are included in the auction fee.

### Financial Considerations

- In compliance with Resolution #2004-02-075, final reporting is being presented for thirty-two (32) Dell desktop computers, seven (7) Dell laptops, one (1) Panasonic Tough-book laptop, four (4) printers, one (1) HP scanner/printer, one (1) Compaq server rack, four (4) aquariums, one (1) shredder, one (1) wooden desk, one (1) gray chair w/wheels, one (1) Sharp calculator, four (4) lots of aluminum housing Lamps, one (1) picture, one (1) printer stand with paper trays, and sixteen (16) various cartridges for printers, that were auctioned on-line through BidNet, the City's e-procurement website, on November 17, 2008 and closed on, December 1, 2008.
- In addition, final reporting is being presented for one (1) 95 GMC 4X4 pick up, one (1) 99 Dodge pick-up, one (1) 01 Dodge Ram/ext-cab pick-up, one (1) 96 Chevy cube van, one (1) 79 Ford backhoe, one (1) 2000 Ford Taurus, one (1) 01 Ford Mustang, one (1) 01 Pontiac Bonneville SE, one (1) 02 Pontiac Montana, one (1) 99 Pontiac Bonneville, two (2) 03 Ford Crown Vic's, two (2) 04 Ford Crown Vic's and miscellaneous auto parts that were auctioned through Chuck Cryderman & Associates, LLC on November 8, 2008.

January 6, 2009

To: Phillip Nelson, City Manager  
Re: Final Reporting – BidNet On-Line Auction and Chuck Cryderman & Associates, LLC – November, 2008

Financial Considerations - continued

Final sale amounts and fees are listed below:

<b>SUMMARY</b>	<b>PROCEEDS</b>	<b>SUB-TOTAL</b>	<b>NET INCOME</b>
BidNet Auction	\$ 3,822.30		
Chuck Cryderman Auction	\$ 58,930.00		
<b>SUB-TOTAL:</b>		<b>\$62,752.30</b>	
	<b>FEES:</b>		
5% computers, laptops, printers, cartridges, & etc.	\$ (191.12)		
10% on Vehicles & misc. auto parts	\$ (5,893.00)		
<b>SUB-TOTAL:</b>		<b>(\$6,084.12)</b>	
Sales Tax +6% (computers, laptops, printers, & etc)	\$ 229.34		
Sales Tax (None on Vehicles): Tax Exempt	0.00		
<b>SUB-TOTAL:</b>		<b>\$229.34</b>	
			<b>\$ 56,897.52</b>

- In compliance with Resolution #2005-06-314 (F11), final reporting is also being presented for five (5) used, out-of-service Dell desktop computers having been diverted from the City's auction process and sent to the "Computers for Kids Program" sponsored by Oakland County Youth Assistance for Troy and Avondale. (Lots B281, B282, B283, B322, & B324)

Legal Considerations

- Farmington Hills, Michigan was the lead agency for the bid process for an on-line auction website. Resolution #2004-02-075.
- Troy, Michigan was the lead agency for the bid process for on and off-site auction services. Resolution #2007-03-089-E4b.

Policy Considerations

- Sale of surplus property is a statutory requirement of the Purchasing department. (Chapter 7, Sec 8), no perceived Policy consideration is associated with this item.

Options

- To report final results of November 2008 auctions to City management.
- No action required



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**Report for the City of Troy, MI**  
**Detailed Report for Seller: ALL**

From: 12/1/2008 To: 12/31/2008

Item ID	Date	Sale Amount	Tax Collected	Charge	Type of Fee	Auction Description	Seller
<a href="#">3378</a>	12/1/2008	1.00	0.06	0.05	Sale	Sharp Calculator	Bockstanz
<a href="#">3385</a>	12/1/2008	10.00	0.60	0.50	Sale	Wood Desk	Bockstanz
<a href="#">3576</a>	12/1/2008	5.00	0.30	0.25	Sale	Gray Chair	Bockstanz
<a href="#">3991</a>	12/1/2008	49.00	2.94	2.45	Sale	Aluminum Housing Lamps - Lot 1	Bockstanz
<a href="#">4008</a>	12/1/2008	9.90	0.59	0.50	Sale	Lexmark Cartridges	Bockstanz
<a href="#">4012</a>	12/1/2008	8.00	0.48	0.40	Sale	Epson Stylus Color Cartridges	Bockstanz
<a href="#">4016</a>	12/1/2008	45.00	2.70	2.25	Sale	Dell 5210n Laser Printer	Bockstanz
<a href="#">4036</a>	12/1/2008	62.00	3.72	3.10	Sale	Dell Computer - B292	Bockstanz
<a href="#">4038</a>	12/1/2008	57.00	3.42	2.85	Sale	Dell Computer - B294	Bockstanz
<a href="#">4041</a>	12/1/2008	50.00	3.00	2.50	Sale	Dell Computer - B297	Bockstanz
<a href="#">4045</a>	12/1/2008	50.99	3.06	2.55	Sale	Dell Computer - B304	Bockstanz
<a href="#">4056</a>	12/1/2008	62.00	3.72	3.10	Sale	Dell Computer - B316	Bockstanz
<a href="#">4058</a>	12/1/2008	58.00	3.48	2.90	Sale	Dell Computer - B318	Bockstanz
<a href="#">4064</a>	12/1/2008	10.00	0.60	0.50	Sale	HP Scanjet ADF Scanner	Bockstanz
<a href="#">4014</a>	12/1/2008	5.00	0.30	0.25	Sale	HP 29 Black Cartridge	Bockstanz
<a href="#">4018</a>	12/1/2008	5.00	0.30	0.25	Sale	HP Laserjet P3005 Printer	Bockstanz
<a href="#">4031</a>	12/1/2008	54.55	3.27	2.73	Sale	Dell Computer - B287	Bockstanz
<a href="#">4042</a>	12/1/2008	51.00	3.06	2.55	Sale	Dell Computer - B298	Bockstanz
<a href="#">4061</a>	12/1/2008	51.50	3.09	2.58	Sale	Dell Computer - B321	Bockstanz
<a href="#">4062</a>	12/1/2008	62.00	3.72	3.10	Sale	Dell Computer - B326	Bockstanz
<a href="#">3986</a>	12/1/2008	25.00	1.50	1.25	Sale	Compaq Server Rack	Bockstanz
<a href="#">3988</a>	12/1/2008	41.00	2.46	2.05	Sale	Aquarium	Bockstanz
<a href="#">3989</a>	12/1/2008	51.00	3.06	2.55	Sale	Aquarium	Bockstanz
<a href="#">3992</a>	12/1/2008	40.00	2.40	2.00	Sale	Aluminum Housing Lamps - Lot 2	Bockstanz
<a href="#">3993</a>	12/1/2008	41.00	2.46	2.05	Sale	Aluminum Housing Lamps - Lot 3	Bockstanz
<a href="#">3997</a>	12/1/2008	11.00	0.66	0.55	Sale	Office Max Black Cartridge	Bockstanz
<a href="#">3998</a>	12/1/2008	12.50	0.75	0.63	Sale	Office Depot Black Cartridge - 2	Bockstanz
<a href="#">4006</a>	12/1/2008	16.00	0.96	0.80	Sale	HP 88XL - 4 Cartridges	Bockstanz
<a href="#">4009</a>	12/1/2008	15.00	0.90	0.75	Sale	Canon Cartridges - 6	Bockstanz
<a href="#">3984</a>	12/1/2008	8.50	0.51	0.43	Sale	Goddess - Picture	Bockstanz
<a href="#">4023</a>	12/1/2008	202.50	12.15	10.13	Sale	Dell Latitude 800 Laptop - B285	Bockstanz
<a href="#">4025</a>	12/1/2008	100.00	6.00	5.00	Sale	Dell Latitude C800 Laptop - B300	Bockstanz
<a href="#">4026</a>	12/1/2008	84.00	5.04	4.20	Sale	Dell Latitude C810 Laptop - B301	Bockstanz
<a href="#">4027</a>	12/1/2008	122.50	7.35	6.13	Sale	Dell Latitude C840 Laptop - B302	Bockstanz
<a href="#">4030</a>	12/1/2008	209.50	12.57	10.48	Sale	Dell Latitude D800 Laptop - B325	Bockstanz
<a href="#">4032</a>	12/1/2008	50.50	3.03	2.53	Sale	Dell Computer - B288	Bockstanz
<a href="#">4034</a>	12/1/2008	61.00	3.66	3.05	Sale	Dell Computer - B290	Bockstanz
<a href="#">4039</a>	12/1/2008	52.00	3.12	2.60	Sale	Dell Computer - B295	Bockstanz
<a href="#">4043</a>	12/1/2008	51.50	3.09	2.58	Sale	Dell Computer - B299	Bockstanz
<a href="#">4044</a>	12/1/2008	51.50	3.09	2.58	Sale	Dell Computer - B303	Bockstanz

<a href="#">4049</a>	12/1/2008	51.00	3.06	2.55	Sale	Dell Computer - B308	Bockstanz
<a href="#">4051</a>	12/1/2008	61.57	3.69	3.08	Sale	Dell Computer - B311	Bockstanz
<a href="#">4052</a>	12/1/2008	62.00	3.72	3.10	Sale	Dell Computer - B312	Bockstanz
<a href="#">4054</a>	12/1/2008	61.00	3.66	3.05	Sale	Dell Computer - B314	Bockstanz
<a href="#">3987</a>	12/1/2008	41.00	2.46	2.05	Sale	Aquarium	Bockstanz
<a href="#">3994</a>	12/1/2008	41.00	2.46	2.05	Sale	Aluminum Housing Lamps - Lot 4	Bockstanz
<a href="#">4035</a>	12/1/2008	50.00	3.00	2.50	Sale	Dell Computer - B291	Bockstanz
<a href="#">4037</a>	12/1/2008	57.33	3.44	2.87	Sale	Dell Computer - B293	Bockstanz
<a href="#">4048</a>	12/1/2008	61.00	3.66	3.05	Sale	Dell Computer - B306	Bockstanz
<a href="#">4055</a>	12/1/2008	50.77	3.05	2.54	Sale	Dell Computer - B315	Bockstanz
<a href="#">4060</a>	12/1/2008	51.00	3.06	2.55	Sale	Dell Computer - B320	Bockstanz
<a href="#">4063</a>	12/1/2008	62.00	3.72	3.10	Sale	Dell Computer - B327	Bockstanz
<a href="#">3990</a>	12/1/2008	31.00	1.86	1.55	Sale	Aquarium	Bockstanz
<a href="#">3999</a>	12/1/2008	18.00	1.08	0.90	Sale	HP Black Cartridge - 4	Bockstanz
<a href="#">4013</a>	12/1/2008	10.00	0.60	0.50	Sale	Epson Stylus Color Cartridges	Bockstanz
<a href="#">4024</a>	12/1/2008	182.50	10.95	9.13	Sale	Dell Latitude 800 Laptop - B286	Bockstanz
<a href="#">4029</a>	12/1/2008	45.00	2.70	2.25	Sale	Panasonic Toughbook - B323	Bockstanz
<a href="#">4033</a>	12/1/2008	61.00	3.66	3.05	Sale	Dell Computer - B289	Bockstanz
<a href="#">4040</a>	12/1/2008	61.00	3.66	3.05	Sale	Dell Computer - B296	Bockstanz
<a href="#">4046</a>	12/1/2008	66.00	3.96	3.30	Sale	Dell Computer - B305	Bockstanz
<a href="#">4047</a>	12/1/2008	50.88	3.05	2.54	Sale	Dell Computer - B307	Bockstanz
<a href="#">4050</a>	12/1/2008	50.66	3.04	2.53	Sale	Dell Computer - B310	Bockstanz
<a href="#">4053</a>	12/1/2008	51.00	3.06	2.55	Sale	Dell Computer - B313	Bockstanz
<a href="#">4059</a>	12/1/2008	51.00	3.06	2.55	Sale	Dell Computer - B319	Bockstanz
<a href="#">4021</a>	12/1/2008	30.00	1.80	1.50	Sale	HP Laserjet 4+ Printer	Bockstanz
<a href="#">3985</a>	12/1/2008	28.00	1.68	1.40	Sale	Shredder	Bockstanz
<a href="#">4022</a>	12/1/2008	242.50	14.55	12.13	Sale	Dell Lattitue 800 Laptop - B284	Bockstanz
<a href="#">3995</a>	12/1/2008	15.80	0.95	0.79	Sale	Office Max Cyan Cartridge	Bockstanz
<a href="#">4020</a>	12/1/2008	26.76	1.61	1.34	Sale	HP Laserjet 4+ Printer	Bockstanz
<a href="#">4003</a>	12/1/2008	8.90	0.53	0.45	Sale	HP 95A Cartridge	Bockstanz
<a href="#">3996</a>	12/1/2008	44.10	2.65	2.21	Sale	Office Depot Cartridge - 3	Bockstanz
<a href="#">3580</a>	12/1/2008	12.29	0.74	0.61	Sale	Printer or Monitor Stand w/ paper trays	Bockstanz
<a href="#">4001</a>	12/1/2008	22.70	1.36	1.14	Sale	Office Depot Yellow Cartridge	Bockstanz
<a href="#">4002</a>	12/1/2008	24.60	1.48	1.23	Sale	HP 98X Cartridge	Bockstanz
<a href="#">4000</a>	12/1/2008	25.50	1.53	1.28	Sale	Office Max Black Cartridge - 2	Bockstanz
<a href="#">4004</a>	12/1/2008	60.50	3.63	3.03	Sale	HP 98A Cartridges - 3	Bockstanz

Total Sales Amount	Total Tax Collected	Total Amount Charged	Total Payments	Total Balance Due for the selected date range	Total Balance Due
\$3,822.30	\$229.34	\$191.12	\$0.00	\$191.12	\$1,217.88

# VEHICLE AUCTION REPORT

<b>NUMBER</b>	<b>MAKE</b>	<b>MODEL</b>	<b>YEAR</b>	<b>AUCTION FEE</b>	<b>AUCTION PRICE</b>
043	G.M.C.	4X4 PICK UP	95	\$320.00	\$3,200.00
228	DODGE	PICKUP 1500 2WD	99	\$360.00	\$3,600.00
279	DODGE//EXT-CAB	RAM/PICK-UP	01	\$350.00	\$3,500.00
298	CHEVY	CUBE VAN	96	\$370.00	\$3,700.00
348	FORD	BACKHOE	79	\$800.00	\$8,000.00
812	FORD	TAURUS/4DR	00	\$280.00	\$2,800.00
819	FORD	MUSTANG/2DR.	01	\$670.00	\$6,700.00
823	PONTIAC	BONNEVILLE/SE	01	\$490.00	\$4,900.00
830	PONTIAC	MONTANA EXT.	02	\$630.00	\$6,300.00
892	PONTIAC	BONNEVILLE	99	\$310.00	\$3,100.00
966	FORD	CROWN VIC	03	\$260.00	\$2,600.00
974	FORD	CROWN VIC	03	\$300.00	\$3,000.00
983	FORD	CROWN VIC	04	\$330.00	\$3,300.00
985	FORD	CROWN VIC	04	\$325.00	\$3,250.00

### Miscellaneous Items

4 BOXES AUTOMOBILE SPOTLIGHTS	\$11.00	\$110.00
DRAW TITE TOWING HITCH	\$2.00	\$20.00
3 NUTS/BOLTS, STORAGE RACKS & FAX MACHINE	\$10.00	\$100.00
10 MERCURY VAPOR LIGHTS	\$3.00	\$30.00
GANDY WALK BEHIND SEEDER	\$4.00	\$40.00
4 MICHELIN USED TIRES	.50	\$5.00
4 WRANGLER USED TIRES	\$3.00	\$30.00
2 GOODYEAR (G286) USED TIRES	\$3.50	\$35.00
4 WRANGLER USED TIRES	\$2.50	\$25.00
4 GOODYEAR USED TIRES	\$9.00	\$90.00
2 TITAN INDUSTRIAL USED TIRES	\$2.50	\$25.00
4 GENERAL USED TIRES	\$1.00	\$10.00
5 TRUCK TEC TUBE STEPS	\$14.00	\$140.00
1 SET CHIPPER BLADES	\$2.00	\$20.00
3 HALOGEN SHOP LIGHTS AND MISC LOT	\$1.00	\$10.00
1 UNIQUE PICK-UP TOOLBOX	\$7.00	\$70.00
1 WEATHER GUARD TOOLBOX	\$5.00	\$50.00
2 GOODYEAR (G291) USED TIRES	\$17.00	\$170.00
<b>TOTALS</b>	<b>\$5,893.00</b>	<b>\$58,930.00</b>

Vehicles and Miscellaneous equipment sold by Cryderman and Associates on November 8, 2008.

*Prepared by: Samuel P. Lamerato, Superintendent of Fleet*

*Friday, December 19, 2008*

*Page 1 of 1*

**COMPUTERS PULLED FROM AUCTION FOR**  
*"COMPUTERS FOR KIDS PROGRAM"*

Lot Number	Make	Model	Pentium	Hard Drive	Memory	CDROM	Monitor	Keyboard	Mouse
B281	Dell	GX260	4	20 G	512 mb	Yes	No	Yes	Yes
B282	Dell	GX260	4	20 G	512 mb	Yes	No	Yes	Yes
B283	Dell	GX260	4	20 G	512 mb	Yes	No	Yes	Yes
B322	Dell	GX240	4	20 G	256 mb	Yes	No	Yes	Yes
B324	Dell	GX270	4	40 G	512 mb	Yes	No	Yes	Yes

G:/Auction/Computers pulled from auction12-08.xls



**TO:** Members of the Troy City Council

**FROM:** Lori Grigg Bluhm, City Attorney  
 Robert F. Davisson, Assistant City Attorney  
 Christopher J. Forsyth, Assistant City Attorney  
 Susan M. Lancaster, Assistant City Attorney  
 Allan T. Motzny, Assistant City Attorney

**DATE:** January 4, 2009

**SUBJECT:** 2008 Fourth Quarter Litigation Report

The following is the quarterly report of pending litigation and other matters of interest. **Developments during the FOURTH quarter of 2008 are in bold.**

#### A. ANATOMY OF THE CASE

Once a lawsuit has been filed against the City or City employees, the City Attorney's office prepares a memo regarding the allegations in the complaint. At that time, our office requests authority from Council to represent the City and/or the employees. Our office then engages in the discovery process, which generally lasts for several months, and involves interrogatories, requests for documents, and depositions. After discovery, almost all cases are required to go through case evaluation (also called mediation). In this process, three attorneys evaluate the potential damages, and render an award. This award can be accepted by both parties, and will conclude the case. However, if either party rejects a case evaluation award, there are potential sanctions if the trial result is not as favorable as the mediation award. In many cases, a motion for summary disposition will be filed at the conclusion of discovery. In all motions for summary disposition, the Plaintiff's version of the facts are accepted as true, and if the Plaintiff still has failed to set forth a viable claim against the City, then dismissal will be granted. It generally takes at least a year before a case will be presented to a jury. It also takes approximately two years before a case will be finalized in the Michigan Court of Appeals and/or the Michigan Supreme Court.

#### B. ZONING CASES

These are cases where the property owner has sued for a use other than that for which the land is currently zoned and/or the City is suing a property owner to require compliance with the existing zoning provisions.

1. *Troy v. Papadelis and Papadelis v. Troy* - This is a case filed by the City against Telly's Nursery, seeking to enjoin the business from using the northern parcel for commercial purposes. After a lengthy appellate history, an order was entered in the Oakland County Circuit Court, requiring compliance on or before April 29, 2002. The Papadelis family failed to comply with the court's order, and therefore a Contempt Motion was filed. Oakland County Circuit Court Judge Colleen

O'Brien determined that the defendants were in contempt of court, and required them to pay \$1,000 to the City of Troy. However, the court also determined that the defendants were in compliance with the City of Troy zoning ordinances as of the date of the court decision. The Troy City Council authorized an appeal of this decision to the Michigan Court of Appeals. It was filed on September 27, 2002. The neighbors filed an application for leave to appeal, which was denied by the Michigan Court of Appeals on 2/10/03. After receiving criminal citations from the City for expansion of the business, Papadelis filed a federal lawsuit against the City of Troy, alleging civil rights violations and seeking an injunction against the prosecution and/or further expansion. The neighboring property owners filed a Motion to Intervene, which was granted by Federal US District Court Judge Arthur Tarnow. Troy filed a counterclaim in the Federal Court case but it was dismissed by Judge Tarnow, who refused to exercise jurisdiction over the counter-complaint, since it would require him to interpret the opinion of the Oakland County Circuit Court Judge. Troy has subsequently filed two separate motions to dismiss the Papadelis complaint. One of the motions asserted the same jurisdictional claim that was raised against the counter-complaint. The Court granted Troy's motion based on jurisdictional issues and dismissed the case without prejudice. The court did not rule on the other motion, but instead, directed the Papadelises to re-file their case in state court. The Papadelis family then re-filed its lawsuit in Oakland County Circuit Court. Troy filed an answer and a counterclaim. Troy also immediately filed a motion for summary disposition seeking dismissal of the complaint and a judgment in favor of Troy. The counterclaim seeks an order requiring the Papadelis family to remove two greenhouses and other structures that have been built upon the property without approvals that are required under the zoning ordinance. The Court scheduled an early intervention conference (settlement conference) for October 18, 2005. The Court has set the hearing date for the Motion for Summary Disposition for January 4, 2006. Subsequent to the filing of Troy's Motion for Summary Disposition, Plaintiffs' filed a Cross Motion for Summary Disposition, and the hearing was rescheduled for January 18, 2006. On February 17, 2006, the Court entered its written Opinion and Order, dismissing the Papadelis claim for money damages and their claim for injunctive relief. However, the Court also granted Summary Disposition in favor of the Plaintiffs on their claim for declaratory relief, and held that "retail" activity was not occurring on the northern parcel, and that the "agricultural" activities on the northern parcel were protected under the Right to Farm Act. Additionally the Court ruled the Plaintiffs' were exempt from City permitting requirements under the agricultural building permit exemption of the State Construction Code Act. The Court also dismissed the City's counterclaim. Troy has filed an appeal with the Michigan Court of Appeals. Plaintiffs' have filed a cross appeal challenging the dismissal of their claims for money damages and injunctive relief. All the required briefs have been filed with the Court of Appeals, which will either schedule an oral argument or will inform the parties that the case will be decided without oral argument. Since this case was assigned to the expedited track for summary disposition appeals, a final decision on appeal is expected before the end of September of this year. On June 16, 2006, the

Building Department discovered that the Papadelis family was erecting a new, large pole barn structure on the property at 3301 John R. Road. This structure was likely in violation of local and/or state law. The Building Department followed the procedure for issuing a Stop Work Order. In addition, our office filed an emergency motion with the Court of Appeals, seeking to enjoin construction of the building pending final outcome of the appeal. On June 21, 2006, the Court of Appeals granted the motion for immediate consideration, but denied the motion to enjoin construction of the building. The denial of the motion has no bearing on the final outcome of this appeal, and if Troy ultimately prevails on appeal, the new building will have to be removed. Despite the issuance of the Stop Work Order, the construction continued on the new building. The Papadelis Family then filed a Motion to hold the City Attorney and the Director of Building and Zoning in contempt of court. In this Motion, the Papadelis family argued that the Circuit Court ruling (Judge Colleen O'Brien) allows the construction of the new building without a permit and without having to comply with the zoning ordinance provisions regulating the size and location of buildings. Judge O'Brien denied this Motion on June 28, 2006, and ruled that her earlier ruling (the ruling on appeal) was limited to the buildings on the property at the time of the ruling, and did not extend to allow for new construction on the site. On September 19, 2006, the Court of Appeals affirmed the decisions of the Circuit Court. Thus, the Court affirmed the declaratory judgment in favor of the plaintiffs, but it also affirmed the dismissal of plaintiff's civil rights claims against the City, Mark Stimac, and Marlene Struckman. Troy has filed an Application for Leave to Appeal with the Michigan Supreme Court. The Michigan Municipal League is also filing an amicus brief in support of the City's Application for Leave to Appeal. The Papadelis family filed a Cross Application for Leave to Appeal. If the Supreme Court denies both the Application for Leave to Appeal and the Cross Application for Leave to Appeal, the Court of Appeals decision becomes the final decision in this case. The Supreme Court may grant both the Application and Cross Application for Leave to Appeal, or it may grant one and deny the other, or it may grant either Application in part and limit the issues that it will review. The Michigan Municipal League (MML) has prepared an Amicus Brief in support of the municipal position, and the Papadelis family has opposed the MML's Motion for Leave To File the Amicus Brief. The parties are now waiting for the Michigan Supreme Court to take action. On June 29, 2007, in lieu of granting leave to appeal, the Michigan Supreme Court ruled in favor of the City, and reversed the decisions of the Oakland County Circuit Court and the Court of Appeals. The case will now be remanded back to the Oakland County Circuit Court for an order requiring the Papadelis family to comply with Troy's zoning ordinances. The Michigan Supreme Court declared that the greenhouses and pole barn are not "incidental to the use for agricultural purposes of the land on which they are located." Plaintiff's cross appeal against the City was denied. Troy filed a motion in Circuit Court to enforce the Supreme Court's ruling, which requires all of the buildings constructed on the Papadelis property to be in compliance with Troy's zoning ordinance. In the alternative, the structures need to be removed. The Court scheduled an evidentiary hearing on our Motion for October 17, 2007.

A hearing/bench trial began on October 17<sup>th</sup> and continued on October 23<sup>rd</sup>. The City presented evidence in support of its request for an Order requiring the Papadelis family to remove two large greenhouses, eight smaller greenhouse type structures (cold frames) and a pole barn from the subject property. The Papadelis Family has started to present evidence in support of their defense and opposition to the City's requested relief. They contend the zoning ordinance is not applicable to the buildings. The Court has set the next hearing/ bench trial continuation date for January 30, 2008. The hearing/bench trial continued on January 30, 2008 and closing arguments were scheduled for March 5, 2008. After closing arguments were made, Judge O'Brien indicated she would prepare a written opinion. On May 22, 2008, Judge O'Brien issued an Opinion and Order dismissing the City's counterclaim. On June 4, 2008, the City filed a Motion for Reconsideration, which was denied on June 10, 2008. On June 23, 2008, the City filed a Claim of Appeal with the Michigan Court of Appeals. The City's Brief on Appeal is due November 25, 2008. **The City's brief was timely filed.**

2. *Behr America v. City of Troy, et. al.*- This case is a plat revision action filed by Behr America against the City of Troy, the Road Commission for Oakland County, the Oakland County Drain Commission, the Michigan Department of Transportation, the Michigan Department of Environmental Quality, The Michigan Department of Natural Resources, the Treasurer of State of Michigan, the Detroit Edison Company and owners within 300 feet of the Behr America property located at 2700 Daley Drive. Behr America is requesting a revision of Supervisor's Plat No. 11, in order to remove the plat's roadway designation of a portion of Daley Street, which has already been vacated by resolution of the Troy City Council. The City of Troy has filed an Answer to the Complaint, and the parties are now conducting discovery. Witness and Exhibit Lists have been filed by the parties in the discovery phase. **The State of Michigan has required clarification of the easement that was granted to the City of Troy reserving a vehicular turn around. A public hearing will be scheduled as soon as possible on a new proposed vacation. The parties continue to negotiate an acceptable Consent Judgment, which could be entered immediately after Council action on the proposed vacation. Case evaluation was waived by Court order.**

#### C. EMINENT DOMAIN CASES

These are cases in which the City wishes to acquire property for a public improvement and the property owner wishes to contest either the necessity or the compensation offered. In cases where only the compensation is challenged, the City obtains possession of the property almost immediately, which allows for major projects to be completed.

1. *City of Troy v. Munchiando* - The City filed this condemnation lawsuit in connection with the John R. Road widening project. The City's complaint was filed on August 4, 2008. The Court entered the Order of Possession on September 22, 2008, giving the City legal title to the property. Through this

Order, the Munchiandos can temporarily remain in the house, as long as they pay rent to the City. This means that only the amount of just compensation remains at issue in this case. The parties are now exchanging discovery.

**Discovery continues.**

#### D. CIVIL RIGHTS CASES

These are cases that are generally filed in the federal courts, under 42 U.S.C. Section 1983. In these cases, the Plaintiffs argue that the City and/or police officers of the City of Troy somehow violated their civil rights.

1. *Gerald Molnar v. Janice Pokley, the City of Troy et al.*- Plaintiff filed this lawsuit against the City and Troy Detective Janice Pokley, after a jury found him not guilty of the charge of Criminal Sexual Conduct in the Second Degree. Plaintiff alleges that the City and Detective Pokley violated his constitutional rights to be from an unreasonable seizure, due process, and equal protection. These constitutional violations allegedly occurred during the criminal sexual conduct investigation of Plaintiff. Plaintiff also claims that the Troy defendants conspired with other named defendants to violate his constitutional rights, and intentionally inflicted emotional distress on Plaintiff. Plaintiff is requesting an unspecified amount of compensatory, exemplar, and punitive damages. On February 27, 2007, Troy filed a motion to dismiss, or in the alternative summary judgment. Plaintiff filed his response to our motion to dismiss on May 21, 2007. On August 28, 2008, the Court listened to the oral arguments on our motion to dismiss. On September 4, 2008, the Court issued an opinion and order granting our motion to dismiss Detective Pokely and the City. On September 10, 2008, Plaintiff filed a notice of appeal, and is seeking a reversal of this dismissal with the United States Court of Appeals for the Sixth Circuit (includes Michigan, Tennessee, Kentucky, and Ohio). **After hosting a telephonic pre-trial conference, the Court will provide the briefing schedule for the parties.**
2. *Steeg v City of Troy, et al.* – Plaintiff Donald Joseph Steeg filed this lawsuit against the City of Troy, Troy Police Chief Charles Craft, and Troy Police Officers Christina Giovannoni, Michael Giordano, and Scott Smith. Plaintiff alleges he suffered damages as a result of his contact with Troy police officers, who stopped his vehicle based on a citizen’s complaint of erratic driving. The officers investigated to determine if Steeg was a drunk driver. Steeg alleges the officers violated his fourth amendment rights (alleged unlawful seizure and excessive force). The lawsuit was filed in the United States District Court for the Eastern District of Michigan and assigned to Judge Bernard A. Friedman. The Plaintiff is seeking over \$75,000 in damages. The City Attorneys Office is representing the City and Chief Craft. The individual defendant police officers from Troy are being represented by the insurance company’s designated attorney, Michael Rosati of Johnson, Rosati, LaBarge, Aseltyne, & Field, P.C. The case is in the discovery phase. **Discovery continues.**

3. **Christine Kendricks v. the Troy Police Department, Troy Police Officer Theresa Harrison et. al-** This case was filed against Officer Harrison and the Troy Police Department, as well as Oakland County Probate Court Judge Eugene Moore, the Oakland County Prosecutor's Office, the Oakland County Probate Court referee, a couple of Guardian Ad Litem attorneys, Oakland County Children's Village, and others. The case was received during the fourth quarter, with the City's first responsive pleading due in January 2009. Plaintiff's father was suspected (and later convicted) of child abuse, and Officer Harrison assisted with the removal of the minor Plaintiff from her home and into foster care. After becoming an adult, Plaintiff filed this case against all persons who participated in the Probate Court proceedings. She alleges that she suffered injuries while in foster care. She also alleges that Officer Harrison coerced her into making statements against her father.

#### E. PERSONAL INJURY AND DAMAGE CASES

These are cases in which the Plaintiff claims that the City or City employees were negligent in some manner that caused injuries and/or property damage. The City enjoys governmental immunity from ordinary negligence, unless the case falls within one of four exceptions to governmental immunity: a) defective highway exception, which includes sidewalks and road way claims; b) public building exception, which imposes liability only when injuries are caused by a defect in a public building; c) motor vehicle exception, which imposes liability when an employee is negligent when operating their vehicle; d) proprietary exception, where liability is imposed when an activity is conducted primarily to create a profit, and the activity somehow causes injury or damage to another; e) trespass nuisance exception, which imposes liability for the flooding cases.

1. **Mary Ann Hennig v. City of Troy-** Plaintiff has filed this lawsuit, claiming that the City is liable for injuries she sustained after her vehicle was struck by a Troy Police Officer as he was pursuing a suspected drug dealer. Her complaint alleges serious impairment of a bodily function, in that she has neurological damages. The City has filed an answer to the complaint, and the parties are now conducting discovery. The parties have exchanged witness list, expert witness lists and exhibit lists. The parties are continuing to do discovery including updating medical records and deposing witnesses. The Plaintiff has been examined by an orthopedic physician chosen by the City and is scheduled to be examined during the week of October 22, 2008 by a clinical neuropsychologist chosen by the City. Discovery is continuing. On December 12, 2007, the Court ordered facilitation of the case, which is scheduled for March 4, 2008. If the parties are unable to settle the case with facilitation, then a jury trial is scheduled to start on April 22, 2008. The Court ordered facilitation was conducted on March 28, 2008. In the interim, the City filed a Motion for Summary Disposition, alleging that Plaintiff cannot establish negligence, or that Ms. Hennig's injuries satisfy the no-fault minimum threshold standard, which is that the injuries

constitute a “serious impairment of a bodily function.” Troy’s Motion will be heard on April 23, 2008. The jury trial date has been adjourned to July 29, 2008. Judge Mester denied our motion for summary disposition, finding an issue of fact that would need to be resolved at trial. The City filed a motion for reconsideration of this decision, which was denied by Judge Mester in a written opinion. As allowed under the governmental immunity state statute, the circuit court case has now been stayed so that the City can pursue an appeal with the Michigan Court of Appeals prior to the conclusion of a trial. The City timely filed its appeal on June 3, 2008. The City’s Brief is due on or before October 8, 2008. **The City timely filed its appellate brief, as well as a reply to Plaintiff/ Appellee’s brief.**

2. Rome Love v. City of Troy- This lawsuit has been filed in the Wayne County Circuit Court, which is the county where the Plaintiff resides, as well as the location of the accident. Plaintiff argues in his complaint that the City is liable for his alleged injuries that were caused when a City of Troy tour bus hit the rear corner panel of a SMART bus on April 6, 2006. The Troy bus was driving on Woodward Avenue, returning from a senior field trip. The Troy bus sustained minor damage, including a broken mirror. Plaintiff claims to have been a passenger on the SMART bus. Plaintiff seeks damages in excess of \$25,000 for alleged pain, disability, and mental anguish, although the alleged injuries are not specified. The City’s answer to the complaint is due on April 14, 2008. Arguing that the City is entitled to governmental immunity, we filed a motion for summary disposition as our first responsive pleading. This motion argues that the Plaintiff’s injuries do not meet the no-fault serious injury threshold standard under state statute. Troy’s motion was heard on July 18, 2008 and was denied. We are now in the discovery phase. **Discovery continues.**
  
3. City of Troy v. Sunset Excavating, Inc. and Eclipse Excavating, LLC – This lawsuit was filed by the City in the 52-4<sup>th</sup> District Court, since the damages are less than the \$25,000 jurisdictional amount. On July 11, 2006, there was a major water main break near the intersection of Crooks Road and Wattles Road. Just prior to the water main break, employees of Eclipse Excavating LLC, a subcontractor for Sunset Excavating, Inc. were working in Troy’s pressure reducing valve (“PRV”) vault #3, located north of the water main break. This work was related to Oakland County’s Crooks Road construction project. One of Eclipse’s employees admits that he inadvertently moved one of the valves in the PRV vault, and tried to immediately self correct it by completely closing the valve, when it actually should have remained completely open. The City was not aware of this mistake until several hours later, as our employees were responding to the water main break. Since the actions of the employee from Eclipse Excavating actually caused the water main break, Troy is now seeking reimbursement for the \$24,445.60 in labor and costs for the repair and necessary traffic control. We have served all of the parties with the complaint, and are now waiting for them to file answers. **The parties are engaging in discovery. A pre-trial conference is set for January 26, 2009.**

## F. MISCELLANEOUS CASES

1. *Kocenda v City of Troy*- David Kocenda has filed a complaint against the City of Troy, Chief Craft, Captain Murphy, Captain Mott, Lieutenant Hay, Lieutenant Pappas, and Lieutenant Rossman, alleging Defamation and Intentional Infliction of Emotional Distress. Plaintiff, a Troy police officer, claims he was offered a job as a police officer with the City of Palm Beach Gardens, Florida, but the offer was retracted because of false information provided by Troy and its officers. He contends remarks made by Troy employees constitute both Defamation and Intentional Infliction of Emotional Distress. He is seeking damages in excess of \$25,000. The lawsuit was filed in Oakland County Circuit Court and assigned to Judge Fred Mester. Troy's responsive pleading is due December 18, 2007. The City has filed a Motion for Summary Disposition, seeking a dismissal of the lawsuit against the City and its officers. The Court will set the date for the hearing on our motion. The Court granted the Motion for Summary Disposition and dismissed the case. Several months after the dismissal of his lawsuit, Kocenda filed an untimely Motion for Reconsideration. The Motion for Reconsideration was denied. Kocenda has now filed a Claim of Appeal with the Michigan Court of Appeals, seeking a reversal of the dismissal and/or the denial of the Motion for Reconsideration. The City filed a Motion to Dismiss the Claim of Appeal for lack of jurisdiction on the basis it was untimely. The Court of Appeals granted the motion and dismissed the appeal on August 27, 2008. We then filed a motion seeking costs from Kocenda and/or his attorney. This motion was pending as of the end of the quarter. **The Court granted our motion for costs, and \$100.00 was paid to the City. Kocenda subsequently filed a Motion for Relief from Order in Oakland County Circuit. In that motion, he alleged there was newly discovered evidence and that the original Order Granting Summary Disposition should be set aside. The motion was denied.**
2. *Frank Lawrence v City of Troy* – Mr. Lawrence is the brother of Thomas Lawrence who was issued two civil infraction traffic citations on October 4, 2008 for “no proof of insurance” and “failure to change address on driver’s license”. Frank Lawrence filed a FOIA request with Troy Police Department asking for a number of items, including but not limited to: all video recordings, radio transmissions, records and the officer’s disciplinary file (if any), and the police policy on issuing “quota’ tickets. Under Michigan Court Rule 2.303 (A)(3) discovery is not permitted in civil infraction actions. Additionally, FOIA does not require the release of information which would constitute an unwarranted invasion of personal privacy or law enforcement information such a, but not limited to, disciplinary files of police officers, personal telephone numbers, and operational manuals. Mr. Lawrence’s FOIA was denied for these reasons. Instead of filing an appeal of the FOIA denial to the City Manager, Mr. Lawrence appealed the denial to the Oakland County Circuit Court. Mr. Lawrence filed a Motion for Summary Disposition and the City responded. Without requiring oral arguments, Judge Steven Andrews denied Mr. Lawrence’s Motion for Summary Disposition in an Opinion and Order dated December 1, 2008. Judge Andrews also granted Summary Disposition in

**the City's favor. Mr. Lawrence filed a Claim of Appeal with the Michigan Court of Appeals on December 22, 2008.**

#### G. CRIMINAL APPEALS

These are cases involving an appeal from a decision of the 52-4 District Court in an ordinance prosecution case.

1. *City of Troy v Chowdhury*. In this case, the Defendant challenged the validity of Section 98.10.03 of Chapter 98 of the City of Troy Code, which authorizes a police officer to require a person less than 21 years of age to submit to a preliminary chemical breath analysis (PBT) if the police officer has reasonable cause to believe the person has consumed alcoholic liquor. Under the ordinance, the results of the PBT are admissible in a criminal prosecution to determine whether a minor consumed alcoholic liquor. On July 22, 2008, the District Court granted the Defendant's Motion to Suppress Evidence and ruled the results of a PBT administered to the Defendant were inadmissible because Troy's ordinance was unconstitutional. The City appealed this decision to the Oakland County Circuit Court. **The City timely filed its appellate brief during this quarter.**

#### ADMINISTRATIVE PROCEEDINGS

1. *In the Matter of the Application of International Transmission Company, d/b/a ITCTransmission, for a Certificate of Public Convenience and Necessity for the Construction of a Major Transmission Line Running From and Through Sterling Heights, Troy, Clawson, and Royal Oak, MI.* ITCTransmission has requested permission to construct a new major transmission line- the Bismark- Troy Project. After meeting with City Administration, ITC's proposed location for this new transmission line is primarily through industrial properties, and underground. Previously, a route traversing Maple Road was considered. Before any construction can commence, ITCTransmission needs to obtain a Certificate of Public Convenience and Necessity from the Public Service Commission (PSC). In this proceeding, the PSC determines whether the public benefits justify the construction of the new transmission line; whether the proposed route is feasible and reasonable; and whether the proposed line presents an unreasonable threat to public health or safety. In this particular case, Detroit Edison and Consumers Power filed to intervene. On appeal, these petitions were granted. The parties are now conducting discovery. The expert witnesses of the parties were cross examined on September 27 and 28, 2007. The parties are now preparing written legal briefs for the Administrative Law Judge. Briefs have been filed, and the Administrative Law Judge issued his Notice of Proposal for Decision on December 5, 2007, concluding that ITC has not demonstrated that the quantifiable and nonquantifiable public benefits justify the line's construction, and/or that the proposed route is reasonable. Since Exceptions to this Notice of Proposal for Decision have been timely filed with the Michigan Public Service

Commission, the Administrative Law Judge's Decision is not final, and the case will continue. On February 22, 2008, the Michigan Public Service Commission denied ITC's application for a Certificate of Public Necessity. On March 24, 2008, ITC timely filed its appeal of this decision with the Michigan Court of Appeals. ITC filed its appellate brief on July 14, 2008. The City's brief is due on October 13, 2008. **The City timely filed its brief in this Court of Appeals matter. The Court also granted the motion of the Midwest Independent Transmission System Operator, Inc. to file an amicus curiae brief in the case.**

2. *In the matter of the Petitions on National Pollution Discharge Elimination Systems (NPDES Phase II General Permits).* The City has joined several other municipalities in challenging several of the mandates in the NPDES Phase II General Permit, which was recently issued by the MDEQ. The new NPDES permit requires some storm water management techniques that exceed the federal mandates, and/or are not justified, based on the high cost of the mandate, in relation to the nominal environmental benefits. A status conference for the parties is set for October 1, 2008. The municipalities are currently exploring the coordination of efforts with other parties. **Community representatives are meeting with representatives from the MDEQ to discuss possible resolutions of this matter without the necessity of a full blown administrative hearing.**

If you have any questions concerning these cases, please let us know.

December 26, 2008

Chief William S. Nelson  
City of Troy Fire Department  
500 West Big Beaver  
Troy, MI 48084

Dear Chief Nelson:

On Sunday evening, December 21, 2008 our fireplace caught the sub-floor on fire in our Troy home. We called 911 and the Troy Fire Department responded immediately. We were amazed at the number of volunteer Firefighters who promptly arrived fully suited up and ready to assist. The Fire Captain and his crew quickly ascertained that all persons and animals were out of the home and proceeded to quickly locate the source of the fire. They then applied water to extinguish the fire and foam to prevent it from flaming up again.

The crew was so kind to take exceptional care to minimize the damage to the home and contents. They even moved our property out of the way to prevent damage. Of course, we know their first priority is to prevent injury to residents and Firefighters and that they combine good judgement and experience to do this very effectively.

We would like to express our sincere thanks to these fine courageous men and women who dedicate a substantial portion of their lives to the safety and betterment of our community. We are truly grateful that they saved our home. Please express our warm thanks to everybody involved.

Sincerely,

A handwritten signature in cursive script that reads "Chuck Grigg".

The Grigg family: Chuck, Kathy, Clark, Hal, and George

6154 Evanswood Road  
Troy, MI 48085  
248-990-2707



13TH DISTRICT  
 1020 FARNUM BUILDING  
 P.O. BOX 30036  
 LANSING, MI 48909-7536  
 PHONE: (517) 373-2523  
 TOLL-FREE: (877) SEN-13TH  
 FAX: (517) 373-5669  
 WEBSITE: [www.senate.michigan.gov/pappageorge](http://www.senate.michigan.gov/pappageorge)

**JOHN PAPPAGEORGE**  
 MICHIGAN SENATE

VICE CHAIR - APPROPRIATIONS  
 SUBCOMMITTEES:  
 CHAIR - GENERAL GOVERNMENT  
 VICE CHAIR - DEPARTMENT OF  
 COMMUNITY HEALTH  
 COMMITTEES:  
 CHAIR - ADMINISTRATIVE RULES  
 VICE CHAIR - SENIOR CITIZENS  
 AND VETERANS AFFAIRS  
 MEMBER - CAPITAL OUTLAY  
 MEMBER - HOMELAND SECURITY  
 AND EMERGING TECHNOLOGIES  
 MEMBER - SENATE FISCAL AGENCY  
 BOARD OF GOVERNORS

January 6, 2009

Ms. Carol Anderson  
 Troy Parks and Recreation Department  
 3179 Livernois Rd  
 Troy, MI 48083-5029

Dear Carol:

Congratulations on the Troy Family Aquatic Center and the Troy Community Center receiving recognition from *Aquatics International Magazine*.

While reading the *Oakland Press*, I noticed the article about the Troy Aquatic Center receiving this prestigious honor and I wanted to take this opportunity to congratulate you and the Troy Parks and Recreation Department. The Troy Family Aquatic Center is a true credit to the Troy community and greatly enhances the standard of living for the members of the city of Troy. I wish you and Troy Parks Recreation Department the best of luck in all future endeavors.

Once more, congratulations and best wishes for the Troy Parks and Recreation Department's continued success.

Sincerely,

John Pappageorge  
 State Senator  
 District 13

JP: kl

hanley wood  
**AQUATICS**  
INTERNATIONAL

THE SOURCE FOR FACILITY MANAGEMENT, PRODUCTS AND SERVICES

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**BEST OVERALL COMMITMENT TO AQUATICS**

CLASS 2 (between 50,000 and 499,999 population)

**TROY FAMILY AQUATIC CENTER AND TROY COMMUNITY CENTER INDOOR POOL | TROY, MICH.**



**HIGHLIGHTS**

**Facilities**

- TFAC: Beach-entry outdoor leisure pool with lap lanes; children's spray pool; 177-foot-long tube slide; dry-play area; sand volleyball courts; and outdoor picnic area
- TCC: Indoor leisure pool; therapy pool; and water playground equipment

**Programming**

- Learn-to-swim classes
- Water aerobics
- Birthday party and private event



- rentals
- American Red Cross lifeguarding

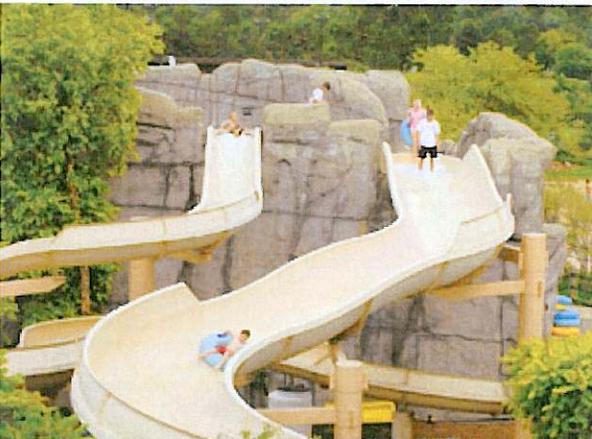
While troubled big-city neighbor Detroit struggles to keep its head above water, Troy, Mich., is content to dive in deep — literally. Named the Wolverine State’s “Sportstown” by Sports Illustrated in 2003, it is home to the Troy Family Aquatic Center, a visible commitment to physical activity and liquid leisure.

Troy’s sprawling aquatic center recently celebrated its 16th summer season, while the indoor pool and spa at the nearby Troy Community Center just blew out six candles. TFAC has invested so much energy and money into bulking up its fun features that the facility would fit just fine into Orlando or Las Vegas: Amenities include a tube slide; body slide; sand play area; sand volleyball space; sprayspads; water tree; 20-foot-wide waterfall; concessions; and an 11,000-square-foot, heated main pool with a 130-foot, zero-depth edge.

But the future Michael Phelps of the world need not worry; TFAC doesn’t disappoint. Six 25-yard swimming lanes are designated for those preparing for London 2012, or those who just want to keep in shape.

The year-round indoor aquatics facility at the TCC also has options for those who want to stay active: four lap lanes, a warm-water therapy pool and a leisure pool with several slides spilling into it. And when it comes to programming, both venues offer an extensive array of swim lessons for preschoolers (seven different classes), older kids and teens, as well as lifeguarding instruction and private lessons.

It doesn’t come as a shock to hear that last year more than 56,000 Troy residents, nonresident employees and guests splashed around TFAC, which opened its



doors on Memorial Day and provides work for 80 people. Venues such as TFAC and TCC go a long way toward making a city a great place for raising families, and it looks as if people outside Michigan have taken notice. Troy was honored this year as one of CNN Money's "Best Places to Live." — *Neal Broverman*

RECEIVED

JAN 13 2009

CITY OF TROY  
CITY MANAGER'S OFFICE

January 8, 2009

To the Troy City Manager, Mayor and City Council

I just want to express my appreciation of the helpfulness of your animal control officers.

Early this month I went into my basement to do laundry and was frightened half to death by a squirrel that had somehow gotten in.

Both Jackie Snedden and Karen Livingston arrived promptly each time I called and were very informative and helpful in both trapping and removing the squirrel from my home.

Please let them know how much all of us Troy Residents appreciate their service to us.

Thank you,



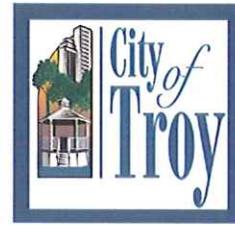
Iva Shambarger  
1150 Bradley  
Troy, Mi 48085

Parks and Recreation  
3179 Livernois  
Troy, MI 48083  
(248) 524-3484  
(248) 689-6497 fax

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The City of Tomorrow...



J-05

...Today

December 16, 2008

Siegel & Gross, PC  
PO Box 70036  
Rochester Hills, MI 48307  
Phone: (248) 879-9290  
Fax: (248) 879-9380

Dear Sarah,

On behalf of Troy Parks and Recreation Department, we would like to express our appreciation for your donation of noodles for our swim program. Your donation will be utilized for swim lessons and other programs offered at both the Troy Community Center and Troy Family Aquatic Center.

Thank you for making a difference and your support.

Sincerely,

Brian Goul  
Aquatics Coordinator

1-2-09

City Council  
 City of Troy,  
 2 Wilson St May Concerned

I am writing because  
 I called the City Hall today  
 regarding the 2009 City of Troy  
 Calendar; I was informed  
 that it would not be printed  
 this year because of the  
 cost, it not being in the  
 budget for 2009.

I am a senior & I so  
 depend on that Calendar for  
 so much information. It  
 happens my pitcher will  
 refer to it so often.

Please rethink not printing  
 our city calendars it is so  
 important to so many of us.

Hopefully,  
 Jacquelyn Olson  
 6007 Atkins  
 Troy, MI 48085



**TO:** Mayor and Members of Troy City Council  
**FROM:** Lori Grigg Bluhm, City Attorney  
Susan M. Lancaster, Assistant City Attorney  
**DATE:** January 16, 2009  
**SUBJECT:** Frank Lawrence v. City of Troy

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At the October 20, 2008 meeting, City Council was provided with a copy of a new lawsuit, which was filed by Frank Lawrence against the City of Troy. Mr. Lawrence is the brother of Thomas Lawrence, who was issued a civil infraction traffic citation on October 4, 2008 for "no proof of insurance" and "failure to change address on driver's license". Frank Lawrence filed a Freedom of Information request with the Troy Police Department asking for a number of items, including but not limited to: all video recordings, radio transmissions, records and the officer's disciplinary file (if any). At the time the lawsuit was filed, Thomas Lawrence had a two count civil infraction case in the 52-4 District Court.

Under Michigan Court Rule 2.302 (A)(3), discovery is not permitted in civil infraction actions. Similarly, discovery in other cases in the 52-4 District Court is also limited. It is for this reason, and also since we believe that a prosecutor is entitled to at least the same information as a defendant, that the Troy Police Department routinely deny FOIA requests seeking to circumvent the Michigan Court Rule limiting discovery. As with all FOIA denial letters, the standard denial/ referral to the prosecutor letter sets forth MCL 15.243(1)(d) as the basis for the claimed FOIA exemption, as well as the right to an appeal of the denial.

Instead of filing an appeal, as allowed under state law and the City's policy, Mr. Lawrence instead filed a lawsuit against the City. In his complaint, he erroneously juxtaposes the citation, and then claimed that no such citation exists. He also claimed that he was entitled to all of his requested information. Although only MCL 15.243(1)(d) was set forth in the denial letter, there are several other applicable exemptions. For example, there is a specific FOIA exemption applicable to personnel records of police officers.

On December 1, 2008, Oakland County Circuit Court Judge Steven Andrews issued a favorable order for the City, dismissing the case. Mr. Lawrence has now appealed this decision by filing a Claim of Appeal with the Michigan Court of Appeals. We will continue to represent the City in this appeal, absent contrary direction from City Council.

Upon information and belief, Thomas Lawrence has also appealed the December 18, 2008 determination that he is responsible for his civil infraction no proof of insurance ticket. This matter is being handled by an Assistant Oakland County Corporation Counsel.

Please let us know if we can provide additional information.



## CITY COUNCIL ACTION ITEM

Date January 13, 2009

TO: Mayor and City Council

FROM: Phillip L. Nelson, City Manager  
Lori Grigg Bluhm, City Attorney  
Tonni L. Bartholomew, City Clerk

SUBJECT: **Liquor Committee and Traffic Committee Appointments**

### Background:

- The Liquor Committee and Traffic Committee are both committees comprised of 7 members serving 3-year staggered terms. Originally, the terms had members expiring every year in groups as follows: one group consisting of 3 members and the other two groups with 2 members each.

Over the years the staggered terms for both committees became unbalanced for a variety of reasons. Much of the inconsistency was tied to flawed reappointments of unexpired terms.

- The Liquor Committee member terms expire in groups of 4, 2 and 1. The minutes indicate appointments were changing at a rapid pace in the late 1990's and early 2000's and it is very difficult to determine which appointment got out of alignment. Therefore it would be recommended that the staggering of terms for that committee be brought back into balance by adjusting the length of the vacant term to a one-time one-year term (Henry Allemon does not wish to be reappointed, therefore creating a vacant term).
- The Traffic Committee member terms expire in groups of 4 and 3 over a two-year time cycle leaving every third year without an appointment. The even staggering of terms over a three-year time period will be slightly more difficult to restore.

In researching the appointments for the Traffic Committee, one of the discrepancies in the appointments appear to be tied to an appointment two or three members preceding Sara Binkowski's appointment. Ms. Binkowski's appointment was correct. Additionally there appears to be a discrepancy tied to John Diefenbaker's 2001 appointment.

City Council can re-establish the balanced rotation of terms by either extending or shortening the new terms of Sara Binkowski and John Diefenbaker. This can be accomplished by a one time one-year term or a one-time four-year term reappointment of both members or to future members at the time when these original appointments are considered.

### Financial Consideration:

- There is no financial consideration associated with this item.

Legal Consideration:

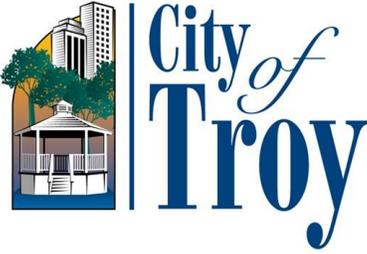
- There is no legal consideration associated with this item.

Policy Consideration:

- There is no policy consideration associated with this item.

Options:

- The agenda will contain options to re-establish balanced term rotations as outlined above for both committees as well as a continuation of the existing terms.



## CITY COUNCIL REPORT

DATE: January 22, 2009

TO: Phillip L. Nelson, City Manager

FROM: Brian P. Murphy, Assistant City Manager/Economic Development Services  
Mark F. Miller, Planning Director

SUBJECT: Planning Commission Elections and BZA Nominations for 2009

At the January 13, 2009 Regular meeting, the Planning Commission elected officers for the 2009 calendar year. Robert Schultz was elected as Planning Commission Chairman and Michael Hutson was elected as Planning Commission Vice Chairman. Additionally, Lon Ullmann was recommended for the position of BZA Representative and Philip Sanzica was recommended for the position of BZA Alternate.

Attachments:

1. Excerpt of Minutes from January 13, 2009 Planning Commission Regular meeting (draft).

Prepared by RBS/MFM

G:\Planning Commission\CC Memo PC Elections 01 26 09.doc

**8. ELECTION OF OFFICERS**

Chair Schultz asked for nominations from the floor for Chair and Vice Chair.

Mr. Maxwell nominated Robert Schultz for Chair and Michael Hutson for Vice Chair.

Hearing no further nominations, Chair Schultz declared the nominations for the position of Chair and Vice Chair closed.

**ROLL CALL VOTE**

Yes: All present (8)

Absent: Vleck

Chair Schultz asked for nominations from the floor for Board of Zoning Appeals (BZA) Representative and Board of Zoning Appeals (BZA) Alternate.

Mr. Hutson nominated John Tagle for BZA Representative.

Mr. Tagle declined the position.

Mr. Hutson nominated Lon Ullmann for BZA Representative and Philip Sanzica for BZA Alternate.

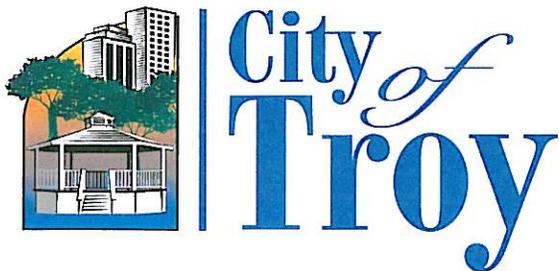
Hearing no further nominations, Chair Schultz declared the nominations for BZA Representative and BZA Alternate closed.

**ROLL CALL VOTE**

Yes: All present (8)

Absent: Vleck

**MOTION CARRIED**



TO: The Mayor and City Council  
FROM: <sup>PN</sup> Phil Nelson, City Manager  
SUBJECT: Latest Budget Numbers  
DATE: January 21, 2009

After the last Council workshop on the budget, staff continued working on determining the potential level of funding available for the fiscal year 2009/10 budget.

The Council made some tough decisions concerning revenues and expenditure changes and reduced a potential deficit of approximately \$5.5 million to approximately \$935,000. As you recall, a significant portion of the deficit reduction was based on several employees taking early retirement, and the transfer of excess special assessment funding that provided a total amount of approximately \$2.3 million. There is a good news—bad news scenario in the two elements. The bad news is that there are probably not going to be a sufficient number of retirees to get enough funding from the projected early retirement figures. The good news is that we should be able to return a significant amount of salary and benefit funding to the General Fund balance as a result of the employees who will take advantage of the retirement package. There still is, however, a total gap of approximately \$539,000 in the estimated amount of savings from early retirements and the \$1.3 million that was originally proposed.

As a reminder of revenue enhancements and expenditure cuts the Council took action on, staff is providing the following charts for your review. As indicated in the disposition phase, staff noted that actions were favored, deleted, or postponed so that Council could take additional time to consider final action on the items. Included for your consideration is additional information requested on specified items. Staff needs to have final direction from the Council on these items so the budget can be compiled as soon as is possible.

Latest Budget Numbers  
 January 21, 2009  
 Page Two

Potential New Revenues

Program (Objective)	Estimated Dollar Value	Strongly Consider	Consider	Outcome Connection	Council Action
Transfer excess Special Assessment funds	\$ 1,000,000	7		1,2,3	Favor
Increase DDA charge for charge for services	175,000	5	2	1,2,3	Favor
Implement Police arrest booking fee	158,600	5	2	1,2,3	Favor
Implement downed wire fire response fee (electric co. pays)	10,000	5	2	1	Delete
\$1.00 service charge on all parks and recreation transactions	100,000	4	2	1,2,3	Favor
Charge admission to museum grounds (currently donation is requested)	20,000	4	2	1,2,3	Favor
Charge non-resident fee for Internet usage at Library	20,000	4	2	2	Favor
Implement property damage auto crash recovery fee	135,000	3	1	1,2,3	More Info
Increase building permit fees by 5%	70,000	3	2	1,3	Favor
Charge non-profit groups for use of Community Center meeting rooms	30,000	3	1	2,3	Favor
Increase shelter fees	10,000	3	3	2,3	Favor
Charge seniors the full cost of all programs	100,000	2	3	1,3	Favor
Implement auto injury accident cost recovery fee	61,500	2	3	1,3	More Info
Implement structure fire response fee	12,500	2	4	1,2,3	Favor
Implement fire re-inspection and revised plan review fee	18,750	2	5	1	Favor
Implement a fuel surcharge on traffic tickets	100,000	2	4	1,2,3	More Info
Implement suspicious fire response and investigation fee	12,500	1	3	1,2,3	Favor
<b>Potential Revenue Enhancement</b>	<b>2,033,850</b>				

Running Total of "favored" items

1,727,350

Note: The transfer of excess Special Assessment funds is a "one-time" revenue enhancement meaning that subsequent years would require either additional revenues or additional expenditure reductions.

Potential Expenditure Savings	Estimated Dollar Value	Strongly Consider	Consider		Council Action
Freeze positions through retirement incentives (2009/2010)	\$ 1,300,000	6	1		Favor
Eliminate City Calendar	35,000	4	1		Favor
Eliminate all irrigation except athletic fields, DDA and City Hall	100,000	3	2		Favor
Reduce part-time staff in the parks by 25%	85,000	3	2		Favor
Reduce number of right of way mowing from 6 to 3 cuttings per year	39,000	3	1		More Info
Eliminate annual plantings, mulch, street maint. except DDA & Civic Center	8,000	3	3		Favor
Reduce Civic Center maintenance levels	30,000	2	4		Favor
Eliminate employee tuition reimbursement	25,000	2	3		Favor
Negotiate hiring part-time in lieu of full-time		2	3		Favor
Reduce mowing in parks/public grounds	15,000	2	2		Favor
Limit snow plowing of subdivisions to straight time, with min. overtime	30,000	2	2		RC
Eliminate Family Festival	6,800	1	4		Favor
No snow removal on overtime (City Property)	100,000	1	3		Delete
Eliminate annual boards and committees appreciation banquet	15,000	1	3		Postpone
<b>Estimated Expenditure Savings</b>	<b>1,788,800</b>				

Other Ideas	Estimated Dollar Value	Strongly Consider	Consider	Outcome Connection	Council Action
Consider benefits of alternative fuel vehicles		6	1	1,2	Favor
Develop and promote energy saving policy		6	1	1,2,3	Favor
Direct city manager & department heads to cut lowest priority services		5	2	1,2,3	Favor
Promote Troy to the film industry-reap the benefits		5	2	1,2,3	Favor
Reevaluate Troy Daze event- including size, location, duration, purpose		2	2		RC
Buy distressed property in Troy and use to rebuild for the future		2	2	1,2,3	More Info
Operate the Nature Center as a park	300,000	2	2		Fee Offset

Running Total  
 Grand Totals

1,619,800  
 3,347,150

The Council also looked at the following items, but took no definitive action pending additional information.

Item	Estimated Dollar Value	Strongly Consider	Consider	Neutral	Council Action
Implement business occupancy permit and annual renewal fee	75,000	2	1	3	More Info
Implement a single-family residential rental inspection program	25,000	1	2		More Info
Charge youth groups full cost for field usage	10,000	1	2	1	Change formula
Eliminate community agency contributions:			3	1	More Info
Troy Youth Assistance	40,000				
Troy Community Coalition	97,000				
The Haven	4,370				
Troy Boys/Girls Club	76,320				
Eliminate Citizens Academy	3,000	2	1	1	members pay
Operate City Hall on a four-ten hour day schedule, closing one day per week					
Privatize City Attorney's Office					
<b>Total Estimated Savings</b>	<b>330,690</b>				

If the Council was to take affirmative action on the “postponed or more information or RC” (requires Council consideration) categories, the estimated budget deficit could almost be eliminated. However, if the City does not realize total estimated savings from the early retirement package, the Council would need to take action to reduce the budget in an estimated amount of about \$500,000.

As stated, the two largest sum items that are being used to reduce the budget deficit are one-time solutions. Coupled with increasing costs, decreasing property values and one-time enhancements or reductions, the City could be faced with another \$5 million dollar deficit for the 2010/11 budget.

If the Council chooses to not implement the remaining expenditure cuts or revenue enhancement the City could be looking at a total deficit of \$1,474,000. Without the additional revenue enhancements or expenditure cuts, the Council still has the following options available to balance the budget.

1. Reduce expenditures in highest priority departments including Police, Fire and Public Works. These additional savings could be made in areas such as reducing overtime, or reducing service levels offered by the departments.
2. Moving .25 mills from the Capital Construction Fund mill levy to the General Fund. Preliminary estimates indicate a .25 mill shift could generate approximately \$1.2 million in additional revenue for the General Fund.
3. The other option that has to be explored is additional layoffs of employees. Staff has placed a hiring freeze on non-high priority department job openings. Staff has also initiated a merger of the Engineering, Building Inspection, Planning and Real Estate and Economic Development Departments into the Community Development Department.

Staff size will be reduced, but even so, staff is estimating that an additional 6 to 10 people will have to be laid off this fiscal year, with significant additional layoffs required during the following fiscal year. In keeping with the Council's wishes, planning for staff layoffs will not include personnel in the highest priority services for the coming fiscal years.

4. While the Council has stated that staff is not to utilize cash reserves to balance the budget, the Council could utilize approximately \$2.3 million dollars of the uncommitted General Fund cash reserve balance and keep a 10% reserve total.

January 21, 2009

TO: <sup>PN</sup> Phil Nelson, City Manager  
FROM: Charles T. Craft, Chief of Police  
SUBJECT: Potential Revenue Sources



In response to Council's request for additional information regarding potential revenue sources and cost recovery possibilities, the following has been determined:

- **Property Damage/Injury Traffic Crash Cost Recovery** – A specific cost recovery ordinance is required assessing a fee to ticketed at fault drivers. If such an ordinance is enacted, the 52-4 Court indicates that they will comply with it and collect the money. Department policy requires that at fault crash drivers be cited for the hazardous action that caused the crash; assessing the cost recovery fee with the citation payment is the most efficient, effective, and fair manner of collecting the revenue.
- **Booking Fee** – State law allows for the recovery of up to \$60.00 per day from detainees who are ultimately convicted. This requires a cost recovery ordinance and assistance from the City Attorney's Office.
- **Traffic Citation Vehicle/Fuel Cost Recovery** – Like traffic crash cost recovery, a specific cost recovery ordinance is required. The fee would be assessed on each citation, collected by the court and returned to the City.

Each of the above listed actions requires City Council to implement specific cost recovery ordinances. If so directed, the Police Department will undertake the development of the ordinances.

In addition to those areas already considered by Council, the following revenue enhancements are being implemented or are under consideration:

- **Traffic Citation Fine Increase** – The 52-4 District Court expects to have a \$10.00 increase on all traffic fines in place by April of 2009. This will yield approximately \$36,000 annually in increased revenue. No action is required on our part.
- **OWI (Drunk Driving) Forfeiture Recovery** – The Oakland County Prosecutors Office has created an Economic Recovery Unit and they are proposing the use of forfeiture procedures on OWI 2<sup>nd</sup> and 3<sup>rd</sup> offense vehicles. This program is being used in other jurisdictions and will require the approval of the District Court

Judges. Potential revenue is approximately \$60,000 annually. No action is required on our part.

- **Motor Carrier Enforcement** – State law allows for the recovery of 70% of commercial vehicle fines if the Commercial Vehicle Code is adopted as city ordinance. We are working with the City Attorney on this and hope to have something for City Council in February 2009. Revenue amounts are unknown.

We continue to investigate cost recovery possibilities and ready to move forward on these upon direction. As for the specific amount of the fees, the figures provided (traffic crashes, vehicle/fuel cost recovery) are estimates and are probably on the low end. Prior to proposing an ordinance we will develop a fee that is based to some degree on the cost of service rendered.



**City of  
Troy**

Charles T. Craft, Chief of Police  
Troy Police Department  
500 West Big Beaver Road  
Troy, Michigan 48084

OPERATIONS DIVISION  
248-524-3426

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## MEMORANDUM

DATE: January 20, 2009  
TO: Captain Colleen Mott  
FROM: Lieutenant David Livingston  
RE: Cost Recovery Status Report for City Council

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The following is a summary of some options I feel are worth implementing for cost recovery purposes:

### **Citation Fine Schedule Increase**

Recently I spoke with the 52/4 District Court Administrator, Jim VerPlugg, regarding cost recovery programs. Mr. VerPlugg indicated he hoped to increase the fine schedule for each traffic infraction by an amount of \$10.00.

Mr. VerPlugg has a meeting with the judges on Friday, January 23, 2009, to discuss this. He is hopeful the increase will be approved. He will let me know the results of his meeting. Mr. VerPlugg said that if the proposal is approved the increases would probably begin sometime in April 2009.

If in fact an increase in the fine schedule is approved, it would mean an additional cost recovery of about \$36,000.00, based on 12,000 annual citations at the \$ 3.00 (30%) amount the court would send to us for each citation.

### **Property Damage and Personal Injury Crash Fees**

I also spoke with Mr. VerPlugg regarding additional fees attached to citations written to those at fault in traffic crashes. I told him about one city (Livonia) that adds an additional surcharge to the citation fine schedule on those citations issued to drivers found at fault in traffic crashes. Mr. VerPlugg indicated that if the Troy City Council enacted an ordinance and **phrased the ordinance as a cost recovery measure,**

the 52-4 District Court would comply with it. The amount of the surcharge decided on by the City Council would then be given entirely to the City, similar to how the OWI cost recovery program works now in the court.

**If the ordinance only called for an increase in the fine schedule for those found at fault at traffic crashes, the City would only get 30% of the fine and costs associated with the citation.**

I spoke with Sue Lancaster about this possibility. Sue told me that she was working on an ordinance that would call for repayment for services rendered at crash scenes where additional personnel were needed, either for traffic control, wash downs using fire equipment, or other services such as vehicle extractions, Haz-Mat situations, etc. I sent Sue some information I had regarding the research I have already done on that cost recovery venture.

It appears that the work being done by the Legal Department on the cost recovery program involving emergency personnel (police and fire) is something the Legal Department is putting together in lieu of the surcharge option I posed to Mr. VerPlugg. The Legal Department is also developing a form to be used at the scenes of these calls for service to document the number of additional personnel and extra equipment that were used to service the call to make it easier for billing purposes.

I got the feeling in speaking with Sue that the Legal Department is going ahead with work on developing a cost recovery ordinance that will provide cost recovery options for emergency responses to calls for service involving emergency personnel and equipment.

If, for the sake of argument, we were to get an ordinance that placed a \$50.00 surcharge on all traffic crash citations issued at crash scenes, it could generate anywhere from \$150,000.00 to \$200,000.00, based on over 4,000 traffic crashes in the City of Troy last year.

I am not sure what cost figures or presumptions are being made with regard to the cost recovery program being developed by the Legal Department.

### **OWI Forfeiture Recovery**

The Oakland County Prosecutors Office has a new Economic Recovery Unit (forfeiture) headed by Kim Mitseff. I am going to meet with her on Thursday, January 22, 2009, to discuss the program and find out what we need to do, as an agency, to get involved in this process. The program itself is basically ready to roll. The only delay right now would come if the District Court judges do not want to participate in the program. Kim indicated most District Court judges she has had contact with have no problems with it.

Basically, the way the forfeiture program works is that when a subject is arrested for OWI 2<sup>nd</sup> or OWI 3<sup>rd</sup>, they are issued an "Intent to Forfeit" letter from the arresting

officer. The vehicle is seized and towed to the impound yard and held there until the case is disposed of.

For OWI 2<sup>nd</sup> offenses, the forfeiture is \$ 900.00. For OWI 3<sup>rd</sup> offenses, the forfeiture is for \$ 1,800.00. Kim indicated that in 99 out of 100 cases the owner pays the sum rather than have the vehicle permanently seized.

Of the forfeiture sum, the arresting agency will get one-half of the sum. Twenty-five percent goes to a county program and the other twenty-five percent goes to the prosecutor's office.

The only time a forfeiture proceeding can be done on an OWI 1<sup>st</sup> is if the driver is involved in a crash that leads to a death or serious injury.

Last year the Troy Police Department made sixty-four (64) OWI 2<sup>nd</sup> arrests. Using that figure, the City would have received over \$28,000.00 in forfeiture funds. We also made thirty-six (36) OWI 3<sup>rd</sup> arrests. Using that figure the City would have received over \$32,000.00 for a total of over \$60,000.00. This total would be in addition to the OWI cost recovery figure we currently receive from the 52-4 District Court.

This forfeiture program has been very successful in Macomb County for the past two to three years. St. Clair Shores is one city that uses the program.

I believe this is a **very good** avenue to pursue for cost recovery considerations. I will work closely with the Oakland County Prosecutors Office to try to get this type of program going for the Troy Police Department. As long as the District Court judges agree to this program, we could conceivably be up and running with it in a short period of time because, according to Kim, the forms are already available.

I will keep you informed on the progress of our January 22, 2009, meeting.

### **Motor Carrier**

Another cost recovery avenue that I believe we should pursue involves the creation of a full-time Motor Carrier Officer. This officer will concentrate on safety inspections of commercial vehicles that travel within the City of Troy. The fines for some of the equipment violations are much higher than those associated with passenger vehicles. The State of Michigan also **allows cities to obtain 70% of the fines** associated with these commercial violations.

The only problem we have now is to get the City to adopt the commercial vehicle laws as written in the Motor Vehicle Code and the Uniform Traffic Code. Once the City of Troy adopts those laws the Motor Carrier officer, and the other three commercial vehicle inspectors we have in the Traffic Safety Unit, can write the violations under **CITY ORDINANCE**, which means the 70% cost of the fines would go to the City of Troy.

Sue Lancaster, in the Legal Department, is working on this and hopes to have an ordinance proposal ready for City Council approval by February 2009. She is hoping to have it ready by February 2, 2009.

I believe that if we concentrate our efforts on enacting laws/ordinances that would enable the Troy Police Department to recoup costs utilizing the programs listed above, we could generate a significant amount of revenue.

It is difficult to pinpoint an exact figure of how much we could recover based on the unknowns associated with the Motor Carrier venture and the cost recovery program being authored by the Legal Department, but I AM confident that the amount would be substantially more than what we are getting now for providing these services.

Please let me know if you have any questions or concerns regarding this information.



Charles T. Craft, Chief of Police  
Troy Police Department  
500 West Big Beaver Road  
Troy, Michigan 48084

SERVICES DIVISION  
248-680-7224

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## MEMORANDUM

DATE: January 21, 2009  
TO: Chief Craft  
FROM: Lieutenant Lyczkowski  
RE: The Inmate Reimbursement to Municipalities Act  
CC: Deputy Chief Mayer; Captain Frye

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The Inmate Reimbursement to Municipalities Act (Act 88 of 2006) allows a municipality to seek reimbursement from any person, who is ultimately convicted, for the costs associated with that person's pretrial detention. A summary of the law is as follows:

- The municipal treasurer may determine the amount due to the municipality.
- The municipality shall develop a form to determine the financial status of the inmate.
- Reimbursement shall not exceed \$60 per day.
- Reimbursement may be ordered as a condition of probation.
- The municipal attorney may file a civil action to seek reimbursement in the district court.
- Reimbursement shall be credited to the municipality's general fund.

In 2008, we processed 2750 prisoners in Lockup. The number of prisoners has been relatively consistent for several years. This represents a potential for an approximate annual revenue of \$165,000, if we collect the maximum fee from each person.

Assistant City Attorney Sue Lancaster is assisting us with this project. It is the City Attorney's intent to pursue reimbursement through restitution orders from the applicable courts of jurisdiction. The Statute appears to grant that authority to the courts. Sue Lancaster is currently working to establish a protocol for determining the

financial status of our pretrial detainees and seeking reimbursement through restitution with the appropriate courts.



# Fire Department

## MEMORANDUM

January 16, 2009

TO: Phil Nelson, City Manager

FROM: William Nelson, Fire Chief *WLN*  
 David Roberts, Fire Marshal *DR*

RE: Business Occupancy Permits

### Purpose

The purpose for business occupancy permits is to ensure potential new occupants in existing commercial and industrial businesses an orderly and informative process by which to occupy without violating the requirements of the Fire Prevention Ordinance, Troy City Code Chapter 93.

### Reason

The Fire Prevention Division has encountered countless occasions where a business either unknowingly occupies a building or tenant space in violation of the Fire Prevention Ordinance, or seeks input from the City but is not properly informed of the appropriate requirements for occupancy. In either case, the result is a business in violation of the ordinance, potential business interruption and additional expenditures in order to comply with the ordinance, and the embarrassment of having to explain why the business was misinformed by "the City" to begin with. Oftentimes, the business being conducted contains materials and processes that are of a hazardous nature to the occupants, their neighbors, and to responding firefighters in the event of a fire.

### Proposal

We believe that a business occupancy permit requirement, with a one-time initial fee to help defer the cost of the permitting process, would help to alleviate fire safety concerns. Working in conjunction with other departments such as the building department, real estate & development, planning, and community affairs; and agencies like the Chamber of Commerce and local realtors, would help publicize this requirement in a pro-active manner thereby saving the potential hassles of an after-the-fact remedy. We anticipate being able to administer this requirement with existing staff.

### Revenue

According to information provided by the assessing department, there were 464 new commercial occupants who moved into the City from 2007 to 2008. If the permit fee were \$100.00, for example, this would yield \$46,400 in revenue for that time frame.

### Conclusion

We believe a one-time business occupancy permit and fee will; 1) Help alleviate potential hazards as a result of unregulated business occupancies; 2) Provide a customer-friendly relationship with new occupancies; 3) Avoid costly after-the-fact remedies; and 4) generate a modest yet helpful source of revenue to address the City's current economic situation.



TO: The Mayor and City Council

FROM: <sup>PLN</sup> Phil Nelson, City Manager

SUBJECT: Additional Information Requested by City Council Regarding  
 Potential New Revenue Sources/Expenditure Savings:  
Buy Distressed Property in Troy and Use to Rebuild for the Future

DATE: January 21, 2009

As part of the overall budgeting process, staff provided a listing of possible revenue enhancements as well as possible expenditure cuts in an effort to balance the next fiscal year budget. One of the options listed was the purchase of distressed properties to rebuild for the future.

The basic premise is to purchase properties in areas that are identified in the Comprehensive Development Plan for changes in longer-term land use. By purchasing the homes now, or within the capital improvement 6-year timeframe, the City could keep the costs of acquiring the properties to today's prices, or, in some cases, the City could purchase and raze the property, re-designate the property to a higher land use and zoning classification and prepare for future changes in land uses. The City or the Downtown Development Authority (DDA), where applicable, could also use ownership of the land as leverage should a developer plan something in the areas that have been purchased. The land could either be sold to the developer, or the City or DDA could go into partnership with the City or DDA holding additional leverage in what is constructed and to make sure that the development would fit the concepts of the Comprehensive Plan or the Big Beaver Corridor Study.

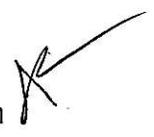
Areas that could be considered for possible redevelopment could include: Big Beaver Road within the DDA boundaries, Rochester Road, and Maple Road.

The up side of the proposal is that the City starts the redevelopment process to provide some conformance with longer-range policy documents, could either be partners in future development, or could have leverage as to what is built so as to get the highest potential uses and value on the property.

The down side of the proposal is that purchasing the properties and changing land uses or zoning could impact remaining adjacent properties with increased valuations that could mean higher property tax payments. Vacant properties owned by the city would also mean additional maintenance responsibilities, and would take the properties from the tax rolls.

January 20, 2009

PN



To: John M. Lamerato, Assistant City Manager/Finance and Administration

From: Carol K. Anderson, Parks and Recreation Director

Subject: Nature Center Budget Reductions

This memo provides an informational update to the proposed changes (increased revenues/decreased expenses) for the 09-10 Nature Center budget.

Proposed decreases in budget expenses:

Contractual Services	2,000
Supplies for Resale	2,000
Computers	8,580
Part-time personnel hours - 750	<u>9,708</u>
Total	\$22,288

Proposed revenue increases:\*

Admission charge @ \$1	\$10,000
Annual admission pass	7,600
\$10 individual/\$25 family	
Adopt NC animals	1,300
Group Hayride tours at farm	1,480
Antique flea market at farm	<u>2,600</u>
Total	\$24,180

\*Proposed revenues are net.

The proposed reductions and increases to the Nature Center are intended to keep the experience of the user intact but impact the budget. The Nature Center programs and activities along with the building and trails/grounds are utilized by many people in our community. The opportunity to experience the out of doors and the educational opportunities at the Nature Center are unique in the community. However, there is an awareness that changes to the budget be made for long term viability.



## CITY COUNCIL REPORT

DATE: January 20, 2009

TO: Phillip L. Nelson, City Manager

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

SUBJECT: Agenda Item – Additional Information  
Potential New Revenues  
Implementation of Single-Family Rental Inspection Program

### Background:

- At the City Council Study Session of November 24, 2008, City Council asked for additional information regarding the potential new revenue item for implementing an inspection program for single-family residential homes that are used as rental property.
- The inspections are intended to be done to insure the health and safety of residents that do not have direct control over the condition and maintenance of the dwelling in which they live.
- The exact number of homes that are used for rental property is not exactly known.
- We do, however, know that approximately 1,900 single-family homes in the City of Troy do not claim a homestead exemption on their property tax.
- We also have approximately 120 dwelling units in duplex structures.
- If we require an inspection of these structures every other year, the same frequency that we use for multifamily units, then we would be inspecting approximately 1,000 units per year.
- Other cities such as Madison Heights, Royal Oak, Southfield, Birmingham, already have such an inspection program in place.
- At a projected fee of \$75 per inspection to cover the costs of administering the program, this would generate approximately \$75,000 annually.
- This revenue would cover staff time, vehicle expense, computer expense, office supplies, postage, and clerical costs.
- A review of fees from other the cities that already have a program in place show that they range from \$65 to \$200 biannually.
- Based upon current workloads, the inspections would be conducted utilizing current staffing levels.
- The initial implementation of this program would inherently require a substantial informational program and education of the public on the new requirements.

- Also the initial round of inspections would undoubtedly reveal a number of code violations and instances of work that was done without permits. These would result in a number of new permits that would be required to legitimate and correct faulty work.

Financial Considerations:

- Implementation of an inspection program for single-family residential rental homes would potentially result in annual revenues of \$75,000.

Legal Considerations:

- The adoption of a program of inspection of single-family rental dwellings is permitted by PA 408 of 2008.

Policy Considerations:

- G. Continue inspection services
- K. Continue code enforcement
- M. Investigate funding options that reduce demand on the City's budget.

Options:

- City Council can direct staff to prepare ordinance language to implement an inspection program for single-family residential rental dwellings.
- City Council can choose not to direct staff to prepare language.

# SINGLE FAMILY RESIDENTIAL RENTAL INSPECTION PROGRAM SURVEY

CITY	PROGRAM YES OR NO	FEE	COMMENTS	REQUIRED INSPECTIONS
Berkley	YES	\$200.00		EVERY 2 YEARS
Birmingham	YES	\$125.00		EVERY 2 YEARS
Bloomfield Hills	NO			
Bloomfield Twp	NO			
Farmington Hills	NO			
Ferndale	YES	\$65.00		EVERY 2 YEARS
Hazel Park	YES	\$200.00		EVERY 2 YEARS
Madison Heights	YES	\$90.00	\$30 reinsp fee beyond 1 reinsp.	EVERY 2 YEARS
Novi	NO			
Orion Twp	NO			
Pittsfield Twp.	YES	\$150.00		
Plymouth	NO			
Rochester Hills	NO			
Royal Oak	YES	\$100.00		EVERY 2 YEARS
Southfield	YES	\$200.00		
Sterling Heights	NO			
Warren	YES	\$125.00	\$40 reinsp fee	EVERY 2 YEARS

Survey Conducted January 2009



## CITY COUNCIL REPORT

January 21, 2009

TO: Phillip L. Nelson, City Manager

FROM: Brian P. Murphy, Assistant City Manager/Economic Development Services  
Timothy L. Richnak, Public Works Director

SUBJECT: Additional Information Requested by City Council Regarding  
Potential New Revenue Sources/Expenditure Savings:

- 1) Limit Snow Plowing of Subdivisions to Straight Time, with Minimum Overtime
- 2) Reduce Number of Right-of-Way Mowing from 6 to 3 Cuttings Per Year

1) Plowing subdivisions on straight time with minimal overtime hours would result in the following:

- Subdivisions plowed with a 4" plus snowfall generally take 24 hours of plowing. Without overtime this operation would take three 8-hour days in addition to any days that would fall on a weekend. It would be possible that it could be 5 days before all subdivision streets would be cleared.
- Subdivisions plowed with an 8" plus snowfall generally take 48 hours of plowing. Without overtime this operation would take six 8-hour days in addition to at least 2 weekend days. It would be possible that it could be 8 days before all subdivisions would be cleared.
- Cost reductions would vary from \$13,000 to \$38,000 per event based on the depth of the snow and the timing (weekends and Holidays or weekdays) of the event.

Currently the Road Commission for Oakland County employs this schedule and, due to storms subsequent to the 10" snowstorm on December 19, 2009, there are subdivisions that they still have not plowed as of January 12, 2009. If we were to employ this same operation, subsequent storms would extend the time it would take to clear all subdivision streets.

2) Reduction of right of way mowing from 6 cuttings to 3 cuttings would have the following effect:

- When mowing is performed 6 times per year the vegetation ranges between 6 to 9 inches tall at the time of mowing. With a reduction in mowing to 3 times per year the vegetation would be 12 to 18 inches tall at the time of mowing, much like what you see on vacant properties that we mow 3 times per year. This would reflect in a reduction in the budget of \$26,000.

The Road Commission for Oakland County only sends out a mowing crew to cut grass and weeds for sight distance problems at intersection with their county roads. Due to our higher standard of mowing, location on all major roads including the county roads are generally cut before the county crews get out on the roads in Troy. When the county does mow they only make one pass with the mower (approximately 5') they do not mow the entire area between the curb and sidewalk.