

AGENDA

Meeting of the

CITY COUNCIL OF THE CITY OF TROY

SEPTEMBER 28, 2009

CONVENING AT 7:30 P.M.

**Submitted By
The City Manager**

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 at least two working days in advance of the meeting. An attempt will be made to make reasonable accommodations.

TO: The Honorable Mayor and City Council
Troy, Michigan

FROM: John Szerlag, City Manager

SUBJECT: Background Information and Reports

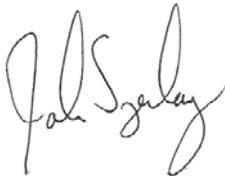
Ladies and Gentlemen:

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.

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

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "John Szerlag".

John Szerlag, City Manager



CITY COUNCIL

AGENDA

September 28, 2009 – 7:30 PM
Council Chambers
City Hall - 500 West Big Beaver
Troy, Michigan 48084
(248) 524-3317

CALL TO ORDER: 1

INVOCATION & PLEDGE OF ALLEGIANCE: Pastor Jerry Hines – Woodside Bible Church 1

ROLL CALL: 1

CERTIFICATES OF RECOGNITION: 1

A-1 No Presentations 1

CARRYOVER ITEMS: 1

B-1 No Carryover Items 1

PUBLIC HEARINGS: 1

C-1 No Public Hearings 1

POSTPONED ITEMS: 1

D-1 No Postponed Items 1

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REGULAR BUSINESS: 1

- E-1 Appointments to Boards and Committees: (a) Mayoral Appointments: Downtown Development Authority; Economic Development Corporation; and Local Development Finance Authority (b) City Council Appointments: Animal Control Appeal Board; Cable Advisory Committee; Ethnic Issues Advisory Board; and Parks & Recreation Board 2

- E-2 Nominations for Appointments to Boards and Committees: (a) Mayoral Nominations: None Scheduled (b) City Council Nominations: Advisory Committee for Senior Citizens; Ethnic Issues Advisory Board; Historic District Commission; Personnel Board; and Youth Council 4

- E-3 Six-Year Organizational Restructuring Plan for the City of Troy; Fiscal Year 2009/10 through 2014/15 – Presentation by John Szerlag, City Manager with Assistance from Robert Daddow, Deputy County Executive and Matt Farrell, President of Core Partners 5

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1. Establishment of an Industrial Development District(IDD), Issuance of an Industrial Facilities Exemption Certificate (IFEC), and Plant Rehabilitation Exemption (PR) – Bostick Rochester Road Development, LLC and AxleTech International, LLC – 1400 Rochester Road 9

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CALL TO ORDER:

INVOCATION & PLEDGE OF ALLEGIANCE: Pastor Jerry Hines – Woodside Bible Church

ROLL CALL:

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

ABSENT:

- (b) Absent Council Members

CERTIFICATES OF RECOGNITION:

A-1 No Presentations

CARRYOVER ITEMS:

B-1 No Carryover Items

PUBLIC HEARINGS:

C-1 No Public Hearings

POSTPONED ITEMS:

D-1 No Postponed Items

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".

E-1 Appointments to Boards and Committees: (a) Mayoral Appointments: Downtown Development Authority; Economic Development Corporation; and Local Development Finance Authority (b) City Council Appointments: Animal Control Appeal Board; Cable Advisory Committee; Ethnic Issues Advisory Board; and Parks & Recreation Board

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 #2009-09-

Moved by

Seconded by

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

Downtown Development Authority

Appointed by Mayor (13-Regular) - 4-Year Terms

Michele Hodges – in district

Term Expires 09/30/2012

Daniel MacLeish – in district

Term Expires 09/30/2012

Harvey Weiss – in district

Term Expires 09/30/2012

Economic Development Corporation (EDC)

Appointed by Mayor (9-Regular) - 6-Year Terms

Mark F. Miller – Acting Asst. City Mgr/Economic Dev. Services **Unexpired Term 04/30/2011**

Local Development Finance Authority (LDFA)

Appointed by Mayor (5-Regular-Staggered) - 4-Year Terms

John Szerlag – City Manager; Troy Resident **Unexpired Term 06/30/2011**

Yes:

No:

b) City Council Appointments

Suggested Resolution

Resolution #2009-09-

Moved by

Seconded by

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

Animal Control Appeal Board

Appointed by Council (5-Regular) - 3-Year Terms

Al Petruilis **Term Expires 09/30/2012**

Vincent James Viola **Term Expires 09/30/2012**

Cable Advisory Committee

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

Padma Kuppa **Term Expires 09/30/2012**

Ethnic Issues Advisory Board

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

Karen Yelder - 2-Year Term **Term Expires 09/30/2011**

Parks & Recreation Board

Appointed by Council – (7-Regular)Troy School District Rep. 1-Year Term; and Student 1-Year Term

Orestis (Rusty) Kaltsounis **Term Expires 09/30/2012**

Stuart Redpath **Term Expires 09/30/2012**

Yes:

No:

E-2 Nominations for Appointments to Boards and Committees: (a) Mayoral Nominations: None Scheduled (b) City Council Nominations: Advisory Committee for Senior Citizens; Ethnic Issues Advisory Board; Historic District Commission; Personnel Board; and Youth Council

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 – None Scheduled

b) City Council Nominations

Suggested Resolution

Resolution #2009-09-

Moved by

Seconded by

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

Advisory Committee for Senior Citizens

Appointed by Council (9-Regular) - 3-Year Terms

Unexpired Term 04/30/2012

Ethnic Issues Advisory Board

Appointed by Council (9-Regular) - 2 & 3-Year Terms

2-Year Term Term Expires 09/30/2011

2-Year Term Term Expires 09/30/2011

2-Year Term Term Expires 09/30/2011

Historic District Commission

Appointed by Council (7-Regular) - 3-Year Terms; Student – 1-Year Term

Term Expires 07/01/2010

Personnel Board

Appointed by Council (5-Regular) - 3-Year Terms

Unexpired Term 04/30/2011

Youth Council

Appointed by Council (13 Regular) - Student 1-Year Term

Term Expires 06/01/2010

Term Expires 06/01/2010

Yes:

No:

E-3 Six-Year Organizational Restructuring Plan for the City of Troy; Fiscal Year 2009/10 through 2014/15 – Presentation by John Szerlag, City Manager with Assistance from Robert Daddow, Deputy County Executive and Matt Farrell, President of Core Partners

E-4 Purchase of Fire Apparatus

Suggested Resolution

Resolution #2009-09-

Moved by

Seconded by

WHEREAS, Halt Fire Apparatus of Wixom, MI, is the sole local area distributor of Pierce pumpers;

WHEREAS, Staff and station officers evaluated a number of specifications and determined the PUC (Pumper Under Cab) manufactured by Pierce provided significant advantages over other designs; and

WHEREAS, The Fire Department has completed a sales analysis between other cities and found the pricing quoted for the City of Troy by Pierce through Halt Fire to be fair and equitable;

THEREFORE, BE IT RESOLVED, That Troy City Council hereby **WAIVES** formal bidding procedures and hereby **AUTHORIZES** the City of Troy to enter into a contract with Halt Fire Apparatus of Wixom, MI, to purchase two (2) Pierce PUC pumpers for an estimated total cost of \$490,268.00 each, utilizing the upfront payment discount option, with Halt Fire Apparatus to supply a 100% performance bond to guarantee satisfactory delivery; and

BE IT FURTHER RESOLVED, That Troy City Council hereby **AUTHORIZES** the Fire department to accept or reject bids on the open market or trade-in offers for two (2) out-of-service fire apparatus.

Yes:

No:

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.

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 #2009-09-
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:

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 #2009-09-

RESOLVED, That Troy City Council hereby **APPROVES** the Minutes of the 7:30 PM Regular City Council Meeting of September 14, 2009 as submitted.

F-3 Proposed City of Troy Proclamation: None Submitted

F-4 Standard Purchasing Resolutions:**a) Standard Purchasing Resolution 1: Award to Low Bidder – Outdoor Light Maintenance and Repair**Suggested Resolution

Resolution #2009-09-

RESOLVED, That Troy City Council hereby **AWARDS** a contract to provide two-year requirements of street light, parking lot, and athletic field light maintenance with an option to renew for one additional year to the low total bidder, Northern Sign Company, Inc. of Pontiac, MI, at unit prices and discounts contained in the bid tabulation opened August 19, 2009, a copy of which shall be **ATTACHED** to the original Minutes of this meeting, with expenditures not to exceed budgetary limitations, expiring September 30, 2011; and

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

b) Standard Purchasing Resolution 1: Award to Low Bidder – Street Light Installation/ReplacementSuggested Resolution

Resolution #2009-09-

RESOLVED, That Troy City Council hereby **AWARDS** a contract to provide two-year requirements of street, parking lot, and athletic field light installation and replacement with an option to renew for one additional year to the low total bidder, Corby Energy Services, Inc. of Belleville, MI, at unit prices and discounts contained in the bid tabulation opened August 26, 2009, a copy of which shall be **ATTACHED** to the original Minutes of this meeting, with expenditures not exceeding amounts budgeted, expiring September 30, 2011; and

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

F-5 Request for Recognition as a Nonprofit Organization Status from Ahren J. Savickas, President/Executive Director of *To Replant All Trees Association* (T.R.A.T.A.)Suggested Resolution

Resolution #2009-09-

RESOLVED, That Troy City Council hereby **APPROVES** the request from *To Replant All Trees Association* (T.R.A.T.A.), asking that they be recognized as a nonprofit organization operating in the community for the purpose of obtaining a charitable gaming license as recommended by City Management.

MEMORANDUMS AND FUTURE COUNCIL AGENDA ITEMS:

G-1 Announcement of Public Hearings:

- a) Zoning Ordinance Text Amendment (File Number: ZOTA 240) – Article 43 – BZA Provisions – October 5, 2009
 - b) Establishment of an Industrial Development District (IDD), Issuance of an Industrial Facilities Exemption Certificate (IFEC), and Plant Rehabilitation Exemption (PR) – Bostick Rochester Road Development, LLC and AxleTech International, LLC – 1400 Rochester Road – October 19, 2009
-

G-2 Memorandums:

- a) Proposed Language for Chapter 82 and Chapter 79 of the Troy City Code – Property Maintenance Code and Building Code
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COUNCIL REFERRALS: Items Advanced to the City Manager by Individual City Council Members for Placement on the Agenda

H-1 No Council Referrals Advanced

COUNCIL COMMENTS:

I-1 No Council Comments Advanced

REPORTS:

J-1 Minutes – Boards and Committees:

- a) Board of Zoning Appeals/Final – August 18, 2009
 - b) Board of Zoning Appeals/Draft – September 15, 2009
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J-2 Department Reports: None Submitted

J-3 Letters of Appreciation:

- a) Letter of Thanks to Mayor Schilling from Stanley Sidick Regarding Police Department Traffic Control
-

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

J-5 Communication from Parks and Recreation Director Carol Anderson Regarding Donation of Taxidermy Mounts to the Lloyd A. Stage Nature Center

J-6 Communication from Community Foundation for Southeast Michigan Regarding Contribution for Troy Museum and Historic Village

STUDY ITEMS:

K-1 No Study Items Submitted

PUBLIC COMMENT: Address of “K” Items

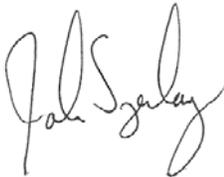
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CLOSED SESSION:

L-1 No Closed Session Requested

ADJOURNMENT

Respectfully submitted,



John Szerlag, City Manager

FUTURE CITY COUNCIL PUBLIC HEARINGS:

Monday, October 5, 2009

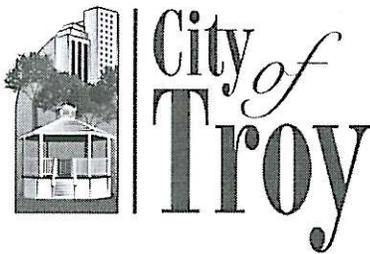
- 1. Zoning Ordinance Text Amendment (File Number: ZOTA 240) – Article 43 – BZA Provisions

Monday, October 19, 2009

- 1. Establishment of an Industrial Development District(IDD), Issuance of an Industrial Facilities Exemption Certificate (IFEC), and Plant Rehabilitation Exemption (PR) – Bostick Rochester Road Development, LLC and AxleTech International, LLC – 1400 Rochester Road

SCHEDULED CITY COUNCIL MEETINGS:

Monday, October 5, 2009.....	Regular City Council
Monday, October 19, 2009.....	Regular City Council
Monday, November 9, 2009.....	Regular City Council
Monday, November 23, 2009.....	Regular City Council
Monday, December 7, 2009.....	Regular City Council
Monday, December 21, 2009.....	Regular City Council



CITY COUNCIL REPORT & COMMUNICATION

September 18, 2009

TO: John Szerlag, City Manager

FROM: Nino Licari, City Assessor 

SUBJECT: Explanation of Projected Revenue Loss Due to Reduction in Taxable Value

Cc: John Lamerato, Assistant City Manager – Finance/Administration

Background:

The major factor necessitating the actions you must consider based upon the 6 year projection submitted by the City Manager is the unexpected loss of revenue set to occur in the next 2 fiscal years, caused by the reductions in Taxable Value. Bearing in mind that this would have occurred, eventually, albeit in a more gradual manner (in either 2 or 3 years), the fact is, it will occur next year, and must be dealt with.

Many questions we have received since the release of the 6 year reorganization memo have to do with the disbelief in the revenue projections. Hopefully, this memo will give you a zone of comfort with the veracity of the estimates, and help you to understand the need for immediate action.

This memo will address the loss in revenue due to the reduction in taxes, the major source of income for the General Fund.

Residential Value Projections:

The Residential Sales Study that the Assessor is mandated to use to set Assessments has been on a 12 month cycle for the past 3 years, and will continue to be for the foreseeable future. A 12 month study is mandated in a declining market to give the taxpayer the advantage of using the most current data feasible. This allows the assessment to more accurately reflect the present market, and show a lower value, and hence, lower taxes.

{In the 24 month study, which has been used since the early 1970's, the most recent sale occurs in the study 9 months before the date assessments are set. The oldest sale in the study occurs 33 months prior to the assessment date. This is done to buffer the impact of an increasing market, for the taxpayer}

The 12 month sales study uses the newest sales 6 months later in the cycle, or only 3 months prior to the assessment date. The oldest sale occurs 15 months prior to the assessment date. For the past 2 years, residential assessments have dropped approximately 8% per year. Taxable values for the first year still increased, based on the Consumer Price Index (CPI). However, Taxable value may never be higher than the Assessed Value. Last year, so many Taxable Values were equal to the Assessed Value, that the reduction in Assessed Value caused 43% of residential properties to have a reduction in Taxable Value, and thus, a reduction in taxes.

While the remaining 57% of residential properties had an increase in Taxable Value of between 0.01% and 4.40% (the CPI was 4.4%), the reduction in Taxable Value on the aforementioned residential properties, plus the drop in Taxable Value on Commercial/Industrial (C/I) properties caused a net loss in Taxable Value of slightly less than 2% for all classes of property.

On average, residential assessments are set to drop 16% for the 2010/2011 fiscal year, or the 2010 Assessment Year. This reduction will eliminate any remaining differences between Assessed and Taxable Values on the residential class of property in the City. While there may be the very rare subdivision that experiences a slight increase in value, due to sales of homes there, this will be a major exception, and not the rule, and most likely, not a measurable percent of homes.

This 16% average reduction in residential values will equate to a Taxable Value reduction of just less than 13% on this class of property.

Additionally, the CPI for 2010 is projected to be 1.00, or less. This means that even if there remains a very few residential parcels with a slight gap between Assessed and Taxable Value, the Taxable Value cannot increase, and may have to decrease slightly.

This 16% reduction is higher than previous projections due to the large number of Bank Sales, and the effects of the economy, and employment outlook for the region.

Many people assume that foreclosure sales are causing the dramatic decreases in Assessments. This is not the case based just on those sales. Before foreclosures can be used in a 12 or 24 month study, they must be the common method of sale in the taxing unit (read entire City). That has not been the case.

{For last year's sales study, there were slightly less than 300 foreclosure sales. This worked out to approximately 1 in 3.4 sales (nowhere close to the most common method of sale). So far, for this study period, we have 135 foreclosures. This is approximately 1 in 8 sales, and far less than we have had in the past. This part of the market of sales seems to have peaked last year, and should be a non-factor within another year (2011 Assessments).}

However, foreclosure sales do have an effect on conventional sales, or non forced sales, and they have contributed to the reduction in value on non forced sales.

One other major contributor to the drop in residential assessments is now Bank Owned Sales. These are properties that were foreclosed upon, and then sold off by the banking industry. Banks must sell these properties, and get them off of their books within 18 months of foreclosure, by Federal Law.

Barring physical damage to the property, either by neglect, or on purpose by the previous owner, many of these sales approximate conventional sales prices, albeit lower, and must be used in the 12 month sales study. They, too, affect the price the public is willing to pay for the non forced sales of homes.

There are 254 Bank Sales for this year, about 1 in 4.2 sales. Many of these will be used in the 12 month study. Based on the Federal time frame for the banks to rid themselves of these properties, these sales may affect Assessments into the 2012 Assessment Year.

Commercial / Industrial Value Projections:

This is a critical component in the projected revenue loss for the next 2 years.

For the first time, a 12 month sales study has been mandated by the State for Commercial/Industrial (C/I) sales, instead of the conventional 24 month study that is charted below.

Previous 24 Month Commercial Industrial Sales Study Time Frame for 2010

2007	July	August	September	April	May	June
	October	November	December			
2008	January	February	March	April	May	June
	July	August	September	October	November	December
2009	January	February	March			

As the chart below shows, the 12 month study eliminates 18 months worth of higher valued sales, and includes 6 months worth of lower valued sales.

Newly Mandated 12 Month Commercial Industrial Sales Study for 2010

2007	July	August	September	April	May	June
	October	November	December			
2008	January	February	March	April	May	June
	July	August	September	October	November	December
2009	January	February	March	April	May	June
	July	August	September			

This one factor is the major difference between the earlier projection of a 5% reduction in Taxable Value, and the current overall 12% projected loss.

This new sales study forces a 17.5% reduction in C/I assessments for the 2010 year.

This reduction eliminates any difference in Taxable and Assessed Value for all C/I parcels. There is no longer any spread for the CPI to move Taxable Values by the rate of inflation. Any reduction in Assessed Value now means a corresponding decrease in Taxable Value, and thus, revenue.

{The reason that the 17.5% reduction in Assessed Value does not equate to a corresponding 17.5% reduction in Taxable Value is that there currently is a difference, overall, between Assessed and Taxable Values in the C/I class.}

While this drop in market value would still have occurred using a 24 month study, and while it would not have been as drastic in any one year, the fact is, this value loss would have occurred within the next 2-5 years in any case.

Residential and Commercial/Industrial Overall Change:

Using what little difference there is between Assessed and Taxable Values for both Residential and Commercial/Industrial properties limits the overall decrease in Taxable Value to 12%. This is where the bulk of the initial 2010/2011 revenue reduction occurs.

The Second Year of the Revenue Estimates:

While the market is expected to rebound slightly for the 2011/2012 year, we can be certain that the rest of the C/I value drop will occur in the second year.

Estimating the overall market value loss at 10% for 2011/2012, means an actual loss in revenue of the same amount, as there is no longer any difference between Assessed and Taxable Value.

Years 3 through 5 Estimates:

While any estimates past the first two years are given careful thought, and based on all data that is available at that time, they are still estimates, and can change with the times, and are therefore not fixed. However, each year, between August and October, the available market data is looked at, and corrections are made where necessary.

Industrial vacancy rates have continued to rise, and while the vacancy is not increasing as dramatically as before, it remains a problem. Office vacancy has hovered between 18 and 22% for the last 4 years, and shows an inclination of adding tenants, albeit at lower rents.

Oakland County Equalization has slightly more pessimistic forecasts for years 3, 4, and 5. Studying the Troy trends, and comparing them to past County forecasts leads me to a bit more optimistic estimate for Troy in years 3 through 5.

The first two year's projections remain very certain, (barring any unforeseen changes like the one made to the Commercial/Industrial Sales Study) and staff strives to be proactive, rather than reactive.



FROM THE OFFICE OF THE CITY MANAGER

September 9, 2009

TO: Honorable Mayor and City Council Members

FROM: John Szerlag, City Manager

SUBJECT: 6-Year Organizational Restructuring Plan for the City of Troy;
Fiscal Year 2009/10 through Fiscal Year 2014/15

Executive Summary

As discussed at previous budget sessions, operating revenues are projected to decline from now through fiscal year 2014/15. As such, the City of Troy is going to have to reduce its full-time workforce by approximately 170 people. This reduction amounts to over 1/3 of all full-time personnel and will necessitate changes to the organizational structure and service delivery venues.

Said another way, we are looking at a declining revenue line every year for the next 5 years; so much so that by fiscal year 2014/15, the aggregate difference between expenditures and revenue will be in the area of \$22.6 million. Of course, we cannot let this deficit stand, and thus \$22.6 million of cuts in General Fund operations are required to balance this and future budgets. The matrix below will provide insight on cuts required to General Fund expenditures on a year to year basis.

	2009/10 (in Millions)	2010/11 (in Millions)	2011/12 (in Millions)	2012/13 (in Millions)	2013/14 (in Millions)	2014/15 (in Millions)
Revenue	\$ 62.0	\$ 58.1	\$ 54.3	\$ 53.1	\$ 52.2	\$ 51.5
Expenditures	\$ 63.6	\$ 64.3	\$ 60.3	\$ 56.3	\$ 55.1	\$ 54.2
Proposed Cuts	\$ (1.6)	\$ (6.2)	\$ (6.0)	\$ (3.2)	\$ (2.9)	\$ (2.7)
Total	\$ 62.0	\$ 58.1	\$ 54.3	\$ 53.1	\$ 52.2	\$ 51.5
Fund Balance	\$ 10.5	\$ 10.5	\$ 10.5	\$ 10.5	\$ 10.5	\$ 10.5
F/B % of Budget	16.9%	18.1%	19.3%	19.8%	20.1%	20.4%

The desired outcome of this report is twofold:

1. The governing body needs to advise on an organizational restructuring option, and partner with City management and other stakeholders in the community to deliver this option. As such, I propose we meet once a week in a workshop session format until a solution is achieved. Please know that we need to work with a sense of urgency on this matter.

Honorable Mayor and City Council Members
6-Year Organizational Restructuring for the City of Troy
September 9, 2009

Executive Summary, continued

2. Identification of alternatives to lessen the impact of reduced service delivery and mitigate workforce reduction. These alternatives are delineated later in this memo.

Assumptions

1. General Fund revenues are projected to decrease every year for the next 5 years, primarily due to market conditions impacting assessed valuations, and reductions in state shared revenue. We estimate a decline in revenues from \$62.0 million in fiscal year 2009/10 to \$51.5 million in fiscal year 2014/15.
2. General Fund costs will increase at 2% per year because of items like insurance, utilities, materials, and other personnel related costs.
3. Personnel related costs constitute about 71% of all General Fund expenditures. However, this report takes all cost-reduction on the personnel side of the ledger. I know this is a conservative approach, but it may allow us to reinstate some positions as we receive more accurate data over time. Now, having made the rule, let me state an exception. General Fund expenditures this fiscal year are going to be greater than revenues to the tune of about \$1.6 million. And instead of looking to reduce the workforce this fiscal year, we are first looking to other venues which will be detailed in my next report to you. However, there are no guarantees, and we may reduce the workforce this fiscal year.
4. The restructuring models do not incorporate a millage increase or use of any Fund Balance.
5. Privatization and/or regionalization will save roughly 40% compared to the cost of providing services in-house. As an example, let's say a portion of the Building Department was privatized, and 10 employees were laid off as a result thereof.

If the savings from these lay-offs came to \$1 million, the assumption is that it would cost the City \$600,000 (or 60%) to have a private sector firm perform a similar on-demand type of service; hence the 40% savings.

Please know that I did not include any consolidation efforts in the service delivery options because a result cannot be guaranteed by a certain point in time. That said, it should be considered as a parallel option, and a valid one if consolidation can be achieved within an appropriate time frame.

Honorable Mayor and City Council Members
6-Year Organizational Restructuring for the City of Troy
September 9, 2009

Methodology

We are a mid-size complex organization delivering an array of life-safety, regulatory, and quality of life services. So when reducing expenditures to match a declining revenue line, the options available to restructure the organization are so numerous as to become cumbersome. Therefore, two general restructuring options have been developed so as to be a manageable starting point for our discussions. Before going there, however, I wish first to provide a definition of terms.

For the sake of this report, privatization means that an outside private sector firm will perform the service on behalf of the municipality. An example would be utilization of outside civil engineers to perform work currently performed in-house by civil engineers.

Regionalization means that another layer of government will perform the service on behalf of the City. An example here is that Oakland County Assessing Department can perform some or all of the Assessing functions for the City of Troy.

Consolidation means that local units of government agree contractually to perform a service so as to achieve an economy of scale. We have examples of consolidation here in Troy like our contract with Clawson for police dispatch and jail services. And although consolidation is not included in any of our models, it should not be discounted and City management will continue to attempt partnerships with our surrounding communities so as to achieve an economy of scale. Again, the models do not include consolidation efforts in the service delivery options because a timeframe cannot be guaranteed for implementation, and our financial crisis mandates a timely resolution.

Our methodology was to look at each department and determine if it could be privatized, regionalized, consolidated, retained in-house, or a combination thereof. Departmental elimination was also viewed as a method to reduce costs.

Outlined below are two options available to us given the above slate of assumptions:

Option 1

The following departments would be eliminated:

- Library
- Community Center
- Museum
- Nature Center
- Community Affairs
- Risk Management (function will still be maintained)

Honorable Mayor and City Council Members
6-Year Organizational Restructuring for the City of Troy
September 9, 2009

Option 1, continued

The following departments would be privatized to varying degrees:

- Building Inspection
- Engineering
- Public Works
- Parks and Recreation
- Human Resources
- Real Estate and Development

Most of the City Assessor's Office personnel would be regionalized as Oakland County would take over this function.

The following departments would experience reduction of employees:

- City Attorney's Office
- City Clerk's Office
- Purchasing
- Finance

The Fire Department would lose 3 full-time personnel and 1 part-time person.

The impact on the Police Department under this option will be a reduction of 47 full-time personnel. This represents a combination of sworn and non-sworn employees.

Option 2

This option keeps the Library, Community Center and Museum opened on a limited basis. In order to accomplish this, however, lay-offs in the Police Department must increase by 20, bringing the total decrease from 47 personnel to 67 personnel. Please know that 67 personnel in the Police Department represent about 35% of departmental strength. Of course, other departments listed in **Option 1** for elimination, privatization, regionalization, and reduction would still be in place.

Options to Lessen the Impact of Reduced Services and Mitigate Workforce Reduction

- 1) Seek employee concessions. Please know that I'm currently working with our labor attorney and HR director on this matter. This is subject to contract negotiations, and legal restrictions. However, fiscal year 2014/15 calls for a 32-hour work week for all full-time employees with the possible exception of employees in the Police and Fire Departments. This was the most functional way to balance the 2014/15 budget.

Honorable Mayor and City Council Members
6-Year Organizational Restructuring for the City of Troy
September 9, 2009

Options to Lessen the Impact of Reduced Services and Mitigate Workforce Reduction, continued

- 2) City Council can ask the voters if they wish to approve a General Fund millage increase.
- 3) City Council can ask the voters if they wish to approve a millage increase for a specific use, like a library.
- 4) City Council may be able to establish an independent library board separate from the City of Troy's General Fund and levy up to one mill for the operation thereof. This could possibly be accomplished without voter approval. Legal counsel is researching this matter.
- 5) City Council can authorize the use of the Budget Stabilization Fund, Fund Balance, and increase some administrative fees.
- 6) City Council can transfer some funds from General Capital to General Operating, although I would not recommend any reduction to Capital Funds allocated for road improvements.

Conclusion

This is a complex issue, and I'm sure you have many questions I did not address. I stand ready to answer them. Additionally, a more detailed report is forthcoming on the ramifications of these options in terms of level of service.

c: Department Directors



CITY COUNCIL ACTION REPORT

September 15, 2009

TO: John Szerlag, City Manager

FROM: Susan A. Leirstein, Purchasing Director
William S. Nelson, Fire Chief

SUBJECT: Purchase of Fire Apparatus

Background

The Fire Department operates a fleet of nine pumping engines to accomplish the mission of providing fire protection and related services to the citizens. Six of these engines are classified as rescue pumpers because, in addition to carrying fire suppression and related equipment, they also carry rescue equipment to effect vehicle and similar extrications at traffic crashes and industrial accidents. In order to provide for uniformity in apparatus, a program was developed to replace five engines over a five year period beginning with the 2008-2009 budget year. The apparatus scheduled for replacement are Engine 5-2 (1989) and Engine 6-2 (1991) these engines have reached the end of their useful life and require increased maintenance. The design of these engines is not conducive to carrying the current inventory of extrication and rescue equipment as well as the firefighting equipment required.

Staff and station officers evaluated a number of specifications and apparatus from various manufacturers. The consensus of the group is that the PUC (Pump Under Cab) manufactured by Pierce Manufacturing provides significant advantages over other designs.

The advantages include:

- Easily accessible pump location under the cab which greatly simplifies maintenance and repair.
- Larger storage capacity than comparable apparatus while maintaining a shorter wheelbase to permit maneuvering in apartment/business complexes.
- Power takeoff pump drive which eliminates the typical pump transmission which requires maintenance and occupies space that could otherwise be utilized for equipment storage.

The PUC design is manufactured only by Pierce Manufacturing Inc. The city of Clawson recently took bids on a Pierce PUC and received only one bid which was from Pierce Manufacturing Inc. Several other municipalities have specified the Pierce PUC design in 2008. In order to determine if the price proposed for the Troy units is consistent with other comparable sales, the attached comparison was developed showing the date of order, original sale price, and options on each unit. The bid price on the 2008 units was adjusted to incorporate two price increases applied by Pierce Mfg. The first price increase was an annual 3% increase applied in April 2008. The second price increase was a 3.5% increase applied in November due to the promulgation of the new NFPA 1901 standard which added a number of new requirements to fire apparatus that manufacturers had to incorporate effective January 1, 2009. There have been no price increases in 2009 to date.

September 15, 2009

To: John Szerlag, City Manager
Re: Purchase of Fire Apparatus

Background - continued

There is a significant variance in options on the units in the comparison. This is primarily due to the diversity of missions of the fire departments purchasing the apparatus. The Troy unit has a larger generator and hydraulic rescue tool pump included due to the additional rescue functions performed by our pumpers. In many other departments, EMS units or other dedicated units carry the rescue equipment.

New diesel engine exhaust emission requirements take effect on January 1, 2010, which will increase the cost of diesel engines in fire apparatus by an estimated \$12,000-\$15,000 each. Pierce Mfg. has indicated that they will supply diesel engines meeting current requirements on apparatus ordered by September 30, 2009.

Pierce Mfg. offers a prepayment discount of \$38,344.00 if both engines are paid in full with the order. The prepayment option includes a performance bond to protect the City. If the City opted to pay upon delivery, then the performance bond could be waived and \$3,992.00 could be deducted from the price of each apparatus.

The following is a summary of the pricing of these two engines:

List price	\$620,350 ea.
Typical bid amount	\$539,435 ea.
No Bid tag on	\$509,435 ea.
Prepayment disc.	\$490,268 ea.

Financial Considerations

Funds are budgeted and available in the Capital – Fire Apparatus Replacement account #401.336.338.7984 for the two apparatus.

Legal Considerations

Formal bidding procedures are waived, as no benefit would be derived from soliciting formal bids.

Policy Considerations

The purchase of two Pierce PUC pumpers supports the volunteer firefighters who help to make this a safe community. (Outcome Statement I)

Recommendation

City management recommends awarding a contract to purchase two (2) Pierce PUC pumpers from the sole local area distributor, Halt Fire Apparatus of Wixom, MI, for an estimated total cost of \$490,268.00 each utilizing the upfront payment discount option, with Halt Fire to supply a 100% performance bond to guarantee satisfactory delivery. In addition, the Fire department requests authorization to offer for sale on the open market two (2) out-of-service fire apparatus.



HALT FIRE
INCORPORATED

Heroes.
They Deserve the Best.

September 17, 2009

Chief William Nelson
Troy Fire Department
500 W. Big Beaver
Troy, MI 48084

Dear Chief Nelson:

Attached is our proposal for your new pumpers. This price is based on the final version of the specifications that you have in your possession. The price of the pumpers are based on the group purchase bid, of which you have copies.

The total cost of each pumper is \$509,435.00. This price includes a 100% performance bond. If the city elects not to use any of the pre-payment options and does not require the performance bond, a total of \$3992.00 can be deducted from the price, for a new price of 505,443.00.

As I stated previously, this cost will increase \$15,000 per truck in the next month due to government mandated emission regulations.

Delivery of the pumpers will be 6 to 7 months after receipt of order.

If you have any further questions, please do not hesitate to contact me.

50168 W. Pontiac Trail • Unit 5
Wixom, MI 48393

Office: 248.669.0800
Facsimile: 248.669.8120

Sincerely,

Rick Sinclair
248-895-7531



Pierce Saber PUC

Troy Fire Department
September 16, 2009

The following are the pricing based on the configuration of the unit:

- List price @ \$620,350.00 each
- Typical bid amount @ \$539,435.00 each
- No Bid/Tag-On @ \$509,435.00 each

Tag-on option shows a savings of \$30,000.00 from the bid total. Prices above include the 100% performance bond.

PRE-PAYMENT OPTIONS

Chassis Payment Option

Pay for the chassis unit upon construction, \$198,653.00 in approximately four (4) months after the order is placed and a credit of \$5,960.00 will be deducted from each final invoice.

Upfront Payment Discount Option

Pay 100% upfront for the unit with a signed Contract or P.O. and a total of \$19,167.00 will be deducted from the contract total. The total amount to be sent to Pierce with a signed Contract or P.O. would be \$490,268.00. The upfront payment to be paid to Pierce Manufacturing, Inc.

Upfront Discount Breakdown

Bid total:	\$509,435.00
Interest Discount	-\$ 13,207.00
Chassis Discount	-\$ 5,960.00
Due with Contract	\$ 490,268.00

Clawson Fire Department
Clawson Michigan 48017

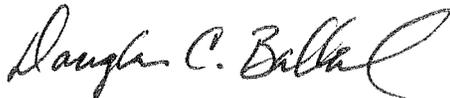
March 13, 2009

To: Mayor Luebs, City Council & City Manager
From: Douglas C. Ballard
Re: Multi- Purpose Fire Apparatus

We have received one bid for a Multi- Purpose Fire Apparatus. After reviewing the bid package , I am recommending the City accept the bid from Halt Fire Inc. that met and exceeded all specifications in the amount of \$428,127.00 - \$10,000.00 for trade in of 1988 Pierce pumper for total bid amount of \$418,127.00.

Please contact me if you have any questions or concerns at my office 248- 288-3222.

Respectfully,



Douglas C. Ballard
Fire Chief

CITY OF CLAWSON
126 N. MAIN STREET
CLAWSON, MI 48019

BIDS DUE: March 6, 2009

10:00 A.M.

PROJECT: "MULTI PURPOSE FIRE APPARATUS"

COMPANY	BID AMOUNT
1591 E. Highwood Pontiac 248-333-3712 LTM Fire Equipment	
50168 W. Pontiac Trail Unit 5 Wilom MI 48398 248-669-0800 Halt Fire Inc.	# 418,127.00

Troy Clawson Delhi Twp. Grand Blanc Allen Park Dearborn

Date Ordered		25-Mar-09	1/12/2008	3/28/2008	2/8/2008	2/29/2008
Cost at Order	\$509,435.00	\$428,127.00	\$555,521.00	\$467,483.00	\$450,600.00	\$455,678.00
4-2008 3% Increase	n/a	n/a	\$572,186.63	\$481,507.49	\$464,118.00	\$469,348.34
11-2008 3.5% increase	n/a	n/a	\$592,213.16	\$498,360.25	\$480,362.13	\$485,775.53
Adjusted Price	\$509,435.00	\$428,127.00	\$592,213.16	\$498,360.25	\$480,362.13	\$485,775.53
Options						
Generator	\$29,970.00	\$7,000.00	\$34,811.00	\$20,000.00	\$16,000.00	\$17,179.00
XRT Rescue tool Pump	\$23,400.00	\$0.00	n/a	n/a	n/a	n/a
Light Tower	\$16,227.00	\$0.00	\$15,567.00	n/a	n/a	n/a
Foam System	\$15,821.00	\$15,821.00	\$17,083.00	n/a	\$14,688.00	\$15,821.00
Body Difference	\$9,000.00	\$0.00				
Water Tank	\$9,300.00	\$3,000.00	\$3,000.00	\$3,000.00	\$3,000.00	\$3,000.00
Aluminum Wheels	\$3,900.00	\$0.00	\$3,900.00	n/a	\$3,900.00	\$3,900.00
Hatch Compartments	\$6,320.00	\$0.00	\$6,320.00	\$6,320.00	\$6,320.00	\$6,320.00
Roller Hose Bed Cover	\$6,600.00	\$0.00	n/a	n/a	n/a	n/a
Warning Light Diffrence	\$2,300.00	\$0.00				
Top Mount Pump Panel	n/a	n/a	\$5,500.00	n/a	n/a	n/a
Velocity Chassis	n/a	n/a	\$87,774.27	\$51,686.74	\$41,006.92	\$56,998.96
TAK-4 Suspension	n/a	n/a	\$8,500.00	\$8,500.00	\$8,500.00	\$8,500.00
Hydraulic Ladder Rack	n/a	n/a	\$6,000.00	n/a	n/a	n/a
Oil Dry Hopper	n/a	n/a	\$1,600.00	n/a	n/a	n/a
Tailboard w/backstop device	n/a	n/a	\$4,391.00	n/a	n/a	n/a
Side roll protection	n/a	n/a	\$6,126.00	\$6,126.00	\$6,126.00	n/a
Frontal air bags	n/a	n/a	\$1,693.00	n/a	\$1,693.00	n/a
Deluge gun electric	\$17,000.00	n/a	\$10,474.00	\$10,193.00	n/a	\$10,193.00
Deluge gun manual	n/a	\$5,738.00	n/a	n/a	\$3,341.00	n/a
Loose Equipment	\$0.00	\$36,000.00	\$9,500.00	\$5,400.00	\$4,802.00	\$4,150.00
Total Option Price	\$139,838.00	\$67,559.00	\$222,239.27	\$111,225.74	\$109,376.92	\$126,061.96
Total Equivalent Price	\$369,597.00	\$360,568.00	\$369,973.90	\$387,134.51	\$370,985.21	\$359,713.57

	Troy	Clawson	Delhi Twp.	Grand Blanc	Allen Park	Dearborn
Chassis price at time of order	\$198,635.00	\$180,080.00	\$266,077.00	\$232,192.00	\$222,164.00	\$237,180.00
Engine - Cummins ISL 425			\$51,815.00	\$51,815.00	\$51,815.00	\$51,815.00
Engine - Cummins ISL 400	\$61,657.00	\$61,657.00				
Transmission-EVS 4000			\$27,389.00	\$27,389.00	\$27,389.00	\$27,389.00
Transmission-EVS 3000	\$19,658.00	\$19,658.00				
Total Chassis	\$279,950.00	\$261,395.00	\$345,281.00	\$311,396.00	\$301,368.00	\$316,384.00
Total Chassis with Increases			\$367,724.27	\$331,636.74	\$320,956.92	\$336,948.96
Diference			\$87,774.27	\$51,686.74	\$41,006.92	\$56,998.96
Trade-in truck credit	n/a	-\$10,000.00	n/a	n/a	-\$38,000.00	n/a
Notes: Grand Blanc Pre-Paid for both trucks at time of order						

A Regular Meeting of the Troy City Council was held Monday, September 14, 2009, at City Hall, 500 W. Big Beaver Road. Mayor Schilling called the Meeting to order at 7:30 PM.

Reverend Dr. Bob Cornwall of Central Woodward Christian Church gave the Invocation. The Pledge of Allegiance to the Flag was given.

ROLL CALL:

Mayor Louise E. Schilling
Robin Beltramini
Cristina Broomfield
David Eisenbacher
Wade Fleming
Mary Kerwin

ABSENT:

Mayor Pro Tem Martin Howrylak – Out of County

CERTIFICATES OF RECOGNITION:

A-1 Presentations:

- a) On behalf of the City of Troy, Mayor Louise Schilling presented a proclamation to Reverend Dr. Bob Cornwall and Alice Bishop to celebrate the *30 Year Anniversary of Central Woodward Christian Church*.

CARRYOVER ITEMS:

B-1 No Carryover Items

PUBLIC HEARINGS:

C-1 No Public Hearings

POSTPONED ITEMS:

D-1 No Postponed Items

REGULAR BUSINESS:

E-3 Standard Purchasing Resolution 8 – Best Value Award – Towing Services

Public Comment received from:

Marc Deldin- Supports original submittal
Marvin Reinhardt – Supports original submittal
Tom Sawyer – Opposed original submittal
William Byers – Supports diligence of staff
Mario Valente – Opposed original submittal

Bill Briggs – Opposed original submittal

The meeting **RECESSED** at 9:05 PM.

The meeting **RECONVENED** at 9:15 PM.

Vote on Agenda Item E-3 Standard Purchasing Resolution 8 – Best Value Award – Towing Services

Resolution #2009-09-272

Moved by Kerwin

Seconded by Fleming

RESOLVED, That Troy City Council hereby **AWARDS** a contract to provide three (3) year requirements of towing services for the City of Troy's Police Department and Fleet Division with an option to renew for three (3) additional years to the bidder, A&M, Service Center, Inc. of Troy, MI, as a result of a best value process, at unit prices contained in the tabulation dated August 12, 2009, a copy of which shall be **ATTACHED** to the original Minutes of this meeting with a contract expiration of September 30, 2012; and

BE IT FURTHER RESOLVED, That the award is **CONTINGENT** upon submission of properly executed proposal and contract documents, including insurance certificates and all other specified requirements, and Troy City Council hereby **AUTHORIZES** the Mayor and City Clerk to execute the agreement, a copy of which shall be **ATTACHED** to the original Minutes of this meeting; and

BE IT FINALLY RESOLVED, That in the event the contract is terminated under provisions of the agreement, Troy City Council hereby **AUTHORIZES** City Management to reserve the right to negotiate a contract with other bidders in order of final ratings.

Yes: Schilling, Broomfield, Fleming, Kerwin

No: Beltramini, Eisenbacher

Absent: Howrylak

MOTION CARRIED

E-5 Designation of Voting Delegates at the National League of Cities 2009 Annual Business Meeting

Public Comment received from:

Marvin Reinhardt – Opposed

Resolution #2009-09-273

Moved by Eisenbacher

Seconded by Broomfield

RESOLVED, That Troy City Council hereby **DESIGNATES** Council Member Robin Beltramini as the Voting Delegate and hereby **DESIGNATES** Council Member Mary Kerwin as the

Alternate Voting Delegate to cast the vote of the City of Troy at the Annual Business Meeting of the National League of Cities to be held November 14, 2009 in San Antonio, TX.

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

MOTION CARRIED

E-6 City Council Absences

Public Comment received from:

Marvin Reinhardt – Opposed

Mary Ann Bernardi – Opposed action regarding the placement of Public Comment which occurred at the Regular City Council meeting of August 31, 2009

Resolution

Moved by Eisenbacher

Seconded by Broomfield

RESOLVED, That Troy City Council hereby **AMENDS** the Council Rules of Procedure with modification to the City Council Rules of Procedure as follows:

Rule 3. SPECIAL MEETINGS

D. ORDER OF BUSINESS

b) Roll Call

- (1) Listing of Council Members
- (2) Excuse Absent Council Members pursuant to Rule Number 21.

Rule 6. ORDER OF BUSINESS

4. Roll Call

- (a) Listing of Council Members
- (b) Excuse Absent Council Members pursuant to Rule Number 21.

Rule 21. ABSENCES AT COUNCIL MEETINGS

A. Council members desiring an excused absence who are unable to attend a Council meeting shall notify the City Manager, City Attorney and City Clerk of their absence in writing prior to the meeting and indicate the reason for the absence.

B. In the event of an absence of a Council Member at a meeting, the City Manager is directed to supply such absent Council Member with information about any special meetings that may have been scheduled.

Vote on Resolution to Amend Agenda Item E-6 City Council Absences

Resolution #2009-09-274
Moved by Eisenbacher
Seconded by Broomfield

RESOLVED, That Troy City Council hereby **AMENDS** proposed resolution for Agenda Item *E-6 City Council Absences* by **STRIKING** “desiring an excused absence who are unable to attend a Council meeting” and **INSERTING** “who are unable to attend a Council meeting and desiring an excused absence” in Rule 21 *Absences at Council Meetings, A*.

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

MOTION CARRIED**Vote on Resolution as Amended**

Resolution #2009-09-275
Moved by Eisenbacher
Seconded by Broomfield

RESOLVED, That Troy City Council hereby **AMENDS** the Council Rules of Procedure with modification to the City Council Rules of Procedure as follows:

Rule 3. SPECIAL MEETINGS

D. ORDER OF BUSINESS

- b) Roll Call
 - (1) Listing of Council Members
 - (2) Excuse Absent Council Members pursuant to Rule Number 21.

Rule 6. ORDER OF BUSINESS

- 4. Roll Call
 - (a) Listing of Council Members
 - (b) Excuse Absent Council Members pursuant to Rule Number 21.

Rule 21. ABSENCES AT COUNCIL MEETINGS

- A. Council members who are unable to attend a Council meeting and desiring an excused absence shall notify the City Manager, City Attorney and City Clerk of their absence in writing prior to the meeting and indicate the reason for the absence.
- B. In the event of an absence of a Council Member at a meeting, the City Manager is directed to supply such absent Council Member with information about any special meetings that may have been scheduled.

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

MOTION CARRIED

E-7 Scheduling a Special Meeting – Discussion of City Manager Szerlag’s Six-Year Organizational Restructuring Plan for the City of Troy; Fiscal Year 2009/10 through 2014/15

Public Comment received from:

Marvin Reinhardt – Opposed
Kumar Bhatt – Requests more information for residents
Mary Ann Bernardi – Requests more information for residents

Resolution #2009-09-276
Moved by Eisenbacher
Seconded by Beltramini

RESOLVED, That Troy City Council hereby **SCHEDULES** a Special City Council Meeting for Monday, September 28, 2009, immediately following the Regular City Council Meeting, in the Council Chambers of Troy City Hall, 500 W. Big Beaver, Troy, MI 48084, for the purpose of discussing City Manager Szerlag’s Six-Year Organizational Restructuring Plan for the City of Troy; Fiscal Year 2009/10 through 2014/15.

BE IT FURTHER RESOLVED, That Troy City Council hereby **SUSPENDS** Rule #28 *Wire Communications Between Council Members During Any Meeting of Council Rules of Procedure for the City Council* to allow any absent Council member to participate in discussion without voting.

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

MOTION CARRIED

E-2 Nominations for Appointments to Boards and Committees: (a) Mayoral Nominations: Downtown Development Authority; Economic Development Corporation; and Local Development Finance Authority (b) City Council Nominations: Animal Control Appeal Board; Cable Advisory Committee; Ethnic Issues Advisory Committee; and Parks & Recreation Board

a) Mayoral Nominations

Resolution #2009-09-277
Moved by Schilling
Seconded by Broomfield

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:

Downtown Development Authority

Appointed by Mayor (13-Regular) - 4-Year Terms

Michele Hodges – in district Term Expires 09/30/2012

Daniel MacLeish – in district Term Expires 09/30/2012

Harvey Weiss – in district Term Expires 09/30/2012

Economic Development Corporation (EDC)

Appointed by Mayor (9-Regular) - 6-Year Terms

Mark F. Miller – Acting Asst City Mgr/Economic Dev. Services Unexpired Term 04/30/2011

Local Development Finance Authority (LDFA)

Appointed by Mayor (5-Regular-Staggered) - 4-Year Terms

John Szerlag – City Manager; Troy Resident Unexpired Term 06/30/2011

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

MOTION CARRIED

b) City Council Nominations

Resolution #2009-09-278
Moved by Kerwin
Seconded by Broomfield

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

Animal Control Appeal Board

Appointed by Council (5-Regular) - 3-Year Terms

Al Petrulis Term Expires 09/30/2012

Vincent James Viola Term Expires 09/30/2012

Cable Advisory Committee

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

Padma Kuppa

Term Expires 09/30/2012

Ethnic Issues Advisory Board

Appointed by Council (9-Regular) - 2 & 3-Year Terms

Karen Yelder - 2-Year Term

Term Expires 09/30/2011

Parks & Recreation Board

Appointed by Council – (7-Regular) Troy School District Rep. 1-Year Term; and Student 1-Year Term

Orestis (Rusty) Kaltsounis

Term Expires 09/30/2012

Stuart Redpath

Term Expires 09/30/2012

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

MOTION CARRIED

E-1 Appointments to Boards and Committees: (a) Mayoral Appointments: Downtown Development Authority (b) City Council Appointments: Liquor Advisory Committee; and Parks & Recreation Board

a) Mayoral Appointments

Resolution #2009-09-279
Moved by Schilling
Seconded by Kerwin

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

Downtown Development Authority

Appointed by Mayor (13-Regular) - 4-Year Terms

P. Terry Knight @ large

Unexpired Term 09/30/2011

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

MOTION CARRIED

b) City Council Appointments

Resolution #2009-09-280
 Moved by Eisenbacher
 Seconded by Beltramini

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

Liquor Advisory Committee

Appointed by Council – Student 1-Year Term

Dane Lepola - Student

Term Expires 07/01/2010

Parks & Recreation Board

Appointed by Council – Troy School District Rep.

Gary Hauff – Troy School District Rep.

Term Expires 07/31/2010

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

MOTION CARRIED**E-4 Final Contract for Emergency Medical Services**

Resolution
 Moved by Schilling
 Seconded by Beltramini

WHEREAS, The Police and Fire Departments have always maintained a contract for emergency medical responder and ambulance service as one of the critical services to the community;

WHEREAS, Since 2003 Alliance Mobile Health, our current contactor is the only provider in the Detroit area that meets the professional service standards of the Commission on Accreditation of Ambulance Services; and

WHEREAS, The City of Troy and Alliance Mobile Health have a vested interest in continuing a mutually beneficial relationship;

THEREFORE, BE IT RESOLVED, That Troy City Council hereby **APPROVES** the final contract negotiated between the City of Troy and Alliance Mobile Health to provide Emergency Medical Services, and hereby **AUTHORIZES** the Mayor and City Clerk to execute the agreement, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

Vote on Resolution to Excuse Council Member Fleming from Voting

Resolution #2009-09-281
Moved by Beltramini
Seconded by Eisenbacher

RESOLVED, That Troy City Council hereby **EXCUSES** Council Member Fleming from voting on agenda item *E-4 Final Contract for Emergency Medical Services* due to a potential business conflict.

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

MOTION CARRIED

Council Member Fleming absent from the City Council Chamber at 10:45 PM.

Vote on Resolution for Agenda Item E-4 Final Contract for Emergency Medical Services

Resolution #2009-09-282
Moved by Schilling
Seconded by Beltramini

WHEREAS, The Police and Fire Departments have always maintained a contract for emergency medical responder and ambulance service as one of the critical services to the community;

WHEREAS, Since 2003 Alliance Mobile Health, our current contactor is the only provider in the Detroit area that meets the professional service standards of the Commission on Accreditation of Ambulance Services; and

WHEREAS, The City of Troy and Alliance Mobile Health have a vested interest in continuing a mutually beneficial relationship;

THEREFORE, BE IT RESOLVED, That Troy City Council hereby **APPROVES** the final contract negotiated between the City of Troy and Alliance Mobile Health to provide Emergency Medical Services, and hereby **AUTHORIZES** the Mayor and City Clerk to execute the agreement, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

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

MOTION CARRIED

Council Member Fleming returned to the City Council Chamber at 10:47 PM.

PUBLIC COMMENT: Limited to Items Not on the Agenda**Received from:**

Wayne Stutzman
Doug Tietz
Richard Rondeau
Marvin Reinhardt

CONSENT AGENDA:

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

Resolution #2009-09-283
Moved by Beltramini
Seconded by Broomfield

RESOLVED, That all items as presented on the Consent Agenda are hereby **APPROVED** as presented.

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

MOTION CARRIED

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

F-2 Approval of City Council Minutes

Resolution #2009-09-283-F-2

RESOLVED, That Troy City Council hereby **APPROVES** the Minutes of the 7:30 PM Regular City Council Meeting of August 31, 2009 as submitted.

F-3 City of Troy Proclamation:

Resolution #2009-09-283-F-3

RESOLVED, That Troy City Council hereby **APPROVES** the following City of Troy Proclamation:

- a) Celebrating 30 Years – Central Woodward Christian Church

F-4 Standard Purchasing Resolutions

- a) Standard Purchasing Resolution 1: Award to Low Bidder – Contract 09-11 – Section 18 and 19 Manhole Rehabilitation Program – Project No. 97.407.5

Resolution #2009-09-283-F-4a

RESOLVED, That Troy City Council hereby **AWARDS** Contract No. 09-11, Section 18 and 19 Manhole Rehabilitation Program to Superior Excavating Inc., 2791 Auburn Road, Auburn Hills, MI 48321, at an estimated total cost of \$119,841.00; and

BE IT FURTHER RESOLVED, That the award is **CONTINGENT** upon submission of proper contract and bid documents, including bonds, insurance certificates and all specified requirements, and if additional work is required, Troy City Council hereby **AUTHORIZES** such additional work in an amount not to exceed 25% of the total project cost.

b) **Standard Purchasing Resolution 1: Award to Low Bidder – Contract 09-6 – NE Quarter Section 9 Bituminous Overlay and Florence Street Paving S.A.D. – Project Nos. 01.508.5 and 08.108.1**

Resolution #2009-09-283-F-4b

RESOLVED, That Troy City Council hereby **AWARDS** Contract No. 09-6, NE Quarter Section 9 Bituminous Overlay and Florence Street Paving S.A.D. to Pro-Line Asphalt, 11797 29 Mile Road, Washington, MI 48095 at an estimated total cost of \$629,749.84; and

BE IT FURTHER RESOLVED, That the award is **CONTINGENT** upon submission of proper contract and bid documents, including bonds, insurance certificates and all specified requirements, and if additional work is required, Troy City Council hereby **AUTHORIZES** such additional work in an amount not to exceed 10% of the total project cost.

MEMORANDUMS AND FUTURE COUNCIL AGENDA ITEMS:

G-1 Announcement of Public Hearings: None Submitted

G-2 Memorandums: None Submitted

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

H-1 No Council Referrals Advanced

COUNCIL COMMENTS:

I-1 Council Comments Advanced:

Council Member Beltramini thanked John Szerlag for his service as Troy's City Manager during these difficult times and added that City Council will work with him in making unpleasant decisions.

Council Member Beltramini reminded the public that Troy Daze will take place this weekend at Boulan Park and added that discount parking tickets will be on sale through lunchtime at the Community Center for \$6.00 instead of \$10.00 at the gate.

Council Member Beltramini advised Council Members that SEMCOG is holding their *Outreach Meetings* in October and information is available on their website. She noted that the Novi meeting will be held on October 13th and nearby Macomb County is scheduled for October 14th.

Vote on Resolution to Suspend Rules of Procedure for the City Council; Rule 6. Order of Business

Resolution #2009-09-284
Moved by Eisenbacher
Seconded by Broomfield

RESOLVED, That Troy City Council hereby **SUSPENDS** Rules of Procedure for the City Council; Rule 6. *Order of Business* and **AUTHORIZE** City Council to discuss and take action on an item that does not appear on the agenda.

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

MOTION CARRIED

Vote on Resolution to Excuse Mayor Pro Tem Howrylak

Resolution #2009-09-285
Moved by Eisenbacher
Seconded by Fleming

RESOLVED, That Troy City Council hereby **EXCUSES** the absence of Mayor Pro Tem Howrylak at the Regular City Council and the Closed Session Meetings of Monday, September 14, 2009 due to being absent from the county.

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

MOTION CARRIED

Council Member Kerwin was sorry to learn that Roger McCarville, a strong activist for persons with disabilities, passed away last week. She explained that Mr. McCarville helped change the world for persons with disabilities and worked tirelessly to expand the rights of the 60 million Americans who have disabilities. Council Member Kerwin expressed her sympathy to Mr. McCarville's family.

Council Member Kerwin reported that the annual meeting for the Troy Historical Society occurred this week and that six of the seven City Council candidates also attended. It was very good to hear about the many accomplishments achieved by the members of the Historical Society who work so hard to preserve Troy's history.

Council Member Kerwin reported that the Troy Public Library for the opening of the Friends of the Library gift shop held their ribbon cutting ceremony this week. The gift shop's new hours are Monday through Thursday, 12:00 to 8:00 PM; Fridays and Saturdays, 12:00 to 5:00 PM; and Sundays, 1:00 to 4:00 PM.

Mayor Schilling thanked City staff involved in the preparation of the November ballot Charter amendment proposal brochure.

Mayor Schilling noted that it will be important for City Council to discuss REPORT agenda items J-5 *Executive Summary on Revenue Projects* and J-7 *Response to September 6, 2009 Detroit Free Press Article Titled "State Fears Worsening Financial Outlooks"* during their study session on September 28th.

Mayor Schilling asked whether City Council intends to meet in a study session this evening to discuss the K-1 *Proposed Updated/Corrected Language for Chapter 82 of the Troy City Code – Property Maintenance Code*.

City Manager Szerlag replied that if Council delays the study item, he recommends that it be postponed subsequent to September 28th.

There was a consensus of City Council members present that City Management provide a draft version of the ordinance for Council's review on September 28th as a J-Item with no discussion and that action take place at the Regular City Council meeting scheduled for October 5th. The City Attorney will research appellate language recommended by Council Member Broomfield to be included as a supplemental item on the September 28th agenda.

Council Member Kerwin believes one of the unintended consequences of relocating Public Comments after Regular Business resulted in residents having to wait to discuss their agenda item. Council Member Kerwin requested that Council reconsider moving Public Comments back to the very beginning of the agenda.

STUDY ITEMS:

K-1 Proposed Updated/Corrected Language for Chapter 82 of the Troy City Code – Property Maintenance Code – Rescheduled for the Regular City Council Meeting of Monday, October 5, 2009

REPORTS:

J-1 Minutes – Boards and Committees:

- a) Election Commission/Final – April 2, 2009
- b) Youth Council/Final – May 27, 2009
- c) Ethnic Issues Advisory Board/Final – June 2, 2009
- d) Charter Revision Committee/Final – July 13, 2009
- e) Joint Birmingham Planning Board and Troy Planning Commission/Final – July 14, 2009
- f) Building Code Board of Appeals/Final – August 5, 2009

- g) Charter Revision Committee/Draft – August 13, 2009
- h) Youth Council/Draft – August 26, 2009
- i) Election Commission/Draft – August 27, 2009
Noted and Filed

J-2 Department Reports:

- a) Building Department – Permits Issued August 2009
- b) City of Troy Employees Retirement System Forty-Fifth Annual Actuarial Valuation – December 31, 2008
Noted and Filed

J-3 Letters of Appreciation:

- a) Letter of Thanks to Chief Mayer from Richard Bewick, Troy Fire Station No. 5 Assistant Fire Chief, Regarding Support Provided by the Police Department during the Funeral Procession of Eugene William Ferguson
Noted and Filed

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

J-5 Executive Summary on Revenue Projects

Noted and Filed

J-6 Communication from City Attorney Lori Grigg Bluhm and City Clerk Tonni Bartholomew Regarding Ballot Question Brochure

Noted and Filed

J-7 Response to September 6, 2009 Detroit Free Press Article Titled “State Fears Worsening Financial Outlooks”

Noted and Filed

CLOSED SESSION:

L-1 Closed Session

Resolution #2009-09-286

Moved by Eisenbacher

Seconded by Broomfield

RESOLVED, That Troy City Council **SHALL MEET** in Closed Session, as permitted by MCL 15.268 (e), Pending Litigation – *Troy v. Munchiando*.

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

No: None

Absent: Howrylak

MOTION CARRIED

PUBLIC COMMENT: Address of “K” Items

The meeting **RECESSED** at 11:27 PM.

The meeting **RECONVENED** at 11:35 PM.

The meeting **ADJOURNED** at 11:38 PM.

Louise E. Schilling, Mayor

Tonni L. Bartholomew, MMC
City Clerk



CITY COUNCIL ACTION REPORT

September 9, 2009

TO: John Szerlag, City Manager

FROM: Mark F. Miller, Acting Assistant City Manager / Economic Development Services
Susan A. Leirstein, Purchasing Director
Timothy L. Richnak, Public Works Director
Carol K. Anderson, Parks and Recreation Director

SUBJECT: Standard Purchasing Resolution 1: Award To Low Bidder – Outdoor Light Maintenance and Repair

Background

- On August 19, 2009, bids were opened to provide two (2) year requirements of street, parking lot, and athletic field light maintenance with an option to renew for one additional year.
- Sixty-five (65) vendors were notified via the MITN website with six (6) bidders responding.
- Northern Sign Company, Inc. of Pontiac was the low bidder.
- All bidders were given the opportunity to respond with their level of interest in furnishing all labor, tools, equipment, transportation services and traffic controls for outdoor light maintenance and repairs.

Financial Considerations

- Funds for these services are available in the 2009/10 Street Lighting accounts and the Athletic Field Maintenance account as listed below:
 - Acct # 101.447.25.448.7802.150 Street Lighting - Contractual Services
 - Acct # 401.447.448.7978.010 Street Lighting - General Equipment
 - Acct # 101.751.30.759.7802.070 Athletic Field Maintenance - Contractual Services

Legal Considerations

- ITB-COT 09-32 Outdoor Light Maintenance was competitively bid and opened as required by City Charter and Code.
- The award is contingent upon the recommended bidder's submission of proper contracts and bid documents, including insurance certificates and all other specified requirements.

Options

- City management and the Public Works department recommends awarding a contract to provide two (2) year requirements of street, parking lot, and athletic field light maintenance with an option to renew for one additional year to the low bidder, Northern Sign Company, Inc. of Pontiac, MI, for an estimated total cost of \$54,825.00, at unit prices and discounts contained in the bid tabulation opened August 19, 2009, not to exceed budgetary limitations, expiring September 30, 2011.

CITY OF TROY
 BID TABULATION
 OUTDOOR LIGHT MAINTENANCE

Opening Date -- 8/19/09
 Date Prepared -- 8/19/09 jh

VENDOR NAME:

* Northern Sign Company	Great Lakes Power and	MHM Construction, LLC
Inc.	Lighting, Inc.	
Check # 1070007333	15349566	1805
Check Amount \$1,000.00	\$1,000.00	\$1,000.00

EST ITEM #	QTY/YR	DESCRIPTION	Unit Price	Total	Unit Price	Total	Unit Price	Total
1.	200 ea	Call Out & Determination of cause of outage	\$ 86.00	\$ 17,200.00	\$ 55.00	\$ 11,000.00	\$ 100.00	\$ 20,000.00
2.	500 ea	Replace Lamp	\$ 24.00	\$ 12,000.00	\$ 35.00	\$ 17,500.00	\$ 70.00	\$ 35,000.00
3.	80 ea	Replace Ballast	\$ 65.00	\$ 5,200.00	\$ 55.00	\$ 4,400.00	\$ 122.00	\$ 9,760.00
4.	60 ea	Replace Starter	\$ 34.00	\$ 2,040.00	\$ 110.00	\$ 6,600.00	\$ 62.00	\$ 3,720.00
5.	100 ea	Replace Fuse	\$ 30.00	\$ 3,000.00	\$ 35.00	\$ 3,500.00	\$ 56.00	\$ 5,600.00
		(per pole/per electric box)						
6.	20 ea	Replace Lens	\$ 34.00	\$ 680.00	\$ 35.00	\$ 700.00	\$ 62.00	\$ 1,240.00
7.	50 ea	Replace Photo Cell	\$ 34.00	\$ 1,700.00	\$ 55.00	\$ 2,750.00	\$ 56.00	\$ 2,800.00
8.	20 ea	Replace Breakers	\$ 34.00	\$ 680.00	\$ 110.00	\$ 2,200.00	\$ 70.00	\$ 1,400.00
9.	200 ea	Tighten & Lubricate Anchor Bolts						
		Horizontal Refractors, Glass et	\$ 60.00	\$ 12,000.00	\$ 85.00	\$ 17,000.00	\$ 92.00	\$ 18,400.00
10.	5 ea	Remove & Replace Fixture	\$ 65.00	\$ 325.00	\$ 110.00	\$ 550.00	\$ 105.00	\$ 525.00
ESTIMATED GRAND TOTAL:			\$ 54,825.00		\$ 66,200.00		\$ 98,445.00	

CONTACT INFORMATION:

Hours of Operation:	7 AM to 5 PM	6:30 AM to 5:30 PM	8 AM to 5 PM
24HR Contact Number:	248-333-7938	810-824-0075	248-556-6550

ADDITIONAL ITEMS, IF REQUIRED

	PRICE/HR/CREW	PRICE/HR/CREW	PRICE/HR/CREW
11. Hourly labor rate per crew			
A) Regular Time	\$ 150.00	\$ 98.00	\$ 50.00
B) Overtime	\$ 200.00	\$ 146.00	\$ 75.00
C) Holiday Time	\$ 250.00	\$ 192.00	\$ 75.00
	\$/HR/Electrician	\$/HR/Electrician	\$/HR/Electrician
12. Journeyman Electrician			
A) Regular Time	\$ 85.00	\$ 55.00	\$ 35.00
B) Overtime	\$ 120.00	\$ 80.00	\$ 52.50
C) Holiday Time	\$ 155.00	\$ 106.00	\$ 52.50
	\$/HR/Inc Operator	\$/HR/Inc Operator	\$/HR/Inc Operator
13. Hourly rate for Backhoe/Operator			
A) Regular Time	\$ 120.00	\$ 100.00	\$ 50.00
B) Overtime	\$ 155.00	\$ 145.00	\$ 50.00
C) Holiday Time	\$ 185.00	\$ 190.00	\$ 50.00
	\$/HR/Inc Operator	\$/HR/Inc Operator	\$/HR/Inc Operator
14. Hourly rate for Service Truck w/Crane			
A) Regular Time	\$ 150.00	\$ 100.00	\$ 50.00
B) Overtime	\$ 200.00	\$ 145.00	\$ 50.00
C) Holiday Time	\$ 250.00	\$ 190.00	\$ 50.00

Opening Date -- 8/19/09
 Date Prepared -- 8/19/09

CITY OF TROY
 BID TABULATION
 OUTDOOR LIGHT MAINTENANCE

VENDOR NAME:	* Northern Sign Company, Inc.	Great Lakes Power and Lighting, Inc.	MHM Construction, LLC
15. Non-Contract Replacement Parts			
Discount + % or - %	+30%	+15%	+5% or -0%
Parts List Dated	Blank	Blank	Blank
or Invoiced Price	Blank	Yes	Yes
Manufactured by:	various	Blank	Blank
INSURANCE: Can Meet	XX	XX	XX
Cannot Meet			
PAYMENT TERMS:	30 Days	Blank	30 Days
WARRANTY:	Blank	Blank	1 Year
RESPONSE TIME:	Within 48 Hours	Blank	48 Hours
EXCEPTIONS:	Blank	Blank	Blank
ACKNOWLEDGEMENT: Y or N	Yes	Yes	Yes

PROPOSAL: Furnish All Labor, Tools, Equipment, Transportation Services, and Traffic Controls to Provide Two-Year Requirements of Street, Parking Lot, and Athletic Field Light Maintenance with an Option to Renew for One Additional Year

*** DENOTES LOW TOTAL BIDDER**

DISQUALIFIED:
 Dynamic Signs Systems & Marketing LLC (Did not submit bid surety check with bid, as specified)

ATTEST:
 Deanna Theobald
 Tom Rosewarne
 Diane Fisher
 Linda Bockstanz

 Susan Leirstein CPPB
 Purchasing Director

Opening Date -- 8/19/09
Date Prepared -- 8/19/09

CITY OF TROY
BID TABULATION
OUTDOOR LIGHT MAINTENANCE

ITB-COT 09-32
Pg 3 of 4

VENDOR NAME:

Aranae, Inc.	J. Ranck Electric, Inc	Corby Energy Services, Inc
100534594	15343256	36319779
\$1,000.00	\$1,000.00	\$1,000.00

EST ITEM QTY/YR DESCRIPTION	Unit Price	Total	Unit Price	Total	Unit Price	Total
1. 200 ea Call Out & Determination of cause of outage	\$ 285.00	\$ 57,000.00	\$ 250.00	\$ 50,000.00	\$ 650.00	\$ 130,000.00
2. 500 ea Replace Lamp	\$ 45.00	\$ 22,500.00	\$ 80.00	\$ 40,000.00	\$ 120.00	\$ 60,000.00
3. 80 ea Replace Ballast	\$ 75.00	\$ 6,000.00	\$ 100.00	\$ 8,000.00	\$ 175.00	\$ 14,000.00
4. 60 ea Replace Starter	\$ 55.00	\$ 3,300.00	\$ 75.00	\$ 4,500.00	\$ 120.00	\$ 7,200.00
5. 100 ea Replace Fuse (per pole/per electric box)	\$ 30.00	\$ 3,000.00	\$ 80.00	\$ 8,000.00	\$ 120.00	\$ 12,000.00
6. 20 ea Replace Lens	\$ 55.00	\$ 1,100.00	\$ 80.00	\$ 1,600.00	\$ 120.00	\$ 2,400.00
7. 50 ea Replace Photo Cell	\$ 45.00	\$ 2,250.00	\$ 60.00	\$ 3,000.00	\$ 120.00	\$ 6,000.00
8. 20 ea Replace Breakers	\$ 95.00	\$ 1,900.00	\$ 80.00	\$ 1,600.00	\$ 150.00	\$ 3,000.00
9. 200 ea Tighten & Lubricate Anchor Bolts Horizontal Refractors, Glass etc	\$ 95.00	\$ 19,000.00	\$ 125.00	\$ 25,000.00	\$ 120.00	\$ 24,000.00
10. 5 ea Remove & Replace Fixture	\$ 145.00	\$ 725.00	\$ 150.00	\$ 750.00	\$ 160.00	\$ 800.00
ESTIMATED GRAND TOTAL:		\$ 116,775.00		\$ 142,450.00		\$ 259,400.00

CONTACT INFORMATION:

Hours of Operation:	7 AM to 4:30 PM	7 AM to 3:30 PM	7 AM to 5 PM
24HR Contact Number:	313-218-5808	888-459-0594	313-350-2433

ADDITIONAL ITEMS, IF REQUIRED

	PRICE/HR/CREW	PRICE/HR/CREW	PRICE/HR/CREW
11. Hourly labor rate per crew			
A) Regular Time	\$ 140.00	\$ 160.00	\$ 125.00
B) Overtime	\$ 190.00	\$ 225.00	\$ 160.00
C) Holiday Time	\$ 240.00	\$ 300.00	\$ 195.00
	\$/HR/Electrician	\$/HR/Electrician	\$/HR/Electrician
12. Journeyman Electrician			
A) Regular Time	\$ 70.00	\$ 70.00	\$ 65.00
B) Overtime	\$ 95.00	\$ 115.00	\$ 80.00
C) Holiday Time	\$ 130.00	\$ 165.00	\$ 95.00
	\$/HR/Inc Operator	\$/HR/Inc Operator	\$/HR/Inc Operator
13. Hourly rate for Backhoe/Operator			
A) Regular Time	\$ 125.00	\$ 140.00	\$ 75.00
B) Overtime	\$ 180.00	\$ 190.00	\$ 105.00
C) Holiday Time	\$ 230.00	\$ 225.00	\$ 130.00
	\$/HR/Inc Operator	\$/HR/Inc Operator	\$/HR/Inc Operator
14. Hourly rate for Service Truck w/Crane			
A) Regular Time	\$ 110.00	\$ 135.00	\$ 95.00
B) Overtime	\$ 130.00	\$ 165.00	\$ 110.00
C) Holiday Time	\$ 160.00	\$ 200.00	\$ 125.00

Opening Date -- 8/19/09
 Date Prepared -- 8/19/09

CITY OF TROY
 BID TABULATION
 OUTDOOR LIGHT MAINTENANCE

VENDOR NAME:	Aranae, Inc.	J. Ranck Electric, Inc	Corby Energy Services, Inc.
15. Non-Contract Replacement Parts			
Discount + % or - %	Blank	+ 15%	+ 10%
Parts List Dated	18-Aug-09	Blank	Blank
or Invoiced Price	Blank	Blank	Blank
Manufactured by:	Blank	Blank	Blank
INSURANCE: Can Meet	XX	XX	XX
Cannot Meet			
PAYMENT TERMS:	N 30	30 Days	Net 30
WARRANTY:	1 Yr on workmanship only	Manufacturers	1 Year
RESPONSE TIME:	48 Hours	48 Hours	48 Hours
EXCEPTIONS:	Blank	Blank	None
ACKNOWLEDGEMENT: Y or N	Yes	Yes	Yes

PROPOSAL: Furnish All Labor, Tools, Equipment, Transportation Services, and Traffic Controls to Provide Two-Year Requirements of Street, Parking Lot, and Athletic Field Light Maintenance with an Option to Renew for One Additional Year



CITY COUNCIL ACTION REPORT

September 9, 2009

TO: John Szerlag, City Manager

FROM: Mark F. Miller, Acting Assistant City Manager / Economic Development Services
 Susan A. Leirstein, Purchasing Director
 Timothy L. Richnak, Public Works Director
 Carol K. Anderson, Parks and Recreation Director

SUBJECT: Standard Purchasing Resolution 1: Award To Low Bidder – Street Light Installation/Replacement

Background

- On August 26, 2009, bids were opened to provide two (2) year requirements of Street Light installation/replacement with an option to renew for one additional year.
- Sixty-nine (69) vendors were notified via the MITN website with three (3) bidders responding.
- Corby Energy Services, Inc. of Belleville was the low bidder.
- All bidders were given the opportunity to respond with their level of interest in furnishing all labor, tools, equipment, transportation services and traffic controls for installation and replacement of street lights.

Financial Considerations

- Funds for these services are available in the 2009/10 Street Lighting accounts and the Athletic Field Maintenance account as listed below:
 - Acct # 101.447.25.448.7802.150 Street Lighting - Contractual Services
 - Acct # 401.447.448.7978.010 Street Lighting - General Equipment.
 - Acct # 101.751.30.759.7802.070 Athletic Field Maintenance - Contractual Services

Legal Considerations

- ITB-COT 09-33 outdoor Light installation/replacement Contract was competitively bid as required by City Charter and Code.
- The award is contingent upon the recommended bidder's submission of proper contracts and bid documents, including insurance certificates and all other specified requirements.

Options

- City management and the Public Works department recommends awarding a contract to provide two (2) year requirements of street, parking lot, and athletic field light installation and replacement with an option to renew for one additional year to the low bidder, Corby Energy Services, Inc. of Belleville, MI, for an estimated total cost of \$43,997.00, at unit prices and discounts contained in the bid tabulation opened August 26, 2009, not to exceed budgetary limitations, expiring September 30, 2011.

Opening Date -- 8/26/09
Date Prepared -- 8/26/09

CITY OF TROY
BID TABULATION
OUTDOOR LIGHT INSTALLATION/REPLACEMENT

jh

VENDOR NAME: **

Corby Energy Services, inc	Harlan Electric Company	J. Ranck Electric, Inc.	
CHECK # --	36319790	36329605	15370339
CHECK AMOUNT --	\$500.00	\$500.00	\$500.00

EST ITEM #	QTY/YR	DESCRIPTION	Lump Sum Total Price for One			
1A.	1 ea	Remove Street Light Pole - (Ornamental Pole)	\$ 400.00	\$ 350.00	\$ 975.00	
1.B.	1 ea	Remove Street Light Pole - Wood	\$ 650.00	\$ 350.00	\$ 975.00	
2.	1 ea	Remove Concrete Foundations	\$ 650.00	\$ 750.00	\$ 1,350.00	
3.	1 ea	Installation of Concrete Foundations	\$ 1,250.00	\$ 1,400.00	\$ 2,780.00	
4.A.	1 ea	Install 40' Light Ornamental Pole with mast arms - one fixture	\$ 450.00	\$ 765.00	\$ 1,175.00	
4.B.	1 ea	Install 40' Light Ornamental Pole with mast arms - two fixtures	\$ 450.00	\$ 990.00	\$ 1,375.00	
5.A.	1 ea	Install 40' Light Wood Pole with mast arms - one fixture	\$ 750.00	\$ 940.00	\$ 1,697.00	
5.B.	1 ea	Install 40' Light Wood Pole with mast arms - two fixtures	\$ 750.00	\$ 1,110.00	\$ 1,797.00	
6.	1 ea	Install Pole w/Control Box/Service connections	\$ 4,000.00	\$ 2,325.00	\$ 5,400.00	
7.	1 ea	New installation of 40' Street Light Pole with concrete foundation	\$ 1,700.00	\$ 2,185.00	\$ 3,950.00	
8.	6 ea	Remove Existing 250 Watt Luminaries & Replace with equivalent Wattage LED	\$ 1,300.00	\$ 1,205.00	\$ 2,200.00	
9.	3 ea	Remove existing 400 Watt luminaries and replace with equivalent wattage of LED	\$ 1,565.00	\$ 1,465.00	\$ 2,400.00	

ADDITIONAL ITEMS, IF REQUIRED

	UNIT PRICE	UNIT PRICE	UNIT PRICE	UNIT PRICE
10. 1 ea Cut & Weld Street Light Base H Base	\$ 1,750.00	\$ 330.00	\$ 780.00	
11. 120 L.F. 1 1/2" Rigid Plastic Conduit Sch. 40	\$ 0.50	\$ 9.30	\$ 20.00	
12. 160 L.F. No. 8 AWG Cable Red	\$ 0.30	\$ 2.15	\$ 4.50	
13. 160 L.F. No. 8 AWG Cable Black	\$ 0.30	\$ 2.15	\$ 4.50	
14. 40 L.F. No.10 AWG Cable Bare	\$ 0.20	\$ 1.90	\$ 4.50	
15. 2 ea Photo Cell	\$ 19.00	\$ 9.20	\$ 395.00	
16. 1 ea 40' Wood Light Pole	\$ 300.00	\$ 445.00	\$ 1,400.00	

17. Hourly labor rate per Crew

40 Hrs	A) Regular Time	B) Overtime Time	C) Holiday Time	HOURLY RATE	HOURLY RATE	HOURLY RATE	HOURLY RATE
				\$ 125.00	\$ 137.25	\$ 175.00	
				\$ 160.00	\$ 196.95	\$ 235.00	
				\$ 195.00	\$ 256.60	\$ 300.00	

18. Hourly rate for Journeyman Electrician

40 Hrs	A) Regular Time	B) Overtime Time	C) Holiday Time	HOURLY RATE	HOURLY RATE	HOURLY RATE	HOURLY RATE
				\$ 65.00	\$ 70.00	\$ 90.00	
				\$ 80.00	\$ 100.00	\$ 115.00	
				\$ 95.00	\$ 130.00	\$ 165.00	

Opening Date -- 8/26/09
Date Prepared -- 8/26/09

CITY OF TROY
BID TABULATION
OUTDOOR LIGHT INSTALLATION/REPLACEMENT

VENDOR NAME:		** Corby Energy Services, inc	Harlan Electric Company	J. Ranck Electric, Inc.	
19.	Hourly rate for Backhoe/Operator	HOURLY RATE	HOURLY RATE	HOURLY RATE	HOURLY RATE
40 Hrs	A) Regular Time	\$ 75.00	\$ 130.00	\$ 145.00	
	B) Overtime Time	\$ 105.00	\$ 160.00	\$ 190.00	
	C) Holiday Time	\$ 130.00	\$ 195.00	\$ 225.00	
20.	Hourly rate for Service Truck	HOURLY RATE	HOURLY RATE	HOURLY RATE	HOURLY RATE
40 Hrs	A) Regular Time	\$ 95.00	\$ 105.00	\$ 130.00	
	B) Overtime Time	\$ 110.00	\$ 130.00	\$ 165.00	
	C) Holiday Time	\$ 125.00	\$ 165.00	\$ 195.00	
21.	Hourly rate for Bucket Truck	HOURLY RATE	HOURLY RATE	HOURLY RATE	HOURLY RATE
40 Hrs	A) Regular Time	\$ 95.00	\$ 25.00	\$ 130.00	
	B) Overtime Time	\$ 110.00	\$ 25.00	\$ 165.00	
	C) Holiday Time	\$ 125.00	\$ 25.00	\$ 195.00	
22.	Non-Contract Replacement Parts: Discount + or -	(+) 10%	(+) 10%	(+) 15%	
	Parts List:	Blank	Blank	Blank	
	Dated:	Blank	Blank	Blank	
ESTIMATED TOTAL		\$ 43,997.00	\$ 44,153.40	\$ 75,664.00	\$ -

CONTACT INFORMATION:	Hrs of Operation	M-F 8AM-5PM	7:30AM - 4PM	7AM - 4:30PM
	24-Hr Phone #	(313) 350-2433	(248) 379-5446	(888) 459-0594
INSURANCE:	Can Meet	XX	XX	XX
	Cannot Meet			
PAYMENT TERMS:		Net 30	Net 30 Days	Net 30 Days
WARRANTY:		1 Yr	1 Yr Labor	Manufacture
RESPONSE TIME:		48 Hours	48 Hours	48 Hours
EXCEPTIONS:		None	None	Blank
ACKNOWLEDGEMENT:	Y or N	Y	Y	Y

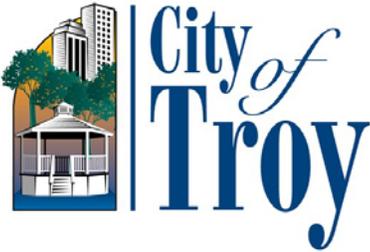
PROPOSAL: FURNISH ALL LABOR, TOOLS, EQUIPMENT, TRANSPORTATION SERVICES AND TRAFFIC CONTROLS TO PROVIDE TWO-YEAR REQUIREMENTS OF STREET, PARKING LOT, AND ATHLETIC FIELD LIGHT INSTALLATION/REPLACEMENT WITH AN OPTION TO RENEW FOR ONE ADDITIONAL YEAR

NO BIDS:
G & B Electrical Company
Beacon Sign Company

**** DENOTES LOW TOTAL BIDDER**

ATTEST:
Debra Painter
Tom Rosewarne
Julie Hamilton

Susan Leirstein
Purchasing Director



CITY COUNCIL ACTION REPORT

September 21, 2009

TO: John Szerlag, City Manager

FROM: Tonni L. Bartholomew, City Clerk

SUBJECT: Request for Recognition as a Nonprofit Organization Status from Ahren J. Savickas, President/Executive Director of *To Replant All Trees Association* (T.R.A.T.A.)

Background:

- Attached is a request from Ahren J. Savickas, President/Executive Director of *To Replant All Trees Association* (T.R.A.T.A.), seeking recognition as a nonprofit organization status for the purpose of obtaining a charitable gaming license for fundraising purposes. It has been City Management's practice to support the approval of all such requests.



To Replant All Trees Association
840 W. Long Lake Rd, Suite 200
Troy, MI, 48098
TEL (248)227-4965
Fax (248) 879-2001

Atten: City of Troy Mayor and City Council
From: Ahren J Savickas- President/Executive Director

Dear to whom this concerns,

My name is Ahren J Savickas and I am the executive director of To Replant All Trees Association, a non-profit organization located in Troy, Michigan. T.R.A.T.A. is involved with economic development and environmental conservation and plans on providing services and programs for the City of Troy community members and neighboring cities to benefit their way of life. As soon as the organization is large enough, we plan on going national and spreading our mission statement of environmental conservation and increased standard of living through "green development" in the economy. Our organization requests "Recognition as a Non-Profit Organization" document so that we may as an organization fulfill our requirements set by the Michigan Lottery Department to proceed with our fundraiser we will be having in October of this year.

Thank you very much for your time,

Sincerely

Ahren J Savickas



To Replant All Trees Association
840 W. Long Lake Rd, Suite 200
Troy, MI, 48098
TEL (248)227-4965
Fax (248) 879-2001

Request for Local Governing Body Resolution For Charitable Gaming Licenses



Charitable Gaming Division
 Box 30023, Lansing, MI 48909
 OVERNIGHT DELIVERY:
 101 E. Hillsdale, Lansing MI 48933
 (517) 335-5780
 www.michigan.gov/cg

LOCAL GOVERNING BODY RESOLUTION FOR CHARITABLE GAMING LICENSES
 (Required by MCL.432.103(9))

At a _____ meeting of the _____
REGULAR OR SPECIAL TOWNSHIP, CITY, OR VILLAGE COUNCIL/BOARD

called to order by _____ on _____
DATE

at _____ a.m./p.m. the following resolution was offered:
TIME

Moved by _____ and supported by _____

that the request from _____ of _____,
NAME OF ORGANIZATION CITY

county of _____, asking that they be recognized as a
COUNTY NAME

nonprofit organization operating in the community for the purpose of obtaining charitable

gaming licenses, be considered for _____.
APPROVAL/DISAPPROVAL

APPROVAL	DISAPPROVAL
Yeas: _____	Yeas: _____
Nays: _____	Nays: _____
Absent: _____	Absent: _____

I hereby certify that the foregoing is a true and complete copy of a resolution offered and

adopted by the _____ at a _____
TOWNSHIP, CITY, OR VILLAGE COUNCIL/BOARD REGULAR OR SPECIAL

meeting held on _____.
DATE

SIGNED: _____
TOWNSHIP, CITY, OR VILLAGE CLERK

PRINTED NAME AND TITLE

ADDRESS

COMPLETION: Required.
 PENALTY: Possible denial of application.
 BSL-CG-1153(R10/06)

INTERNAL REVENUE SERVICE
P. O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date:

MAR 09 2009

TO REPLANT ALL TREES ASSOCIATION
C/O DAVID M THOMS
840 W LONG LAKE RD STE 200
TROY, MI 48098

Employer Identification Number:

DLN:

Contact Person:

RONALD D BELL

ID#

Contact Telephone Number:

(877) 829-5500

Accounting Period Ending:

December 31

Public Charity Status:

170(b)(1)(A)(vi)

Form 990 Required:

Yes

Effective Date of Exemption:

July 11, 2008

Contribution Deductibility:

Yes

Addendum Applies:

No

Dear Applicant:

We are pleased to inform you that upon review of your application for tax exempt status we have determined that you are exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code. Contributions to you are deductible under section 170 of the Code. You are also qualified to receive tax deductible bequests, devises, transfers or gifts under section 2055, 2106 or 2522 of the Code. Because this letter could help resolve any questions regarding your exempt status, you should keep it in your permanent records.

Organizations exempt under section 501(c)(3) of the Code are further classified as either public charities or private foundations. We determined that you are a public charity under the Code section(s) listed in the heading of this letter.

Please see enclosed Publication 4221-PC, Compliance Guide for 501(c)(3) Public Charities, for some helpful information about your responsibilities as an exempt organization.

Letter 947 (DO/CG)

TO REPLANT ALL TREES ASSOCIATION

We have sent a copy of this letter to your representative as indicated in your power of attorney.

Sincerely,

A handwritten signature in cursive script that reads "Robert Choi". The signature is written in dark ink and is positioned below the word "Sincerely,".

Robert Choi
Director, Exempt Organizations
Rulings and Agreements

Enclosures: Publication 4221-PC

**Application for Recognition of Exemption
 Under Section 501(c)(3) of the Internal Revenue Code**

OMB No. 1545-0056

Note: If exempt status is approved, this application will be open for public inspection.

Use the instructions to complete this application and for a definition of all **bold** items. For additional help, call IRS Exempt Organizations Customer Account Services toll-free at 1-877-829-5500. Visit our website at www.irs.gov for forms and publications. If the required information and documents are not submitted with payment of the appropriate user fee, the application may be returned to you.

Attach additional sheets to this application if you need more space to answer fully. Put your name and EIN on each sheet and identify each answer by Part and line number. Complete Parts I - XI of Form 1023 and submit only those Schedules (A through H) that apply to you.

Part I Identification of Applicant

1 Full name of organization (exactly as it appears in your organizing document)		2 c/o Name (if applicable)	
To Replant All Trees Association		David M. Thoms	
3 Mailing address (Number and street) (see instructions)	Room/Suite	4 Employer Identification Number (EIN)	
840 West Long Lake Road	Suite 200	[REDACTED]	
City or town, state or country, and ZIP + 4		5 Month the annual accounting period ends (01 - 12)	
Troy, Michigan 48098		12	
6 Primary contact (officer, director, trustee, or authorized representative)		b Phone: (248) 267-3242	
a Name: David M. Thoms		c Fax: (optional) (248) 879-2001	
7 Are you represented by an authorized representative, such as an attorney or accountant? If "Yes," provide the authorized representative's name, and the name and address of the authorized representative's firm. Include a completed Form 2848, <i>Power of Attorney and Declaration of Representative</i> , with your application if you would like us to communicate with your representative.		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
8 Was a person who is not one of your officers, directors, trustees, employees, or an authorized representative listed in line 7, paid, or promised payment, to help plan, manage, or advise you about the structure or activities of your organization, or about your financial or tax matters? If "Yes," provide the person's name, the name and address of the person's firm, the amounts paid or promised to be paid, and describe that person's role.		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
9a Organization's website:			
b Organization's email: (optional)			
10 Certain organizations are not required to file an information return (Form 990 or Form 990-EZ). If you are granted tax-exemption, are you claiming to be excused from filing Form 990 or Form 990-EZ? If "Yes," explain. See the instructions for a description of organizations not required to file Form 990 or Form 990-EZ.		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
11 Date incorporated if a corporation, or formed, if other than a corporation. (MM/DD/YYYY)		07 / 11 / 2008	
12 Were you formed under the laws of a foreign country? If "Yes," state the country.		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Part II Organizational Structure

You must be a corporation (including a limited liability company), an unincorporated association, or a trust to be tax exempt. (See instructions.) **DO NOT file this form unless you can check "Yes" on lines 1, 2, 3, or 4.**

- 1 Are you a **corporation**? If "Yes," attach a copy of your articles of incorporation showing certification of filing with the appropriate state agency. Include copies of any amendments to your articles and be sure they also show state filing certification. Yes No

- 2 Are you a **limited liability company (LLC)**? If "Yes," attach a copy of your articles of organization showing certification of filing with the appropriate state agency. Also, if you adopted an operating agreement, attach a copy. Include copies of any amendments to your articles and be sure they show state filing certification. Refer to the instructions for circumstances when an LLC should not file its own exemption application. Yes No

- 3 Are you an **unincorporated association**? If "Yes," attach a copy of your articles of association, constitution, or other similar organizing document that is dated and includes at least two signatures. Include signed and dated copies of any amendments. Yes No

- 4a Are you a **trust**? If "Yes," attach a signed and dated copy of your trust agreement. Include signed and dated copies of any amendments. Yes No
- b Have you been funded? If "No," explain how you are formed without anything of value placed in trust. Yes No

- 5 Have you adopted **bylaws**? If "Yes," attach a current copy showing date of adoption. If "No," explain how your officers, directors, or trustees are selected. Yes No

Part III Required Provisions in Your Organizing Document

The following questions are designed to ensure that when you file this application, your organizing document contains the required provisions to meet the organizational test under section 501(c)(3). Unless you can check the boxes in both lines 1 and 2, your organizing document does not meet the organizational test. **DO NOT file this application until you have amended your organizing document.** Submit your original and amended organizing documents (showing state filing certification if you are a corporation or an LLC) with your application.

- 1 Section 501(c)(3) requires that your organizing document state your exempt purpose(s), such as charitable, religious, educational, and/or scientific purposes. Check the box to confirm that your organizing document meets this requirement. Describe specifically where your organizing document meets this requirement, such as a reference to a particular article or section in your organizing document. Refer to the instructions for exempt purpose language. Location of Purpose Clause (Page, Article, and Paragraph): Article II, Paragraph 1

- 2a Section 501(c)(3) requires that upon dissolution of your organization, your remaining assets must be used exclusively for exempt purposes, such as charitable, religious, educational, and/or scientific purposes. Check the box on line 2a to confirm that your organizing document meets this requirement by express provision for the distribution of assets upon dissolution. If you rely on state law for your dissolution provision, do not check the box on line 2a and go to line 2c.
- 2b If you checked the box on line 2a, specify the location of your dissolution clause (Page, Article, and Paragraph). Do not complete line 2c if you checked box 2a. Article IX, Paragraph 2
- 2c See the instructions for information about the operation of state law in your particular state. Check this box if you rely on operation of state law for your dissolution provision and indicate the state: _____

Part IV Narrative Description of Your Activities See Exhibit 3

Using an attachment, describe your *past*, *present*, and *planned* activities in a narrative. If you believe that you have already provided some of this information in response to other parts of this application, you may summarize that information here and refer to the specific parts of the application for supporting details. You may also attach representative copies of newsletters, brochures, or similar documents for supporting details to this narrative. Remember that if this application is approved, it will be open for public inspection. Therefore, your narrative description of activities should be thorough and accurate. Refer to the instructions for information that must be included in your description.

Part V Compensation and Other Financial Arrangements With Your Officers, Directors, Trustees, Employees, and Independent Contractors

- 1a List the names, titles, and mailing addresses of all of your officers, directors, and trustees. For each person listed, state their total annual compensation, or proposed compensation, for all services to the organization, whether as an officer, employee, or other position. Use actual figures, if available. Enter "none" if no compensation is or will be paid. If additional space is needed, attach a separate sheet. Refer to the instructions for information on what to include as compensation.

Name	Title	Mailing address	Compensation amount (annual actual or estimated)
David M. Thoms	Director	840 W. Long Lake Rd, Ste. 200 Troy, MI 48098	Not Compensated

Part V Compensation and Other Financial Arrangements With Your Officers, Directors, Trustees, Employees, and Independent Contractors (Continued)

b List the names, titles, and mailing addresses of each of your five highest compensated employees who receive or will receive compensation of more than \$50,000 per year. Use the actual figure, if available. Refer to the instructions for information on what to include as compensation. Do not include officers, directors, or trustees listed in line 1a.

Name	Title	Mailing address	Compensation amount (annual actual or estimated)
N/A		
		
		
		
		

c List the names, names of businesses, and mailing addresses of your five highest compensated independent contractors that receive or will receive compensation of more than \$50,000 per year. Use the actual figure, if available. Refer to the instructions for information on what to include as compensation:

Name	Title	Mailing address	Compensation amount (annual actual or estimated)
N/A		
		
		
		
		

The following "Yes" or "No" questions relate to *past, present, or planned* relationships, transactions, or agreements with your officers, directors, trustees, highest compensated employees, and highest compensated independent contractors listed in lines 1a, 1b, and 1c.

2a Are any of your officers, directors, or trustees **related** to each other through **family or business relationships**? If "Yes," identify the individuals and explain the relationship. Yes No

b Do you have a business relationship with any of your officers, directors, or trustees other than through their position as an officer, director, or trustee? If "Yes," identify the individuals and describe the business relationship with each of your officers, directors, or trustees. Yes No

c Are any of your officers, directors, or trustees related to your highest compensated employees or highest compensated independent contractors listed on lines 1b or 1c through family or business relationships? If "Yes," identify the individuals and explain the relationship. Yes No

3a For each of your officers, directors, trustees, highest compensated employees, and highest compensated independent contractors listed on lines 1a, 1b, or 1c, attach a list showing their name, qualifications, average hours worked, and duties.

b Do any of your officers, directors, trustees, highest compensated employees, and highest compensated independent contractors listed on lines 1a, 1b, or 1c receive compensation from any other organizations, whether tax exempt or taxable, that are related to you through **common control**? If "Yes," identify the individuals, explain the relationship between you and the other organization, and describe the compensation arrangement. Yes No

4 In establishing the compensation for your officers, directors, trustees, highest compensated employees, and highest compensated independent contractors listed on lines 1a, 1b, and 1c, the following practices are recommended, although they are not required to obtain exemption. Answer "Yes" to all the practices you use.

a Do you or will the individuals that approve compensation arrangements follow a conflict of interest policy? Yes No

b Do you or will you approve compensation arrangements in advance of paying compensation? Yes No

c Do you or will you document in writing the date and terms of approved compensation arrangements? Yes No

Part V Compensation and Other Financial Arrangements With Your Officers, Directors, Trustees, Employees, and Independent Contractors (Continued)

- d Do you or will you record in writing the decision made by each individual who decided or voted on compensation arrangements? Yes No
- e Do you or will you approve compensation arrangements based on information about compensation paid by **similarly situated** taxable or tax-exempt organizations for similar services, current compensation surveys compiled by independent firms, or actual written offers from similarly situated organizations? Refer to the instructions for Part V, lines 1a, 1b, and 1c, for information on what to include as compensation. Yes No
- f Do you or will you record in writing both the information on which you relied to base your decision and its source? Yes No
- g If you answered "No" to any item on lines 4a through 4f, describe how you set compensation that is **reasonable** for your officers, directors, trustees, highest compensated employees, and highest compensated independent contractors listed in Part V, lines 1a, 1b, and 1c.
-
- 5a Have you adopted a **conflict of interest policy** consistent with the sample conflict of interest policy in Appendix A to the instructions? If "Yes," provide a copy of the policy and explain how the policy has been adopted, such as by resolution of your governing board. If "No," answer lines 5b and 5c. Yes No
- b What procedures will you follow to assure that persons who have a conflict of interest will not have influence over you for setting their own compensation?
- c What procedures will you follow to assure that persons who have a conflict of interest will not have influence over you regarding business deals with themselves?
- Note:** A conflict of interest policy is recommended though it is not required to obtain exemption. Hospitals, see Schedule C, Section I, line 14.
-
- 6a Do you or will you compensate any of your officers, directors, trustees, highest compensated employees, and highest compensated independent contractors listed in lines 1a, 1b, or 1c through **non-fixed payments**, such as discretionary bonuses or revenue-based payments? If "Yes," describe all non-fixed compensation arrangements, including how the amounts are determined, who is eligible for such arrangements, whether you place a limitation on total compensation, and how you determine or will determine that you pay no more than reasonable compensation for services. Refer to the instructions for Part V, lines 1a, 1b, and 1c, for information on what to include as compensation. Yes No
- b Do you or will you compensate any of your employees, other than your officers, directors, trustees, or your five highest compensated employees who receive or will receive compensation of more than \$50,000 per year, through non-fixed payments, such as discretionary bonuses or revenue-based payments? If "Yes," describe all non-fixed compensation arrangements, including how the amounts are or will be determined, who is or will be eligible for such arrangements, whether you place or will place a limitation on total compensation, and how you determine or will determine that you pay no more than reasonable compensation for services. Refer to the instructions for Part V, lines 1a, 1b, and 1c, for information on what to include as compensation. Yes No
-
- 7a Do you or will you purchase any goods, services, or assets from any of your officers, directors, trustees, highest compensated employees, or highest compensated independent contractors listed in lines 1a, 1b, or 1c? If "Yes," describe any such purchase that you made or intend to make, from whom you make or will make such purchases, how the terms are or will be negotiated at **arm's length**, and explain how you determine or will determine that you pay no more than **fair market value**. Attach copies of any written contracts or other agreements relating to such purchases. Yes No
- b Do you or will you sell any goods, services, or assets to any of your officers, directors, trustees, highest compensated employees, or highest compensated independent contractors listed in lines 1a, 1b, or 1c? If "Yes," describe any such sales that you made or intend to make, to whom you make or will make such sales, how the terms are or will be negotiated at **arm's length**, and explain how you determine or will determine you are or will be paid at least fair market value. Attach copies of any written contracts or other agreements relating to such sales. Yes No
-
- 8a Do you or will you have any leases, contracts, loans, or other agreements with your officers, directors, trustees, highest compensated employees, or highest compensated independent contractors listed in lines 1a, 1b, or 1c? If "Yes," provide the information requested in lines 8b through 8f. Yes No
- b Describe any written or oral arrangements that you made or intend to make.
- c Identify with whom you have or will have such arrangements.
- d Explain how the terms are or will be negotiated at **arm's length**.
- e Explain how you determine you pay no more than fair market value or you are paid at least fair market value.
- f Attach copies of any signed leases, contracts, loans, or other agreements relating to such arrangements.
-
- 9a Do you or will you have any leases, contracts, loans, or other agreements with any organization in which any of your officers, directors, or trustees are also officers, directors, or trustees, or in which any individual officer, director, or trustee owns more than a 35% interest? If "Yes," provide the information requested in lines 9b through 9f. Yes No

Part V Compensation and Other Financial Arrangements With Your Officers, Directors, Trustees, Employees, and Independent Contractors (Continued)

- b Describe any written or oral arrangements you made or intend to make.
- c Identify with whom you have or will have such arrangements.
- d Explain how the terms are or will be negotiated at arm's length.
- e Explain how you determine or will determine you pay no more than fair market value or that you are paid at least fair market value.
- f Attach a copy of any signed leases, contracts, loans, or other agreements relating to such arrangements.

Part VI Your Members and Other Individuals and Organizations That Receive Benefits From You

The following "Yes" or "No" questions relate to goods, services, and funds you provide to individuals and organizations as part of your activities. Your answers should pertain to *past*, *present*, and *planned* activities. (See instructions.)

- 1a In carrying out your exempt purposes, do you provide goods, services, or funds to individuals? If "Yes," describe each program that provides goods, services, or funds to individuals. Yes No
- b In carrying out your exempt purposes, do you provide goods, services, or funds to organizations? If "Yes," describe each program that provides goods, services, or funds to organizations. Yes No
- 2 Do any of your programs limit the provision of goods, services, or funds to a specific individual or group of specific individuals? For example, answer "Yes," if goods, services, or funds are provided only for a particular individual, your members, individuals who work for a particular employer, or graduates of a particular school. If "Yes," explain the limitation and how recipients are selected for each program. Yes No
- 3 Do any individuals who receive goods, services, or funds through your programs have a family or business relationship with any officer, director, trustee, or with any of your highest compensated employees or highest compensated independent contractors listed in Part V, lines 1a, 1b, and 1c? If "Yes," explain how these related individuals are eligible for goods, services, or funds. Yes No

Part VII Your History

The following "Yes" or "No" questions relate to your history. (See instructions.)

- 1 Are you a successor to another organization? Answer "Yes," if you have taken or will take over the activities of another organization; you took over 25% or more of the fair market value of the net assets of another organization; or you were established upon the conversion of an organization from for-profit to non-profit status. If "Yes," complete Schedule G. Yes No
- 2 Are you submitting this application more than 27 months after the end of the month in which you were legally formed? If "Yes," complete Schedule E. Yes No

Part VIII Your Specific Activities

The following "Yes" or "No" questions relate to specific activities that you may conduct. Check the appropriate box. Your answers should pertain to *past*, *present*, and *planned* activities. (See instructions.)

- 1 Do you support or oppose candidates in political campaigns in any way? If "Yes," explain. Yes No
- 2a Do you attempt to influence legislation? If "Yes," explain how you attempt to influence legislation and complete line 2b. If "No," go to line 3a. Yes No
- b Have you made or are you making an election to have your legislative activities measured by expenditures by filing Form 5768? If "Yes," attach a copy of the Form 5768 that was already filed or attach a completed Form 5768 that you are filing with this application. If "No," describe whether your attempts to influence legislation are a substantial part of your activities. Include the time and money spent on your attempts to influence legislation as compared to your total activities. Yes No
- 3a Do you or will you operate bingo or gaming activities? If "Yes," describe who conducts them, and list all revenue received or expected to be received and expenses paid or expected to be paid in operating these activities. Revenue and expenses should be provided for the time periods specified in Part IX, Financial Data. Yes No
- b Do you or will you enter into contracts or other agreements with individuals or organizations to conduct bingo or gaming for you? If "Yes," describe any written or oral arrangements that you made or intend to make, identify with whom you have or will have such arrangements, explain how the terms are or will be negotiated at arm's length, and explain how you determine or will determine you pay no more than fair market value or you will be paid at least fair market value. Attach copies or any written contracts or other agreements relating to such arrangements. Yes No
- c List the states and local jurisdictions, including Indian Reservations, in which you conduct or will conduct gaming or bingo.

Part VIII Your Specific Activities (Continued)

- 4a** Do you or will you undertake **fundraising**? If "Yes," check all the fundraising programs you do or will conduct. (See instructions.) **Yes** **No**
- | | |
|---|--|
| <input checked="" type="checkbox"/> mail solicitations | <input checked="" type="checkbox"/> phone solicitations |
| <input type="checkbox"/> email solicitations | <input type="checkbox"/> accept donations on your website |
| <input checked="" type="checkbox"/> personal solicitations | <input type="checkbox"/> receive donations from another organization's website |
| <input type="checkbox"/> vehicle, boat, plane, or similar donations | <input checked="" type="checkbox"/> government grant solicitations |
| <input checked="" type="checkbox"/> foundation grant solicitations | <input type="checkbox"/> Other |

Attach a description of each fundraising program.

- b** Do you or will you have written or oral contracts with any individuals or organizations to raise funds for you? If "Yes," describe these activities. Include all revenue and expenses from these activities and state who conducts them. Revenue and expenses should be provided for the time periods specified in Part IX, Financial Data. Also, attach a copy of any contracts or agreements. **Yes** **No**
- c** Do you or will you engage in fundraising activities for other organizations? If "Yes," describe these arrangements. Include a description of the organizations for which you raise funds and attach copies of all contracts or agreements. **Yes** **No**
- d** List all states and local jurisdictions in which you conduct fundraising. For each state or local jurisdiction listed, specify whether you fundraise for your own organization, you fundraise for another organization, or another organization fundraises for you.
- e** Do you or will you maintain separate accounts for any contributor under which the contributor has the right to advise on the use or distribution of funds? Answer "Yes" if the donor may provide advice on the types of investments, distributions from the types of investments, or the distribution from the donor's contribution account. If "Yes," describe this program, including the type of advice that may be provided and submit copies of any written materials provided to donors. **Yes** **No**

5 Are you **affiliated** with a governmental unit? If "Yes," explain. **Yes** **No**

6a Do you or will you engage in **economic development**? If "Yes," describe your program. **Yes** **No**

b Describe in full who benefits from your economic development activities and how the activities promote exempt purposes.

- 7a** Do or will persons other than your employees or volunteers **develop** your facilities? If "Yes," describe each facility, the role of the developer, and any business or family relationship(s) between the developer and your officers, directors, or trustees. **Yes** **No**
- b** Do or will persons other than your employees or volunteers **manage** your activities or facilities? If "Yes," describe each activity and facility, the role of the manager, and any business or family relationship(s) between the manager and your officers, directors, or trustees. **Yes** **No**
- c** If there is a business or family relationship between any manager or developer and your officers, directors, or trustees, identify the individuals, explain the relationship, describe how contracts are negotiated at arm's length so that you pay no more than fair market value, and submit a copy of any contracts or other agreements.

8 Do you or will you enter into **joint ventures**, including partnerships or **limited liability companies** treated as partnerships, in which you share profits and losses with partners other than section 501(c)(3) organizations? If "Yes," describe the activities of these joint ventures in which you participate. **Yes** **No**

- 9a** Are you applying for exemption as a childcare organization under section 501(k)? If "Yes," answer lines 9b through 9d. If "No," go to line 10. **Yes** **No**
- b** Do you provide child care so that parents or caretakers of children you care for can be **gainfully employed** (see instructions)? If "No," explain how you qualify as a childcare organization described in section 501(k). **Yes** **No**
- c** Of the children for whom you provide child care, are 85% or more of them cared for by you to enable their parents or caretakers to be gainfully employed (see instructions)? If "No," explain how you qualify as a childcare organization described in section 501(k). **Yes** **No**
- d** Are your services available to the general public? If "No," describe the specific group of people for whom your activities are available. Also, see the instructions and explain how you qualify as a childcare organization described in section 501(k). **Yes** **No**

10 Do you or will you publish, own, or have rights in music, literature, tapes, artworks, choreography, scientific discoveries, or other **intellectual property**? If "Yes," explain. Describe who owns or will own any copyrights, patents, or trademarks, whether fees are or will be charged, how the fees are determined, and how any items are or will be produced, distributed, and marketed. **Yes** **No**

Part VIII Your Specific Activities (Continued)

- 11** Do you or will you accept contributions of: real property; conservation easements; closely held securities; intellectual property such as patents, trademarks, and copyrights; works of music or art; licenses; royalties; automobiles, boats, planes, or other vehicles; or collectibles of any type? If "Yes," describe each type of contribution, any conditions imposed by the donor on the contribution, and any agreements with the donor regarding the contribution. Yes No
-
- 12a** Do you or will you operate in a **foreign country or countries**? If "Yes," answer lines 12b through 12d. If "No," go to line 13a. Yes No
- b** Name the foreign countries and regions within the countries in which you operate.
- c** Describe your operations in each country and region in which you operate.
- d** Describe how your operations in each country and region further your exempt purposes.
-
- 13a** Do you or will you make grants, loans, or other distributions to organization(s)? If "Yes," answer lines 13b through 13g. If "No," go to line 14a. Yes No
- b** Describe how your grants, loans, or other distributions to organizations further your exempt purposes.
- c** Do you have written contracts with each of these organizations? If "Yes," attach a copy of each contract. Yes No
- d** Identify each recipient organization and any **relationship** between you and the recipient organization.
- e** Describe the records you keep with respect to the grants, loans, or other distributions you make.
- f** Describe your selection process, including whether you do any of the following:
- (i) Do you require an application form? If "Yes," attach a copy of the form. Yes No
- (ii) Do you require a grant proposal? If "Yes," describe whether the grant proposal specifies your responsibilities and those of the grantee, obligates the grantee to use the grant funds only for the purposes for which the grant was made, provides for periodic written reports concerning the use of grant funds, requires a final written report and an accounting of how grant funds were used, and acknowledges your authority to withhold and/or recover grant funds in case such funds are, or appear to be, misused. Yes No
- g** Describe your procedures for oversight of distributions that assure you the resources are used to further your exempt purposes, including whether you require periodic and final reports on the use of resources.
-
- 14a** Do you or will you make grants, loans, or other distributions to foreign organizations? If "Yes," answer lines 14b through 14f. If "No," go to line 15. Yes No
- b** Provide the name of each foreign organization, the country and regions within a country in which each foreign organization operates, and describe any relationship you have with each foreign organization.
- c** Does any foreign organization listed in line 14b accept contributions earmarked for a specific country or specific organization? If "Yes," list all earmarked organizations or countries. Yes No
- d** Do your contributors know that you have ultimate authority to use contributions made to you at your discretion for purposes consistent with your exempt purposes? If "Yes," describe how you relay this information to contributors. Yes No
- e** Do you or will you make pre-grant inquiries about the recipient organization? If "Yes," describe these inquiries, including whether you inquire about the recipient's financial status, its tax-exempt status under the Internal Revenue Code, its ability to accomplish the purpose for which the resources are provided, and other relevant information. Yes No
- f** Do you or will you use any additional procedures to ensure that your distributions to foreign organizations are used in furtherance of your exempt purposes? If "Yes," describe these procedures, including site visits by your employees or compliance checks by impartial experts, to verify that grant funds are being used appropriately. Yes No

Part VIII Your Specific Activities (Continued)

- 15 Do you have a close connection with any organizations? If "Yes," explain. Yes No
- 16 Are you applying for exemption as a cooperative hospital service organization under section 501(e)? If "Yes," explain. Yes No
- 17 Are you applying for exemption as a cooperative service organization of operating educational organizations under section 501(f)? If "Yes," explain. Yes No
- 18 Are you applying for exemption as a charitable risk pool under section 501(n)? If "Yes," explain. Yes No
- 19 Do you or will you operate a school? If "Yes," complete Schedule B. Answer "Yes," whether you operate a school as your main function or as a secondary activity. Yes No
- 20 Is your main function to provide hospital or medical care? If "Yes," complete Schedule C. Yes No
- 21 Do you or will you provide low-income housing or housing for the elderly or handicapped? If "Yes," complete Schedule F. Yes No
- 22 Do you or will you provide scholarships, fellowships, educational loans, or other educational grants to individuals, including grants for travel, study, or other similar purposes? If "Yes," complete Schedule H. Yes No

Note: Private foundations may use Schedule H to request advance approval of individual grant procedures.

Part IX Financial Data (Continued)

B. Balance Sheet (for your most recently completed tax year)

		Year End:
		(Whole dollars)
Assets		
1	Cash	0
2	Accounts receivable, net	
3	Inventories	
4	Bonds and notes receivable (attach an itemized list)	
5	Corporate stocks (attach an itemized list)	
6	Loans receivable (attach an itemized list)	
7	Other investments (attach an itemized list)	
8	Depreciable and depletable assets (attach an itemized list)	
9	Land	
10	Other assets (attach an itemized list)	
11	Total Assets (add lines 1 through 10)	
Liabilities		
12	Accounts payable	
13	Contributions, gifts, grants, etc. payable	
14	Mortgages and notes payable (attach an itemized list)	
15	Other liabilities (attach an itemized list)	
16	Total Liabilities (add lines 12 through 15)	
Fund Balances or Net Assets		
17	Total fund balances or net assets	0
18	Total Liabilities and Fund Balances or Net Assets (add lines 16 and 17)	0
19	Have there been any substantial changes in your assets or liabilities since the end of the period shown above? If "Yes," explain.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Part X Public Charity Status

Part X is designed to classify you as an organization that is either a private foundation or a public charity. Public charity status is a more favorable tax status than private foundation status. If you are a private foundation, Part X is designed to further determine whether you are a private operating foundation. (See instructions.)

- 1a Are you a private foundation? If "Yes," go to line 1b. If "No," go to line 5 and proceed as instructed. If you are unsure, see the instructions. Yes No
- b As a private foundation, section 508(e) requires special provisions in your organizing document in addition to those that apply to all organizations described in section 501(c)(3). Check the box to confirm that your organizing document meets this requirement, whether by express provision or by reliance on operation of state law. Attach a statement that describes specifically where your organizing document meets this requirement, such as a reference to a particular article or section in your organizing document or by operation of state law. See the instructions, including Appendix B, for information about the special provisions that need to be contained in your organizing document. Go to line 2.
- 2 Are you a private operating foundation? To be a private operating foundation you must engage directly in the active conduct of charitable, religious, educational, and similar activities, as opposed to indirectly carrying out these activities by providing grants to individuals or other organizations. If "Yes," go to line 3. If "No," go to the signature section of Part XI. Yes No
- 3 Have you existed for one or more years? If "Yes," attach financial information showing that you are a private operating foundation; go to the signature section of Part XI. If "No," continue to line 4. Yes No
- 4 Have you attached either (1) an affidavit or opinion of counsel, (including a written affidavit or opinion from a certified public accountant or accounting firm with expertise regarding this tax law matter), that sets forth facts concerning your operations and support to demonstrate that you are likely to satisfy the requirements to be classified as a private operating foundation; or (2) a statement describing your proposed operations as a private operating foundation? Yes No
- 5 If you answered "No" to line 1a, indicate the type of public charity status you are requesting by checking one of the choices below. You may check only one box.
 The organization is not a private foundation because it is:
 - a 509(a)(1) and 170(b)(1)(A)(i)—a church or a convention or association of churches. Complete and attach Schedule A.
 - b 509(a)(1) and 170(b)(1)(A)(ii)—a school. Complete and attach Schedule B.
 - c 509(a)(1) and 170(b)(1)(A)(iii)—a hospital, a cooperative hospital service organization, or a medical research organization operated in conjunction with a hospital. Complete and attach Schedule C.
 - d 509(a)(3)—an organization supporting either one or more organizations described in line 5a through c, f, g, or h or a publicly supported section 501(c)(4), (5), or (6) organization. Complete and attach Schedule D.

Part X Public Charity Status (Continued)

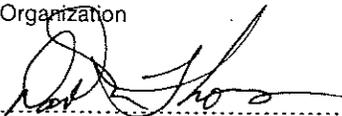
- e 509(a)(4)—an organization organized and operated exclusively for testing for public safety.
- f 509(a)(1) and 170(b)(1)(A)(iv)—an organization operated for the benefit of a college or university that is owned or operated by a governmental unit.
- g 509(a)(1) and 170(b)(1)(A)(vi)—an organization that receives a substantial part of its financial support in the form of contributions from publicly supported organizations, from a governmental unit, or from the general public.
- h 509(a)(2)—an organization that normally receives not more than one-third of its financial support from gross investment income and receives more than one-third of its financial support from contributions, membership fees, and gross receipts from activities related to its exempt functions (subject to certain exceptions).
- i A publicly supported organization, but unsure if it is described in 5g or 5h. The organization would like the IRS to decide the correct status.

6 If you checked box g, h, or i in question 5 above, you must request either an **advance** or a **definitive ruling** by selecting one of the boxes below. Refer to the instructions to determine which type of ruling you are eligible to receive.

- a **Request for Advance Ruling:** By checking this box and signing the consent, pursuant to section 6501(c)(4) of the Code you request an advance ruling and agree to extend the statute of limitations on the assessment of excise tax under section 4940 of the Code. The tax will apply only if you do not establish public support status at the end of the 5-year advance ruling period. The assessment period will be extended for the 5 advance ruling years to 8 years, 4 months, and 15 days beyond the end of the first year. You have the right to refuse or limit the extension to a mutually agreed-upon period of time or issue(s). Publication 1035, *Extending the Tax Assessment Period*, provides a more detailed explanation of your rights and the consequences of the choices you make. You may obtain Publication 1035 free of charge from the IRS web site at www.irs.gov or by calling toll-free 1-800-829-3676. Signing this consent will not deprive you of any appeal rights to which you would otherwise be entitled. If you decide not to extend the statute of limitations, you are not eligible for an advance ruling.

Consent Fixing Period of Limitations Upon Assessment of Tax Under Section 4940 of the Internal Revenue Code

For Organization


(Signature of Officer, Director, Trustee, or other authorized official)

David M. Thoms

(Type or print name of signer)

1-22-09

(Date)

Director / President

(Type or print title or authority of signer)

For IRS Use Only

IRS Director, Exempt Organizations

(Date)

- b **Request for Definitive Ruling:** Check this box if you have completed one tax year of at least 8 full months and you are requesting a definitive ruling. To confirm your public support status, answer line 6b(i) if you checked box g in line 5 above. Answer line 6b(ii) if you checked box h in line 5 above. If you checked box i in line 5 above, answer both lines 6b(i) and (ii).

- (i) (a) Enter 2% of line 8, column (e) on Part IX-A. Statement of Revenues and Expenses. _____
- (b) Attach a list showing the name and amount contributed by each person, company, or organization whose gifts totaled more than the 2% amount. If the answer is "None," check this box.
- (ii) (a) For each year amounts are included on lines 1, 2, and 9 of Part IX-A. Statement of Revenues and Expenses, attach a list showing the name of and amount received from each **disqualified person**. If the answer is "None," check this box.
- (b) For each year amounts are included on line 9 of Part IX-A. Statement of Revenues and Expenses, attach a list showing the name of and amount received from each payer, other than a disqualified person, whose payments were more than the larger of (1) 1% of line 10, Part IX-A. Statement of Revenues and Expenses, or (2) \$5,000. If the answer is "None," check this box.

- 7 Did you receive any unusual grants during any of the years shown on Part IX-A. Statement of Revenues and Expenses? If "Yes," attach a list including the name of the contributor, the date and amount of the grant, a brief description of the grant, and explain why it is unusual. Yes No

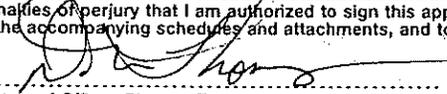
Part XI User Fee Information

You must include a user fee payment with this application. It will not be processed without your paid user fee. If your average annual gross receipts have exceeded or will exceed \$10,000 annually over a 4-year period, you must submit payment of \$750. If your gross receipts have not exceeded or will not exceed \$10,000 annually over a 4-year period, the required user fee payment is \$300. See instructions for Part XI, for a definition of **gross receipts** over a 4-year period. Your check or money order must be made payable to the United States Treasury. *User fees are subject to change. Check our website at www.irs.gov and type "User Fee" in the keyword box, or call Customer Account Services at 1-877-829-5500 for current information.*

- 1 Have your annual gross receipts averaged or are they expected to average not more than \$10,000? Yes No
If "Yes," check the box on line 2 and enclose a user fee payment of \$300 (Subject to change—see above).
If "No," check the box on line 3 and enclose a user fee payment of \$750 (Subject to change—see above).
- 2 Check the box if you have enclosed the reduced user fee payment of \$300 (Subject to change).
- 3 Check the box if you have enclosed the user fee payment of \$750 (Subject to change).

I declare under the penalties of perjury that I am authorized to sign this application on behalf of the above organization and that I have examined this application, including the accompanying schedules and attachments, and to the best of my knowledge it is true, correct, and complete.

Please Sign Here


.....
(Signature of Officer, Director, Trustee, or other authorized official)

David M. Thoms
.....
(Type or print name of signer)

1-22-08
.....
(Date)

Director / President
.....
(Type or print title or authority of signer)

Reminder: Send the completed Form 1023 Checklist with your filled-in-application. Form **1023** (Rev. 6-2006)

Michigan Department of Labor & Economic Growth

Filing Endorsement

This is to Certify that the ARTICLES OF INCORPORATION - NONPROFIT

for

TO REPLANT ALL TREES ASSOCIATION

ID NUMBER: ██████████

received by facsimile transmission on July 10, 2008 is hereby endorsed

Filed on July 11, 2008 by the Administrator.

The document is effective on the date filed, unless a subsequent effective date within 90 days after received date is stated in the document.



In testimony whereof, I have hereunto set my hand and affixed the Seal of the Department, in the City of Lansing, this 11TH day of July, 2008.

, Director

Bureau of Commercial Services

ARTICLES OF INCORPORATION
OF
TO REPLANT ALL TREES ASSOCIATION

These Articles of Incorporation are signed by the incorporator for the purpose of forming a nonprofit corporation pursuant to the provisions of Act 162, Public Acts of 1982, as amended (the "Act"), as follows:

ARTICLE I

The name of the corporation is To Replant All Trees Association. (the "Corporation").

ARTICLE II

1. The purposes for which the Corporation is organized are as follows:
 - (a) To act as a platform for broader economic and social change by the creation of programs to enhance the environment through sponsorship of programs leading to the greening of the environment in the Detroit metropolitan area, thereby contributing to better health, increased social and economic value of land and communities, and advancement toward equity in opportunity and environmental justice;
 - (b) To operate and act exclusively for charitable, educational, or scientific purposes and/or to lessen the financial burdens of government by promotion of the existence, awareness and available services of nonprofit entities;
 - (c) To receive and administer assets exclusively for charitable, educational, or scientific purposes and/or to lessen the financial burdens of government by promotion of the existence, awareness and available services of nonprofit entities; and,
 - (d) To conduct any and all such activities and exercise any and all such powers as are necessary to the achievement of the foregoing and in furtherance of the purposes of the corporation.
2. Notwithstanding any other provision of these Articles, the corporation shall not carry on any activity not permitted to be carried on (i) by an organization which is described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or corresponding provisions of any subsequent Federal tax laws (the "Code"), and which is exempt from Federal income tax under Section 501(a) of the Code, (ii) by an organization, contributions to which are deductible under Section 170(c)(2) of the Code, or (iii) by a nonprofit corporation organized under the laws of the State of Michigan pursuant to the provisions of Act 162, Public Acts of 1982, as amended.
3. No substantial part of the activities of the Corporation shall be to carry on propaganda or otherwise attempt to influence legislation.
4. The Corporation shall not participate in or intervene in (including the publishing or distribution of statements) any political campaign on behalf of or against any candidate for

public office.

5. No substantial part of the activities of the Corporation shall consist of providing commercial-type insurance.

ARTICLE III

1. The Corporation is organized upon a nonstock basis.

2. The assets that the Corporation possesses are:

Real Property - None

Personal Property - None

3. The Corporation is to be financed by gifts, grants, contributions, bequests, devises, and investment income.

4. The Corporation is organized on a directorship basis.

Until such time as the Internal Revenue Service has approved the tax-exempt status of the Corporation, David M. Thoms shall serve as sole director. Upon such approval by the Internal Revenue Service, he shall elect five directors and shall resign.

ARTICLE IV

1. The address and the mailing address of the registered office is:

840 West Long Lake Road, Suite 200
Troy, Michigan 48098

2. The name of the resident agent at the registered office is:

David M. Thoms

ARTICLE V

The name and address of the incorporator are as follows:

<u>Name</u>	<u>Residence or Business Address</u>
David M. Thoms	840 West Long Lake Road, Suite 200 Troy, Michigan 48098

ARTICLE VI

The duration of the Corporation is perpetual.

ARTICLE VII

1. The term "volunteer director" shall have the same definition as set forth in Section 110(2) of the Act, as the same presently exists or may hereafter be amended (the "Act").

2. To the fullest extent permitted under Section 209(c) of the Act, a volunteer

director or volunteer officer of the Corporation shall not be personally liable to the Corporation for monetary damages for breach of the volunteer director's or officer's fiduciary duty. However, this provision does not eliminate or limit the liability of a volunteer director or officer for any of the following:

- (a) a breach of the volunteer director's or officer's duty of loyalty to the Corporation;
- (b) acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law;
- (c) a violation of Section 551(1) of the Act;
- (d) a transaction from which the volunteer director or officer derived an improper personal benefit;
- (e) an act or omission occurring before the date that this Article becomes effective in accordance with the pertinent provisions of the Act; or
- (f) an act or omission that is grossly negligent.

Any volunteer director or officer of the Corporation shall only be personally liable for monetary damages for a breach of fiduciary duty as a director or officer to the Corporation to the extent set forth in this Section 2.

3. To the fullest extent permitted under Section 209(d) of the Act, the Corporation assumes all liability to any person other than the Corporation for all acts or omissions of a volunteer director occurring on or after the date this Article becomes effective in accordance with the pertinent provisions of the Act, incurred in the good faith performance of the volunteer director's duties as such. A claim for monetary damages for a breach of a volunteer director's duty to any person other than the Corporation shall not be brought or maintained against a volunteer director; but such a claim shall be brought or maintained instead against the Corporation, which shall be liable for the breach of the volunteer director's duty. Notwithstanding anything to the contrary immediately above, this Section 3 shall apply and have force only if, and as long as, the Corporation is exempt from Federal income tax pursuant to Section 501(c)(3) of the Code or is eligible to be exempt from Federal income tax pursuant to Section 501(c)(3) of the Code.

4. Any repeal, amendment or other modification of this Article shall not adversely affect any right or protection of any director or officer of the Corporation existing at the time of such repeal, amendment or other modification. If the Act is amended after this Article becomes effective, then the liability of directors and officers shall be eliminated or limited to the fullest extent permitted by the Act as so amended.

ARTICLE VIII

1. To the fullest extent permitted by the Act the Corporation assumes the liability for all acts or omissions of the Corporation's volunteer directors, volunteer officers, or other volunteer occurring on or after the date this Article becomes effective in accordance with the pertinent provisions of the Act if all of the following are met:

- (a) The volunteer was acting or reasonably believed he or she was acting within the scope of his or her authority.
- (b) The volunteer was acting in good faith.

- (c) The volunteer's conduct did not amount to gross negligence or willful and wanton misconduct.
- (d) The volunteer's conduct was not an intentional tort.
- (e) The volunteer's conduct was not a tort arising out of the ownership, maintenance, or use of a motor vehicle for which tort liability may be imposed as provided in section 3135 of the insurance code of 1956, Act No. 218 of the Public Acts of 1956, being section 500.3135 of the Michigan Compiled Laws.

2. It is the intention and purpose of this Article that by reason of the foregoing provisions a claim for monetary damages for a volunteer's acts or omissions shall not be brought or maintained against a volunteer but shall be brought and maintained against the Corporation.

3. Any repeal, amendment or modification of this Article shall not adversely affect any right or protection of a volunteer of the Corporation existing at the time of such repeal, amendment or other modification. If the Act is amended after this Article becomes effective, then the liability of volunteers shall be eliminated or limited to the fullest extent permitted by the Act as so amended.

ARTICLE IX

1. No part of the net earnings of the Corporation shall be distributed to, or inure to the benefit of, any director or officer of the Corporation, contributor or individual as prohibited by Section 501(c)(3) of the Code, the Michigan General Sales Tax Act or the Michigan Use Tax Act.

2. In the event of the dissolution of the corporation, all of the Corporation's assets, real and personal, shall be distributed to such charitable organization or organizations as are described in Section 501(c)(3) of the Code and are exempt from Federal income tax under Section 501(a) of the Code, and whose purposes are compatible with those of the corporation, as the board of directors of the corporation shall determine. Any such assets not so disposed of, for whatever reason, shall be disposed of by the order of the Circuit Court of the county in which the principal office of the Corporation is then located to such organization or organizations, as said Court shall determine, which are organized and operated exclusively for charitable purposes.

3. In the event the Corporation is determined to be a "private foundation," as that term is defined in Section 509(a) of the Code, then for the purpose of complying with the requirements of Section 508(e) of the Code, the Corporation shall:

- (a) Distribute such part of its income and such part of its capital as may be required by law for each taxable year at such time and in such manner as not to become subject to the tax on undistributed income imposed by Section 4942 of the Code;
- (b) Not engage in any act of self-dealing as defined in Section 4941 of the Code;
- (c) Not retain any excess business holdings as defined in Section 4943 of the Code;
- (d) Not make any investments in such manner as to subject it to tax under Section 4944 of the Code; and
- (e) Not make any taxable expenditure as defined in Section 4945 of the Code.

ARTICLE X

The Corporation shall not knowingly engage in or support those who engage in activities which are subversive to the interests of The United States Government or its residents.

ARTICLE XI

These Articles of Incorporation may be amended by a majority vote of its Directors.

I, the sole incorporator, sign my name this 10th day of July, 2008.


David M. Thoms

BHLIB:603650.1\137097-00001

TO REPLANT ALL TREES ASSOCIATION

A MICHIGAN NONPROFIT CORPORATION

BYLAWS

TO REPLANT ALL TREES ASSOCIATION.

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BYLAWS
OF
TO REPLANT ALL TREES ASSOCIATION

(A Michigan Nonprofit Corporation)

ARTICLE I

Purpose

Section 1. General

The purposes of the corporation are as set forth in Article II of the articles of incorporation of the corporation.

ARTICLE II

Directors

Section 1. Number and Term

(a) Except as specifically provided in the corporation's Articles of Incorporation in Article III or these bylaws, all rights, powers, duties and responsibilities related to the management and control of the corporation's property, activities, affairs and business are vested in the Board, which at the time of adoption of these bylaws consists of one Director, shall consist five (5) persons. Except as hereafter provided, directors shall be elected at the annual meeting of the directors, and each director shall serve for one (1) year or until his or her successor shall be elected or until his or her resignation or removal.

(b) Except as provided in Article III of the Articles of Incorporation, at any time and from time to time, the Board may increase its membership so not to exceed seven (7) members, or may decrease its membership to any number not fewer than three (3) member.

Section 2. Quorum and Required Vote of Board

A majority of the directors then in office shall constitute a quorum for the transaction of business, and the action of a majority of the directors present at a meeting at which a quorum is present shall be the action of the Board, except as the articles of incorporation or these bylaws provide for a larger number. No proxy voting shall be permitted. A majority of the directors present may adjourn the meeting to another date whether or not a quorum is present.

Section 3. Action by Unanimous Written Consent

Action required or permitted to be taken pursuant to authorization voted at a meeting of the Board, may be taken without a meeting if, before or after the action, all members of the Board consent thereto in writing. Such action shall be a valid corporate action as though it had

been authorized at a meeting of the directors, and the written consents shall be filed with the minutes of the proceedings of the Board.

Section 4. Vacancies

(a) If a vacancy occurs in the Board, as a result of death, resignation or removal, including a vacancy resulting from an increase in the number of directors, or otherwise, the vacancy may be filled by the affirmative vote of a majority of the remaining directors though less than a quorum of the Board. A directorship to be filled because of an increase in the number of directors or to fill a vacancy may be filled by the Board for a term of office continuing only until the next annual meeting.

(b) If for any cause, the corporation has no directors in office, any officer may call a special meeting in accordance with these bylaws.

Section 5. Meetings and Actions

(a) The regular annual meeting of the Board of Directors for election of directors and officers and for such other business as may properly come before the meeting, commencing with the year 2009, shall be held with or without notice on the 3rd Wednesday in June in each year, if not a legal holiday, and, if a legal holiday, then on the next business day following, at 9:00 a.m., local time, or at such other date and time as shall be determined from time to time by a majority of the Board, unless such action is taken by written consent as provided in Section 3 of this Article. Any other regular meeting of the board of directors may be held without notice at such time and at such place as shall from time to time be determined by the Board.

(b) Regular or special meetings of the board of directors may be held either in or outside the State of Michigan.

(c) Special meetings of the directors may be called by the President and shall be called by the President or Secretary at the direction of not less than two (2) directors then in office, or as may otherwise be provided by law. Such meetings shall be held at the office of the corporation in Bedord, Michigan, unless otherwise directed by the Board and so stated in the notice of meeting, in which case the meeting may be held at any place within or without the State of Michigan. Any request for a meeting by directors shall state the purpose or purposes of the proposed meeting, and notice shall be given not less than twenty-four (24) hours before the time such special meeting is to be held.

(d) Attendance of a director at or participation in a meeting waives any required notice to him or her of the meeting unless he or she attends the meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

(e) When notice or communication of a meeting is required by these bylaws or by law, such notice shall contain the time, place and purpose of the meeting, shall be signed by either the President, a Vice President, the Secretary or an Assistant Secretary, and shall be served either personally or by mail upon each director not less than 10 nor more than 60 days before the meeting; provided that no notice of adjourned meetings need be given. If mailed, the notice shall be directed to each director at his or her address as it appears in the records of the corporation

unless he or she shall have filed with the Secretary thereof a written request that notices intended for him or her be mailed to some other address, in which case it shall be mailed to the address designated in such request. The notice or communication is given when deposited, with postage thereon prepaid, in a post office or official depository under the exclusive care and custody of the United States Postal Service. Written notice may also be given by telegram, telecopy, telex, radiogram, cablegram, mailgram or by a form of electronic transmission to which such director has consented, and such notice shall be deemed to be given when the recipient receives the notice personally, or when the notice, addressed as provided above, has been delivered to the corporation, or to the equipment transmitting such notice. Meetings may be held without notice if all directors are present in person or if notice of the time, place and purpose of such meeting is waived by telegram or other writing, including facsimile transmission, or by electronic transmission, either before or after the holding thereof, by all directors not present at such meeting.

(f) Any director may participate in a meeting of directors by means of conference telephone or by other similar communication equipment, through which all persons participating in the meeting may hear each other. All persons shall be advised of the communications equipment, and the names of the persons in the conference shall be divulged to all persons. Participation in a meeting pursuant to this Article III, Section 5(f) constitutes presence in person at the meeting. Any action taken at a meeting under this Article III, Section 5(f) shall be ineffective to take such corporate action unless confirmed in a writing signed by all persons within sixty (60) days after the date of the meeting conducted under this Article III, Section 5(f).

(g) Directors may adopt official action(s) by written consent which consent may be an actual writing on electronic transmission. Any such action by written consent shall be ineffective unless confirmed in writing signed by all persons within sixty (60) days after the date the action was taken under this Article III, Section 5(g).

Section 6. Removal; Resignation

Any director may be removed, at any time, with or without cause, by the affirmative vote of a majority of the directors then in office.

Any director may resign by written notice to the corporation. The resignation is effective upon receipt by the corporation or at a subsequent time and date so designated in the written notice of resignation.

Section 7. Committees

(a) The Board, by resolution passed by a majority of the members of the Board then in office, may appoint one (1) or more committees as it may deem appropriate, each committee to consists of one (1) or more of the directors of the corporation. Each such committee, to the extent provided in the resolution of the Board creating such committee, shall have and may exercise all the powers and authority of the Board in the management of the business and affairs of the corporation. A majority of the members of any such committee shall constitute a quorum for the transaction of business, and the action of a majority of the members present at a meeting at which a quorum is present shall be the aciton of the committee unless provided otherwise by the Board. A majority of any such committee may fix the time and place of its meetings. The Board may designate one (1) or more directors as alternate members of any committee, who may

replace an absent or disqualified member at a meeting of the committee. In the absence or disqualification of a member of a committee, the members thereof present at a meeting and not disqualified from voting, whether or not they constitute a quorum, may unanimously appoint another member of the board to act at the meeting in place of such an absent or disqualified member.

(b) A committee does not have the power or authority to amend the articles of incorporation, adopt an agreement of merger or consolidation, recommend to the board of directors the sale, lease or exchange of all or substantially all of the corporation's property and assets, recommend to the board of directors a dissolution of the corporation or a revocation of a dissolution, amend the bylaws of the corporation; fill vacancies in the board of directors, or fix compensation of the directors for serving on the board of directors or on a committee. Any such committee and each member thereof, shall serve at the pleasure of the board of directors.

(c) Each such committee shall keep such records of its acts and proceedings and shall submit such reports to the Board as the Board may require from time to time. Failure to maintain such records or submit such reports, or failure of the Board to approve any action indicated therein will not, however, invalidate such action to the extent it has been carried out by the corporation prior to the time the record of such action was, or should have been, submitted to the Board as herein provided.

Section 8. Distribution of Income

The corporation will distribute its income for each tax year at such time and in such manner so as not to become subject to the tax on undistributed income imposed by Section 4942 of the Internal Revenue Code, as amended, or any corresponding section.

Section 9. Compensation

The Board, by affirmative vote of a majority of directors in office and irrespective of any personal interest of any of them, may establish reasonable compensation of directors for services to the corporation as directors which are reasonable and necessary to carrying out the exempt purpose of the corporation, provided such compensation is not excessive.

ARTICLE III

Officers

Section 1. Election or Appointment

Except as herein provided, the Board, as soon as may be practicable after its first meeting and after each annual meeting, shall elect or appoint a President, Secretary and Treasurer, and, if desired, one (1) or more Vice Presidents, Assistant Secretaries and Assistant Treasurers. An officer need not be a director of the corporation. The same person may hold any two (2) or more offices, but no officer shall execute, acknowledge or verify any instrument in more than one (1) capacity. The directors may also appoint such other officers and agents as it may deem necessary for the transaction of the business of the corporation.

The initial officers of the corporation shall be as follows:

<u>Officers</u>	<u>Names</u>
President	David M. Thoms
Vice President	David M. Thoms
Secretary	David M. Thoms
Treasurer	David M. Thoms

Section 2. Term of Office

The term of office of all officers shall commence upon their election or appointment and shall continue until the next annual meeting of the corporation and thereafter until their respective successors are chosen or until their resignation or removal. Any officer may be removed from office at any meeting of the directors, with or without cause, by the affirmative vote of a majority of the directors, whenever in their judgment the best interest of the corporation will be served thereby. An officer may resign by written notice to the corporation. The resignation shall be effective upon its receipt by the corporation or at a subsequent time specified in the notice of resignation. The directors shall have the power to fill any vacancies in any offices occurring from whatever reason.

Section 3. The President

The President shall be the chief executive officer of the corporation and shall have general and active management of the activities of the corporation, and shall see that all orders and resolutions of the Board are carried into effect. He or she shall execute all authorized conveyances, contracts, or other obligations in the name of the corporation except where required by law to be otherwise signed and executed and except where the signing and execution thereof shall be expressly delegated by the directors to some other officer or agent of the corporation. The President shall preside at all meetings of the directors. If the President shall be absent from a meeting of the directors, the directors present thereat shall designate another presiding officer.

Section 4. Vice Presidents

In the absence or disability of the President, the Vice Presidents, if any, in the order designated by the Board, or if lacking such designation, then as designated by the President, shall perform the duties and exercise the powers of the President and shall perform such other duties as the Board shall prescribe.

Section 5. The Secretary

The Secretary shall attend all meetings of the Board and record all votes and the minutes of all proceedings in a book to be kept for that purpose and shall perform like duties for the standing committees when required. The Secretary shall give or cause to be given notice of all meetings of the directors, and shall perform such other duties as may be prescribed by the Board or by the President under whose supervision the Secretary shall act. Where two signatures are required, the Secretary shall execute with the President all authorized conveyances, contracts or other obligations in the name of the corporation, except as otherwise directed by the Board. The

Secretary shall keep in safe custody the seal of the corporation and, when authorized by the Board, affix the same to any instrument requiring it and, when so affixed, it shall be attested by the signature of the Secretary or by the signature of the Treasurer or an Assistant Secretary.

Section 6. The Treasurer

The Treasurer shall have the custody of the corporation's funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the corporation and shall deposit all monies and other valuable effects in the name and to the credit of the corporation in such depositories as may be designated by the Board. The Treasurer shall disburse the funds of the corporation as required in the business of the corporation, taking proper vouchers for such disbursements and shall render to the President and directors at the regular meetings of the Board or whenever the President or directors may require it, an account of all his or her transactions as Treasurer and of the financial condition of the corporation. If required by the Board, the Treasurer shall give the corporation a bond in such sum and with such surety or sureties as shall be satisfactory to the Board for the faithful performance of the duties of the office of Treasurer and for the restoration to the corporation in case of his or her death, resignation or removal from office, of all books, papers, vouchers, money and other property of whatever kind in his or her possession or under his or her control belonging to the corporation.

Section 7. Assistant Secretaries and Assistant Treasurers

In the absence of the Secretary or the Treasurer, the Assistant Secretaries and the Assistant Treasurers, respectively, in the order designated by the Board, or lacking such designation, then as designated by the President, shall perform the duties and exercise the powers of such Secretary or Treasurer and shall perform such other duties as the Board shall prescribe.

ARTICLE IV

Duty of Directors and Officers; Indemnification

Section 1. Duty of Directors and Officers

A director or an officer shall discharge the duties of that position in good faith and with that degree of diligence, care, and skill which an ordinary prudent person would exercise under similar circumstances in a like position.

In discharging his or her duties, a director or an officer, when acting in good faith, may rely upon the opinion of counsel of the corporation, the report of an independent appraiser selected with reasonable care by the Board, or financial statements of the corporation represented to him or her to be correct by the President or the Treasurer, or as stated in a written report by an independent public or certified public accountant or firm of such accountants fairly to reflect the financial condition of the corporation.

Section 2. Indemnification

(a) The corporation shall, to the fullest extent authorized or permitted by the Michigan Nonprofit Corporation Act ("the Act") or other applicable law, as the same presently exists or may hereafter be amended, indemnify a director or officer (the "Indemnitee") who was or is a party or is threatened to be made a party to a threatened, pending, or completed action,

suit, or proceeding, whether civil, criminal, administrative, or investigative and whether formal or informal, other than an action by or in the right of the corporation, by reason of the fact that he or she is or was a director, officer, employee, nondirector volunteer or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, partner, trustee, employee, nondirector volunteer or agent of another foreign or domestic corporation, business corporation, partnership, joint venture, trust, or other enterprise, whether for profit or not for profit, against expenses, including attorneys' fees, judgments, penalties, fines, and amounts paid in settlement actually and reasonably incurred by the Indemnitee in connection with the action, suit, or proceeding, if the Indemnitee acted in good faith and in a manner the Indemnitee reasonably believed to be in or not opposed to the best interests of the corporation, and with respect to any criminal action or proceeding, if the Indemnitee had no reasonable cause to believe the conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, does not, of itself, create a presumption that the Indemnitee did not act in good faith and in a manner which the Indemnitee reasonably believed to be in or not opposed to the best interests of the corporation, and with respect to any criminal action or proceeding, had reasonable cause to believe that the conduct was unlawful.

(b) The corporation shall, to the fullest extent authorized or permitted by the Act or other applicable law, as the same presently exists or may hereafter be amended, indemnify an Indemnitee who was or is a party to or is threatened to be made a party to a threatened, pending, or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that the Indemnitee is or was a director, officer, employee, nondirector volunteer or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, partner, trustee, employee, nondirector volunteer or agent of another foreign or domestic corporation, business corporation, partnership, joint venture, trust, or other enterprise, whether for profit or not, against expenses, including actual and reasonable attorneys' fees, and amounts paid in settlement incurred by the Indemnitee in connection with the action or suit, if the Indemnitee acted in good faith and in a manner the Indemnitee reasonably believed to be in or not opposed to the best interests of the corporation. However, indemnification under this Section shall not be made for a claim, issue, or matter in which the Indemnitee has been found liable to the corporation unless and only to the extent that the court in which the action or suit was brought has determined upon application that, despite the adjudication of liability but in view of all circumstances of the case, the Indemnitee is fairly and reasonably entitled to indemnification for the expenses which the court considers proper.

(c) Notwithstanding the provisions of Sections 2(a) and 2(b) of this Article, the corporation shall not indemnify an Indemnitee in connection with any action, suit, proceeding or claim (or part thereof) brought or made by such Indemnitee; unless such action, suit, proceeding or claim (or part thereof) (i) was authorized by the Board, or (ii) was brought or made to enforce this Article and such Indemnitee has been successful in such action, suit, proceeding or claim (or part thereof).

(d) An indemnification under Sections 2(a) or 2(b) of this Article, unless ordered by a court, shall be made by the corporation only as authorized in the specific case upon a determination that indemnification of the Indemnitee is proper in the circumstances because the Indemnitee has met the applicable standard of conduct set forth in Sections 2(a) and 2(b) of this Article. This determination shall be made promptly in any of the following ways:

(i) By a majority vote of a quorum of the Board consisting of directors who were not parties to the action, suit, or proceeding.

(ii) If the quorum described in subdivision (i) is not obtainable, then by a majority vote of a committee of directors who are not parties to the action. The committee shall consist of not less than two (2) disinterested directors.

(iii) By independent legal counsel in a written opinion.

(e) Expenses incurred in defending a civil or criminal action, suit, or proceeding described in Sections 2(a) or 2(b) of this Article shall be paid by the corporation in advance of the final disposition of the action, suit, or proceeding upon receipt of any undertaking by or on behalf of the Indemnitee to repay the expenses if it is ultimately determined that the Indemnitee is not entitled to be indemnified by the corporation. The undertaking shall be by unlimited general obligation of the person on whose behalf advances are made but need not be secured.

(f) If an Indemnitee is entitled to indemnification under Sections 2(a) or 2(b) of this Article for a portion of expenses including attorneys' fees, judgments, penalties, fines, and amounts paid in settlement, but not for the total amount thereof, the corporation shall indemnify the Indemnitee for the portion of the expenses, judgments, penalties, fines, or amounts paid in settlement for which the Indemnitee is entitled to be indemnified.

(g) Any person who is not covered by the foregoing provisions of this Article and who is or was an employee, nondirector volunteer or agent of the corporation, or is or was serving at the request of the corporation as a trustee, director, officer, employee, nondirector volunteer or agent of another foreign or domestic corporation, business corporation, partnership, joint venture, trust, or other enterprise, whether for profit or not for profit, may be indemnified to the fullest extent authorized or permitted by the Act or other applicable law, as the same exist or may hereafter be amended, but in the case of any such amendment, only to the extent such amendment permits the corporation to provide broader indemnification rights than before such amendment, but in any event only to the extent authorized at any time or from time to time by the Board.

(h) The indemnification or advancement of expenses provided under Sections 2(a) to 2(g) of this Article is not exclusive of other rights to which a person seeking indemnification or advancement of expenses may be entitled under the articles of incorporation, these bylaws, or a contractual agreement. However, the total amount of expenses advanced or indemnified from all sources combined shall not exceed the amount of actual expenses incurred by the person seeking indemnification or advancement of expenses. The indemnification provided for in Sections 2(a) to 2(g) of this Article continues as to a person who ceases to be a trustee, director, officer, employee, nondirector volunteer or agent and shall inure to the benefit of the heirs, executors, and administrators of the person.

(i) The corporation shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee, nondirector volunteer or agent of the corporation, or is or was serving at the request of the corporation as a trustee, director, officer, employee, nondirector volunteer or agent of another corporation, business corporation, partnership, joint venture, trust or other enterprise against any liability asserted against the person and incurred by the person in any such capacity or arising out of the person's status as

such, whether or not the corporation would have the power to indemnify the person against such liability under the provisions of the Act.

(j) The right to indemnification conferred in this Article shall be deemed to be a contract between the corporation and each director or officer who serves in any such capacity at any time while this Article is in effect, and any repeal or modification of any such law or of this Article shall not affect any rights or obligations then existing with respect to any state of facts then or theretofore existing or any action, suit or proceeding theretofore or thereafter brought or threatened based in whole or in part upon any such state of facts. In the event this Article is repealed or modified, the corporation shall give written notice thereof to the directors and officers and any such repeal or modification shall not be effective for a period of sixty (60) days after such notice is delivered.

(k) The definition for "corporation" found in Section 569 of the Act, as the same exists or may hereafter be amended, is and shall be, specifically excluded from application to this Article. The indemnification and other obligations of the corporation set forth in this Article shall be binding upon any resulting or surviving corporation after any merger or consolidation of the corporation. Notwithstanding anything to the contrary contained herein or in Section 569 of the Act, unless determined otherwise by the Board, no person shall be entitled to the indemnification and other rights set forth in this Article for acting as a director, officer, partner, trustee, employee, nondirector volunteer or agent of another corporation prior to such other corporation entering into a merger or consolidation with the corporation.

(l) Each and every paragraph, sentence, term and provision of this Article shall be considered severable in that, in the event a court finds any paragraph, sentence, term or provision to be invalid or unenforceable, the validity and enforceability, operation, or effect of the remaining paragraphs, sentences, terms, or provisions shall not be affected, and this Article shall be construed in all respects as if the invalid or unenforceable matter had been omitted.

Section 3. Right of Officer or Director to Bring Suit

If a claim for indemnification is not paid in full by the corporation within forty-five (45) days after a written claim has been received by the corporation, the Indemnitee who submitted the claim may at any time thereafter bring suit against the corporation to recover the unpaid amount of the claim. If successful in whole or in part in any such suit or in a suit brought by the corporation to recover advances, the Indemnitee shall be entitled to be paid also the expense of prosecuting or defending such claim. In any action brought by the Indemnitee to enforce a right hereunder (other than an action brought to enforce a claim for expenses incurred in defending any proceeding in advance of its final disposition where the required undertaking, if any, has been tendered to the corporation) it shall be a defense that, and in any action brought by the corporation to recover advances the corporation shall be entitled to recover such advances if, the Indemnitee has not met the applicable standard of conduct set forth in Sections 2(a) or 2(b) of this Article. Neither the failure of the corporation (including its Board or independent legal counsel) to have made a determination prior to the commencement of such action that indemnification of the Indemnitee is proper in the circumstances because he or she has met the applicable standard of conduct set forth herein, nor an actual determination by the corporation (including its Board, independent legal counsel, or its shareholders) that the Indemnitee has not met such applicable standard of conduct, shall be a defense to an action brought by the Indemnitee or create a presumption that the indemnitee has not met the applicable standard of

conduct. In any action brought by the Indemnitee to enforce a right hereunder or by the corporation to recover payments by the corporation of advances, the burden of proof shall be on the corporation.

ARTICLE V

Corporate Actions

Section 1. Deposits

The Board shall, from time to time, designate banks, trust companies or other depositories in which all funds of the corporation not otherwise employed shall be deposited to the credit of the corporation.

Section 2. Checks

All checks, drafts and orders for the payment of money shall be signed in the name of the corporation in such manner and by such officer or officers or such other person or persons as the Board shall from time to time designate for that purpose.

Section 3. Voting Securities Held by the Corporation

Shares owned by the corporation in another corporation may be voted by the President or by proxy appointed by him or her in their absence, by the Vice President or by proxy appointed by him or her in their absence, by the Secretary or by proxy appointed by him or her in the absence of the aforementioned persons, by the Treasurer or by proxy appointed by him or her. The Board may appoint some other person to vote such shares.

Section 4. Corporate Books and Records

The corporation shall keep books and records of account and minutes of the proceedings of its Board and standing committees, if any. The books, records and minutes may be kept outside this state. Any of the books, records or minutes may be in written form or in any other form capable of being converted into written form within a reasonable time. The corporation shall convert into written form without charge any record not in written form, unless otherwise requested by a person entitled to inspect the records.

Section 5. Prohibited Actions

The corporation shall not carry on activities not permitted to be carried on (a) by a corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, as amended, (b) by a corporation contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code, as amended, or (c) by a nonprofit corporation organized under the law of the State of Michigan pursuant to the provisions of Act 162, public Acts of 1982, as amended.

No part of the assets or net earnings of the corporation shall inure to the benefit of or be distributable to its directors, officers, or other private persons, except as otherwise set forth in these bylaws.

No substantial part of the activities of the corporation shall be the carrying on of propaganda or otherwise attempting to influence legislation, and the corporation shall not participate in or intervene in (including the publishing or distributing of statements) any political campaign on behalf of (or in opposition to) any candidate for public office.

The corporation will not engage in any act of self-dealing as defined in Section 4941(d) of the Internal Revenue Code, as amended.

The corporation will not retain any excess business holdings as defined in Section 4943(c) of the Internal Revenue Code, as amended.

The corporation will not make any investments in such manner as to subject it to tax under Section 4944 of the Internal Revenue Code, as amended.

The corporation will not make any taxable expenditures as defined in Section 4945(d) of the Internal Revenue Code, as amended.

Section 6. Interest in Contracts

A contract or other transaction between the corporation and one or more of the directors or officers, or between the corporation and any other corporation, firm or association of any type or kind in which one or more of the directors or officers are directors, officers or otherwise interested, is not void or voidable solely because of such common directorship, officership or interest, or solely because such directors are present at the meeting of the Board or committee thereof which authorizes or approves the contract or transaction, or solely because their votes are counted for such purpose if any of the following conditions is satisfied:

(a) The contract or other transaction is fair and reasonable to the corporation when it is authorized, approved or ratified;

(b) The material facts as to his or her relationship or interest and as to the contract or transaction are disclosed or known to the Board or committee and the Board or committee authorizes, approves or ratifies the contract or transaction by a vote sufficient for the purpose without counting the vote of any common or interested director.

ARTICLE VI

Offices

Section 1. Registered Office

The initial registered office of the corporation shall be located at 840 West Long Lake Road, Suite 200, Troy, Michigan 48098, or such other address as the Board may from time to time designate.

Section 2. Other Offices

The corporation may also have offices at such other places both within and without the State of Michigan as the Board may from time to time determine or the business of the corporation may require.

Section 3. Resident Agent

(a) The corporation shall appoint a Resident Agent who may be either an individual resident in this state or a corporation authorized to transact business in this state and having a business office identical with such registered office. Upon appointment of such Resident Agent, the corporation shall immediately file with the State Administrator a certificate of such appointment. The initial Resident Agent shall be David M. Thoms.

(b) The corporation may change its registered office or its Resident Agent, or both, by resolution duly adopted by the Board. Such change may be executed by the President, Vice-President, Secretary or Assistant Secretary of the corporation. Such change shall become effective on the filing of a copy of such resolution in the office of the State Administrator and upon the Administrator's endorsement thereof unless a subsequent effective time is set forth.

ARTICLE VII

Tax Year; Seal; Notices

Section 1. Calendar Year

The corporation shall be a calendar year taxpayer.

Section 2. Corporate Seal

The Board may provide a corporate seal, alter the seal, and use it by causing it or a facsimile to be affixed, impressed or reproduced in any other manner.

Section 3. Notices

Any notice required by statute or by these bylaws to be given to the directors or to any officers of the corporation, unless otherwise provided herein or in any statute, shall be sufficient if given by depositing the same in a United States post office box or receptacle in a sealed, postpaid envelope, addressed to such director or officer at his last address as the same appears on the records of the corporation, and such notice shall be deemed to have been given at the time of such mailing.

ARTICLE VIII

Amendments

Section 1. General

The Board, by the affirmative vote of a majority of the directors then in office, may amend or repeal the bylaws or adopt new bylaws. Such action may be taken by written consent or at any meeting of the board of directors; provided that if notice of any such meeting is

required by these bylaws, it shall contain notice of the proposed amendment, repeal or new bylaws.

ARTICLE IX

Definitions and Miscellaneous Provisions

Section 1. Definitions

(a) Corporation. As used herein, "corporation" shall include all constituent corporations absorbed in a consolidation or merger and the resulting or surviving corporation, so that a person who is or was a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, or other enterprise whether for profit or not shall stand in the same position under the provisions of this Article III with respect to the resulting or surviving corporation as the person would if he or she served the resulting or surviving corporation in the same capacity.

(b) Disqualified Person. As used herein, "disqualified person" shall include a person who is described in Section 4946 of the Internal Revenue Code.

(c) Fines. As used herein "fines" shall include any excise taxes assessed on a person with respect to an employee benefit plan.

(d) Not Opposed to the Best Interest of the Corporation. As used herein, a person who acted in good faith and in a manner he or she reasonably believed to be in the best interest of the participants and beneficiaries of an employee benefit plan shall be considered to have acted in a manner "not opposed to the best interest of the corporation" as referred to in this Article III.

(e) Other Enterprises. As used herein, "other enterprises" shall include employee benefit plans.

(f) Serving at the Request of the Corporation. As used herein, "serving at the request of the corporation" shall include any service as a director or officer of the corporation which imposes duties on, or involves services by, the director or officer with respect to an employee benefit plan, its participants or beneficiaries.

(g) Board. As used herein, "Board" shall be read to mean the Board of Directors of the corporation.

Section 2. Miscellaneous Provisions

(a) Captions. The captions, Article numbers and paragraph lettering used herein are inserted only as a matter of convenience and for reference only and in no way define, limit, construe or describe the scope or intent of such Sections or Articles of these bylaws, nor in any way affect these bylaws.

(b) Gender. Wherever in these bylaws, words, including pronouns, are used in the singular or plural, they shall be read and construed in the plural or singular, respectively, whenever they would so apply, and wherever words, including pronouns, are used in the

whenever they would so apply, and wherever words, including pronouns, are used in the masculine, feminine or neuter, they shall be read and construed in the feminine, neuter or masculine, respectively, whenever they would so apply.

ARTICLE X

Dissolution

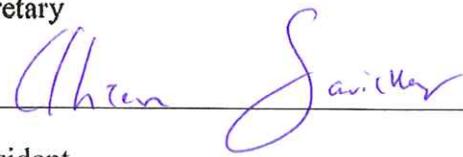
Section 1. General

Upon the termination, dissolution or winding up of the corporation, the Board shall, after paying or making provision for the payment of all liabilities of the corporation, distribute all assets of the corporation to an organization or organizations as are organized and operated exclusively for one or more exempt purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended. Any such assets not so disposed of shall be disposed of by the circuit court in the county in which the principal office of the corporation is then located, exclusively for such purposes.

Effective: 7-11, 2008



Secretary



President

BHLIB:603895.1\137097-00001

BHLIB:603895.1\137097-00001



CITY COUNCIL REPORT

DATE: September 4, 2009

TO: John Szerlag, City Manager

FROM: Mark F. Miller, Acting Assistant City Manager/Economic Development Services
R. Brent Savidant, Acting Planning Director

SUBJECT: Announcement of Public Hearing – Zoning Ordinance Text Amendment (File Number: ZOTA 240) – Article 43 – BZA Provisions

A public hearing is scheduled for the October 5, 2009 City Council meeting. The Planning Commission held a public hearing for this item at the August 25, 2009 Special/Study meeting and recommends approval of ZOTA 240.

The Zoning Ordinance does not mandate that applications to the Board of Zoning Appeals (BZA) first seek Site Plan Approval from the Planning Commission, prior to being considered by the BZA. Applications are considered by the BZA before the Planning Commission has an opportunity to review and provide input into site layout and design. This process allows the BZA to grant variances before a site plan is reviewed inter-departmentally and by the Planning Commission. The attached draft Zoning Ordinance Text Amendment (ZOTA) is intended to eliminate this flawed process.

The proposed ZOTA requires that applications to the BZA that also require review and approval by the Planning Commission go first to the Planning Commission for comment. The Planning Commission can take action on the item but shall not grant Preliminary Site Plan Approval nor make a recommendation on the variance. The Planning Commission then transmits their findings to the BZA, which decides upon the application. The BZA then returns its decision to the Planning Commission for action on the site plan.

City Management recommends approval of ZOTA 240.

Approved as to form and legality:

Lori Grigg Bluhm, City Attorney

Attachments:

1. ZOTA 240 City Council Public Hearing Draft.
2. Minutes from August 25, 2009 Planning Commission Special/Study meeting.

Prepared by RBS/MFM

CITY OF TROY
AN ORDINANCE TO AMEND
CHAPTER 39 OF THE CODE
OF THE CITY OF TROY
CITY COUNCIL PUBLIC HEARING DRAFT
ZOTA 240

The City of Troy ordains:

Section 1. Short Title

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

Section 2. Amendment to Article XL of Chapter 39

Article XL of Chapter 39 of the Code of the City of Troy is amended to add a provision requiring Planning Commission review of applications to the Board of Zoning Appeals, when applications require site plan approval, to read as follows:

SECTION 43.86.00 PLANNING COMMISSION REVIEW OF SITE PLAN

If an application to the Board of Zoning Appeals requires site plan approval by the Planning Commission pursuant to the provisions of Section 03.40.03, the applicant shall first apply for site plan approval as set forth in Article 03.41.00. The Planning Commission shall review the site plan including site layout and other design features, but shall not grant Preliminary Site Plan Approval nor make a recommendation on the variance. The Planning Commission shall then transmit the site plan and the minutes related to said site plan to the Board of Zoning Appeals. The Board of Zoning Appeals shall transmit its decision related to the application to the Planning Commission. The Planning Commission shall then take action on the site plan.

Section 3. Savings

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

Section 4. Severability Clause

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

Section 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 _____, 2009.

Louise E. Schilling, Mayor

Tonni L. Bartholomew, MMC
City Clerk

ZONING ORDINANCE TEXT AMENDMENT

6. **PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (File Number ZOTA 240)** – Amendment to Article 43, Board of Zoning Appeals Provisions

Mr. Savidant reviewed the proposed Zoning Ordinance Text Amendment relating to the Board of Zoning Appeals (BZA) provisions. The draft text states that the Planning Commission shall not grant Preliminary Site Plan Approval nor make a recommendation on the variance.

Mr. Forsyth gave a brief explanation on the separate and distinct powers of the Planning Commission and Board of Zoning Appeals. He indicated the intent of the proposed language is to avoid the Planning Commission telling the Board of Zoning Appeals what to do. Mr. Forsyth discussed the role of the Planning Commission member as a representative on the Board of Zoning Appeals in relation to consideration by both entities of a particular item.

There was further discussion on individual opinions expressed by Planning Commission members and the transmittal of those opinions to the BZA through prepared meeting minutes.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Resolution # PC-2009-08-073

Moved by: Ullmann
Seconded by: Edmunds

RESOLVED, That the Planning Commission hereby recommends to the City Council that Article 43, BOARD OF ZONING APPEALS, pertaining to the requirement of Planning Commission review for items that require site plan approval and a variance(s), prior to being considered by the Board of Zoning Appeals, be amended as printed on the proposed Zoning Ordinance Text Amendment.

Yes: All present (8)
Absent: Vleck

MOTION CARRIED



CITY COUNCIL ANNOUNCEMENT OF PUBLIC HEARING

September 28, 2009

TO: John Szerlag, City Manager

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

SUBJECT: Announcement of Public Hearings for Bostick Rochester Road
Development, LLC and AxleTech International, LLC, at 1400 Rochester

Background:

- Acting in concert, Bostick Rochester Road Development, LLC, and AxleTech International, LLC have requested a Plant Rehabilitation exemption (PR), and Industrial Facilities Exemption Certificate (IFEC), with an attendant establishment of an Industrial Development District (IDD) at 1400 Rochester.

Financial Considerations:

- The financial considerations cannot be determined at this time.

Legal Considerations:

- The legal considerations cannot be determined at this time.

Policy Considerations:

- Policy considerations will occur at the Public Hearings.

Options:

- The public hearings will be on October 19, 2009 to conform to State law.



CITY COUNCIL REPORT

DATE: September 22, 2009

TO: John Szerlag, City Manager

FROM: Mark Miller, Acting Assistant City Manager/ Economic Development Services
Mark Stimac, Director of Building and Zoning

SUBJECT: Proposed Language for Chapter 82 and Chapter 79 of the Troy City Code
Property Maintenance Code and Building Code

Background:

- The attached text represents the latest version of the proposed language for the Troy Property Maintenance Code.
- It is a result of comments received from Council at previous meetings regarding the adoption of an updated Property Maintenance Code.
- We have also included language for a proposed revision to Chapter 79 regarding the membership of the Building Code Board of Appeals.
- These items will appear on a future agenda for action on adoption.

CITY OF TROY
AN ORDINANCE TO
AMEND CHAPTER 82 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 82, Property Maintenance Code, of the Code of the City of Troy.

Section 2. Amendment

Chapter 82, Property Maintenance Code, shall be amended to read as follows:

CHAPTER 1 ADMINISTRATION

101 GENERAL.

101.1 Title. These regulations shall be known as the *Property Maintenance Code* of the City of Troy, hereinafter referred to as “this code.”

101.2 Scope. The provisions of this code shall apply to all existing residential and nonresidential structures and all existing premises and constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of owners, operators and occupants; the occupancy of existing structures and premises, and for administration, enforcement and penalties.

101.3 Intent. This code shall be construed to secure its expressed intent, which is to ensure and promote public health, safety and welfare in so far as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

101.4 Severability. If a section, subsection, sentence, clause or phrase of this code is held to be unconstitutional for any reason, such decision shall not affect the validity of the remaining portions of this code.

SECTION 102 APPLICABILITY

102.1 General. The provisions of this code shall apply to all matters affecting or relating to structures and premises, as set forth in Section 101. Where, in a specific case, different sections of this code specify different requirements, the most restrictive shall govern.

102.2 Maintenance. Equipment, systems, devices and safeguards required by this code or a previous regulation or code under which the structure or premises was constructed, altered or repaired shall be maintained in good working order. No owner, operator or occupant shall cause any service, facility, equipment or utility which is required under this section to be removed from or shut off from or discontinued for any occupied dwelling, except for such temporary interruption as necessary while repairs or alterations are in progress. The requirements of this code are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures. Except as otherwise specified herein, the owner or the owner's designated agent shall be responsible for the maintenance of buildings, structures and premises.

102.3 Application of other codes. Repairs, additions or alterations to a structure, or changes of occupancy shall be done in accordance with the procedures and provisions of the *Michigan Building Code, International Fuel Gas Code, Michigan Mechanical Code, Michigan Plumbing Code, and the Michigan Electrical Code*. Nothing in this code shall be construed to cancel, modify or set aside any zoning provisions of *Chapter 39, Zoning Ordinance, of the Troy Code of Ordinances*.

102.4 Existing remedies. The provisions in this code shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any structure which is dangerous, unsafe or unsanitary.

102.5 Workmanship. Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this code shall be executed and installed in a workmanlike manner and in accordance with the manufacturer's installation instructions.

102.6 Historic buildings. The provisions of this code shall not be mandatory for existing buildings or structures designated as historic buildings when such buildings or structures are judged by the code official to be safe and the perpetuation of such historical buildings is in the public interest.

102.7 Referenced codes, ordinances, and standards. The codes, ordinances, and standards referenced in this code shall be those that are listed in Chapter 8 of this Ordinance and considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall apply.

102.8 Requirements not covered by code. Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health and general welfare shall be determined by the code official if not specifically covered by this code. The details of any such determination shall be recorded and entered in the department files.

SECTION 103 BUILDING DEPARTMENT

103.1 General. The Building Department is hereby designated as the City of Troy enforcement division of this code and shall be known as the Department and the Director of Building and Zoning shall be known as the code official.

103.2 Deputies. In accordance with the prescribed procedures of the City of Troy, the City Manager shall have the authority to appoint or remove the code official, other related technical officers, inspectors and other employees.

103.4 Liability. The code official and fire official, while acting for the City of Troy, shall not thereby be rendered liable personally, and are relieved from all personal liability for any damage accruing to persons or property as a result of an act required or permitted in the discharge of official duties. Any suit instituted against any code official or fire official because of an act performed by that official in the lawful discharge of duties and under the provisions of this code shall be defended by the City Attorney or his/her designee until the final termination of the proceedings. The code official or fire official shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this code. Any official of the department, acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of official duties, excluding acts which constitute gross negligence and/or intentional acts on the part of individual.

103.5 Fees. The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be set forth in *Chapter 60, Fees and Bonds Required, of the City of Troy Ordinances*, or by resolution of the Troy City Council.

SECTION 104 DUTIES AND POWERS OF THE CODE OFFICIAL

104.1 General. The code official shall enforce the provisions of this code.

104.2 Rule-making authority. The code official shall have authority as necessary and in the interest of public health, safety and general welfare to adopt and promulgate rules and procedures; to interpret and implement the provisions of this code; to secure the intent thereof; and to designate requirements applicable because of local climatic or other conditions. Such rules shall not have the effect of waiving structural or fire performance requirements specifically provided for in this code, or of violating accepted engineering methods involving public safety.

104.3 Inspections. The code official shall make all of the required inspections, or shall accept reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The code official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise.

104.3.1 Multiple Family Dwellings. Structures with three or more dwelling units

are subject to periodic inspections to insure compliance with this code as set forth in *Chapter 82A, Rental and Dwelling Inspections and Enforcement, of the City of Troy Code of Ordinances.*

104.4 Right of entry. Where it is necessary to make an inspection to enforce the provisions of this code, or where the building official has reasonable cause to believe that there exists in a structure or upon a premises a condition which is contrary to or in violation of this code which makes the structure or premises unsafe, dangerous or hazardous, the building official is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by this code, provided that if such structure or premises be occupied that credentials be presented to the occupant and entry requested. If such structure or premises is unoccupied, the building official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

104.5 Identification. The code official shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

104.6 Notices and orders. The code official shall issue all necessary notices or orders to ensure compliance with this code.

104.7 Department records. The code official shall keep official records of all business and activities of the department specified in the provisions of this code. Such records shall be retained for as long as the building or structure to which such records relate remains in existence, unless otherwise provided under law.

SECTION 105 APPROVAL

105.1 Modifications. Existing buildings or structures will not be required to comply with all or some of the Property Maintenance code requirements when the code officer determines that unique circumstances make the strict enforcement of this code impractical, provided that such modification does not lessen health, life and fire safety requirements. The details of any such modifications shall be recorded and entered in the department files.

105.2 Alternative materials, methods and equipment. The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, as long as any such alternative has been approved. An alternative material or method of construction shall be approved where the code official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

105.3 Required testing. Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not

conform to the requirements of this code, or when necessary to substantiate requests for alternative materials or methods, the code official shall have the authority to require tests in order to verify compliance. Any such required test shall be paid for by the person charged with demonstrating compliance, and shall not be charged to the City of Troy.

105.3.1 Test methods. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the code official shall be permitted to approve appropriate testing procedures which shall be performed by an approved agency.

105.3.2 Test reports. Reports of tests shall be retained by the code official for the period required for retention of public records.

105.4 Material and equipment reuse. Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested when necessary, placed in good and proper working condition and approved. This section is not intended to limit the use of recycled materials.

SECTION 106 VIOLATIONS AND PENALTIES

106.1 Unlawful acts and prosecution of violations. It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this code. A violation of this ordinance shall be prosecuted as a municipal civil infraction, pursuant to *Chapter 100, Municipal Civil Infractions, of the City of Troy Code of Ordinances*.

106.2 Separate offense and violation penalties. Any person who violates a provision of this code, or fails to comply with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Each day that a violation continues after a notice of violation has been issued can be deemed a separate offense. Penalties shall be assessed as provided in *Chapter 100, Municipal Civil Infractions, of the City of Troy Code of Ordinances*.

106.3 Abatement of violation The issuance of a Municipal Ordinance Violation Notice or a Municipal Ordinance citation or the imposition of penalties pursuant to *Chapter 100, Municipal Civil Infractions, of the City of Troy Code of Ordinances* shall not preclude the Troy City Attorney or his/her designee from instituting appropriate action to restrain, correct or abate a violation or to prevent illegal occupancy of a building, structure or premises or to stop an illegal act, conduct, business or utilization of the building, structure or premises; or to take any other legal action or remedy as provided by law.

SECTION 107 NOTICES AND CITATIONS

107.1 Notice or Citation to person responsible. Whenever the code official determines that there has been a violation of this code or has grounds to believe

that a violation has occurred, a Municipal Civil Infraction Notice or a Municipal Civil Infraction Citation may be given to the person responsible for the violation in the manner prescribed in *Chapter 100, Municipal Civil Infractions, of the City of Troy Code of Ordinances*.

107.2 Form and Method of Service. A Municipal Civil Infraction Notice or Municipal Civil Infraction Citation shall be in a form as prescribed in *Chapter 100, Municipal Civil Infractions, of the City of Troy Code of Ordinances* and shall be served in a method prescribed in Chapter 100.

107.3 Transfer of ownership. It shall be unlawful for the owner of any dwelling unit or structure who has received a notice of violation or an order from the court requiring compliance, to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another person until the code violations have been corrected or there is compliance with an applicable court order. In the alternative, an owner can furnish the grantee, transferee, mortgagee or lessee with a true copy of any notice of violation issued by the code official or his/ her designee or a copy of any order of the court requiring compliance. The owner shall then furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such notice of violation or order requiring compliance where such grantee, transferee, mortgagee or lessee fully accepts the responsibility, without condition, for making the corrections or repairs required by such notice of violation, or court order requiring compliance.

SECTION 108 DANGEROUS BUILDINGS, UNSAFE STRUCTURES, UNSAFE EQUIPMENT AND DEMOLITION

108.1 General. The procedures set forth in this Section are established to secure the health and safety of the occupants of dwellings and structures and the general public. The code official shall enforce the provisions of this Section, and shall have jurisdiction to establish the inspection and violation procedures to implement enforcement. This Section does not preclude enforcement by any other governmental agency with jurisdiction over dangerous buildings, unsafe structures or unsafe equipment. This Section may be enforced by joint agreement between the City of Troy and any other governmental agency, if practical.

108.1a Unlawful to maintain dangerous building, unsafe structure or unsafe equipment. It is unlawful for any owner to keep or maintain any building, structure or equipment or part thereof in a dangerous or unsafe manner, as set forth in Section 108.1.1 or 108.1.2.

108.1b Owners subject to ordinance. All owners shall be subject to the provisions of this ordinance and shall be parties to all proceedings, actions, or prosecutions for dangerous buildings, unsafe structures and/or unsafe equipment.

108.1.1 Dangerous or Unsafe Building or structure. A dangerous or unsafe

building or structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure. It does not provide minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation that partial or complete collapse is possible. A dangerous building or unsafe structure is a building or structure which has one or more of the following defects or satisfies one or more of the following conditions:

- a. A door, aisle, passageway, stairway or other means of exit is not in compliance with the approved *Troy Fire Code*.
- b. A portion of the building or structure is damaged by fire, wind, flood, or other cause in such a manner that the structural strength or stability of the building is appreciably less than it was before such catastrophe and does not meet the minimum requirements of the City of Troy Ordinances.
- c. A portion of the building or structure has settled to such an extent that walls or other structural portions have materially less resistance to winds than is required for new construction under the City of Troy Ordinances.
- d. The building or structure or part of the building or structure is likely to partially or completely collapse, or become detached, or some portion of the foundation or underpinning of the building or structure is likely to fall or give way because of dilapidation, deterioration, decay, faulty construction, or the removal or movement of some portion of the ground necessary for support or for other reason.
- e. The building, structure, or part of the building or structure is manifestly unsafe for the purpose for which it is intended to be used
- f. The building or structure is vacant, dilapidated and open at any door or window leaving the interior of the building exposed to the elements or accessible to entrance by trespassers; or otherwise becomes an attractive nuisance to children who might play in the building or structure to their danger; or becomes a harbor for vagrants, criminals or immoral persons or enables persons to use the building or structure in the commission of a nuisance or an unlawful or immoral act.
- g. A residence or the adjoining grounds of a building or structure which is used or intended to be used for dwelling purposes is unsanitary or unfit for human habitation, due to dilapidation, decay, damage, or faulty construction or arrangement or otherwise is in a condition that the code official determines is likely to cause sickness or disease or is likely to injure the health, continued safety or general welfare of people living in or near the residence.
- h. An owner has been previously notified of existing code violation(s), according to the provisions of the Troy Code of Ordinances and after said

notice has left the structure unattended or unoccupied, whether boarded up or in an open condition, for a period exceeding thirty (30) days.

i. A building or structure is unfit for human occupancy such that the building or structure is unsafe, unlawful or because of the degree to which the structure is in disrepair or lacks maintenance, it is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

j. A building or structure found in whole or in part to be occupied by more persons than permitted under this code, or a building or structure that was erected, altered or occupied contrary to law.

108.1.1.1 Notice of dangerous and unsafe building, structure or condition.

When the whole or part of any building or structure is found to be a dangerous or unsafe building or structure, the code official shall issue a notice declaring that the building or structure is a dangerous or unsafe building or structure. The notice shall itemize the current code violation(s) and dangerous condition(s) and specify a time to complete all necessary repairs or demolish of the building or structure.

108.1.1.2 Service of Notice. The notice shall be served on the owner of record or the registered agent in the following manner:

1. Delivered personally; and
2. Sent by certified or first-class mail addressed to the owner's or resident agent's last known address.

If the owner cannot be found, the notice may alternatively be served by posting it prominently and securely on the property and publishing it once a week for three (3) consecutive weeks in a newspaper authorized to provide service by publication. Service of notice under this provision shall supersede *Chapter 100, Municipal Civil Infractions, of the City of Troy Code of Ordinances*.

108.1.1.3 Contents of Notice. The notice shall state that the owner or his/her authorized representative has the right to appeal the determination of the code official that the building or structure is dangerous or unsafe to the Troy City Council. The notice shall further state that any appeal under this Section shall be filed in writing to the code official within ten (10) days of service of the notice.

108.1.1.4 Waiver of Hearing. If a written appeal of the dangerous or unsafe building or structure determination is not received by the code official within ten (10) days of the date of service of the notice, then a hearing will not be necessary. The matter shall be referred to the City Council for resolution.

108.1.1.5 Hearing. If the code official receives a written appeal of the dangerous

or unsafe building or structure determination within the allocated ten (10) day period, then a hearing will be scheduled before the City Council as soon as administratively possible. At the hearing, the City Council shall take the testimony from the code official and/or his/her authorized representatives and employees; testimony from the owner of the property and any other interested party to determine whether the building or structure constitutes a dangerous or unsafe building or structure, as defined by this section.

108.1.1.6 City Council action. If the City Council determines that the building or structure is a dangerous or unsafe building or structure, and that the building or structure should be demolished or made habitable, Council shall order either demolition within twenty-one (21) days or require that all necessary repairs be completed within sixty (60) days after the hearing and/or resolution, unless the City Council determines that the conditions justify a longer time period to complete the necessary repairs.

108.1.1.7 Failure to demolish or repair. If the ordered demolition or repairs are not completed within the allocated time period, as set forth in the resolution, City Council can then authorize any and all necessary action to enforce their order. This includes, but is not limited to, causing the building or structure or any part of the building or structure to be razed and removed either through an available public agency or by contract or arrangement with private persons, and the cost of such razing and removal shall be charged against the real property upon which the building or structure is located and shall be a lien upon such real property. Such lien shall be enforced against the real property as a special assessment.

108.1.1.8 Recovery of City's cost. The owner or party in interest according to the last local tax assessment records, shall be notified of the cost of the necessary repairs or demolition by first class mail at the address shown on the local tax assessment records. If the owner or party in interest fails to pay the same within thirty (30) days after mailing by the Assessor of the notice of the amount due, the Assessor shall add the same to the next tax roll of the City of Troy, and the same shall be collected in the same manner and in all respects as provided by law for the collection of taxes by the City of Troy. The City Council shall also have the option of initiating a lawsuit to recover the City's full cost of necessary repairs or demolition. If the City receives a favorable judgment, then the City shall have all rights and remedies under law to collect the amount of the judgment from the property owner(s) and/or parties in interest.

108.1.1.9 Salvage materials. When any building or structure has been ordered demolished and removed, the City of Troy shall have the right, but not the obligation, to sell the salvage and valuable materials at the highest price obtainable either through the City or through a contractor hired by the City. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted to the property owner with a report of such sale or transaction, including the items of expense and the amounts deducted. If there is no surplus, the report shall so state.

108.1.1.10 Appeal to Circuit Court. An owner aggrieved by any dangerous building final decision or order of the City Council may appeal the decision or order to the Circuit Court within twenty (20) days from the date of the decision.

108.1.2 Unsafe equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

108.2 Closing of vacant buildings and structures. If a building or structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the code official is authorized to post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the code official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real property upon which the structure is located and shall be a lien upon such real property and may be collected by any other legal resource.

108.3 Posting Notice. Whenever the code official has declared a building, structure or equipment dangerous or unsafe under the provisions of this section, notice shall be posted in a conspicuous place in or about the building or structure affected by such notice or placed on the unsafe equipment.

108.4 Placarding. The code official shall post on the premises or on defective equipment a placard bearing the words "Dangerous Building" or "Unsafe Building" or "Dangerous Structure" or "Unsafe Structure" or "Dangerous Equipment" or "Unsafe Equipment" and a statement of the penalties provided for occupying the premises, operating the equipment or removing the placard.

108.4.1 Placard removal. The code official shall remove the placard whenever the defect or defects upon which the determination of dangerous or unsafe building, structure or equipment and placarding action were based have been eliminated. Any person who defaces or removes a placard without the approval of the code official shall be subject to the penalties provided by this code.

108.5 Prohibited occupancy. Any occupied building or structure determined to be dangerous or unsafe and placarded by the code official shall be vacated as ordered by the code official. Any person who shall occupy a placarded premise or shall operate placarded equipment, and any owner or any person responsible for the premises who shall let anyone occupy a placarded premise or operate placarded equipment shall be liable for the penalties provided by this code.

SECTION 109 EMERGENCY MEASURES

109.1 Imminent danger. When, in the opinion of the code official or fire official, there is imminent danger of failure or collapse of a building or structure which

endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any building or structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the code official or fire official or designee are hereby authorized and empowered to order and require the occupants to vacate the premises immediately. At each entrance to such a building or structure, the code official or his/her designee shall post a notice declaring the building or structure unsafe and prohibiting occupancy. It shall be unlawful for any person to enter such building or structure except for the purpose of securing the building or structure, making the required repairs, removing the hazardous condition or of demolishing the building or structure.

109.2 Temporary safeguards. Notwithstanding other provisions of this code, whenever the code official determines that there is imminent danger due to an unsafe condition, the code official shall order the necessary work to be done to render such structure temporarily safe, whether or not the legal procedure herein described has been instituted. This necessary work could be to board up openings of the building or structure, or could be any other action that the code official deems necessary to address such emergency.

109.2a Abating a nuisance. The code official or fire official shall have the power to abate any public nuisance from any dangerous building or structure if immediate action is required to avoid a distinct hazard to life or property. Since this action is for public safety, the action can be taken without preliminary notice as is otherwise required in the City of Troy Code of Ordinances.

109.3 Closing streets. When necessary for public safety, the code official shall temporarily close buildings and structures. The code official can also close or order the closure of sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.

109.4 Emergency repairs. For the purposes of this section, the code official shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

109.5 Costs of emergency repairs. Costs incurred in the performance of emergency work shall initially be assumed by the City of Troy. The other costs of abating a public nuisance shall be charged against the owner(s) or occupant(s) of the premise. The owner(s) or occupant(s) shall be sent an invoice for the cost of abatement by the City of Troy Building Department. If payment is not made within thirty (30) days, the amount shall be collected in the same manner as set forth in Section 108.1.1.8.

109.6 Hearing. Owners or occupants must comply with orders for emergency measures. However, the owner or occupant can request relief from the order by filing a written petition with the Building Code Board of Appeals within twenty (20) days of the decision of the code official and in compliance with Section 111, as

set forth below.

SECTION 110 Reserved

SECTION 111 APPEAL TO BUILDING CODE BOARD OF APPEALS

111.1 Application for appeal. Except for individuals filing an appeal under Section 108.1.1.5 – Hearing (Dangerous or Unsafe Buildings, Structures or Conditions), any person directly affected by a decision of the code official or a notice of violation issued under this code shall have the right to appeal to the Building Code Board of Appeals, provided that a written application for appeal is filed within twenty (20) days after the day the decision or notice of violation was served. An application for appeal shall be based on a claim that the true intent of this code been incorrectly interpreted; the provisions of this code do not fully apply; or the requirements of this code have been adequately satisfied.

111.2 Membership of Building Code Board of Appeals. The authority, membership, procedures, and compensation of the Building Code Board of Appeals is set out in Section 116 of *Chapter 79, General Building Regulations, of the City of Troy Code of Ordinances*.

111.3 Commission or Court Review. Any interested person, whether or not a previous party of an appeal under this section, shall have the right to appeal the decision of the Building Code Board of Appeals. Appeals can be filed with the Michigan Construction Code Commission pursuant to MCL 125.1516, or with an appropriate court. Appeals shall be filed in the manner and time required by law.

111.4 Stays of enforcement. For all but emergency cases, appeals of notices and orders of the code official shall stay the enforcement of the notice and order until the appeal is heard and a final decision rendered by the Building Code Board of Appeals, the Michigan Construction Code Commission or an appropriate court of law.

CHAPTER 2 DEFINITIONS

SECTION 201 GENERAL

201.1 Scope. Unless otherwise expressly stated, the following terms shall, for the purposes of this code, have the meanings as set forth in this chapter.

201.2 Interchangeability. Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural includes the singular.

201.3 Terms defined in other codes. Where terms are not defined in this code and are defined in the *Michigan Building Code, Troy Fire Code, Troy Zoning Ordinance, Michigan Plumbing Code, Michigan Mechanical Code* or the *Michigan Electrical Code*, such terms shall have the meanings ascribed to them as stated in those codes.

201.4 Terms not defined. Where terms are not defined through the methods

authorized by this section, such terms shall have ordinarily accepted meanings taken in light of the context.

201.5 Parts. Whenever the words “dwelling unit,” “dwelling,” “premises,” “building,” “rooming house,” “rooming unit” “housekeeping unit” or “story” are stated in this code, they shall be construed as though they were followed by the words “or any part thereof.”

SECTION 202 GENERAL DEFINITIONS

APPROVED. Approved by the code official.

BASEMENT. That portion of a building which is partly or completely below grade.

BATHROOM. A room containing plumbing fixtures including a bathtub or shower.

BEDROOM. Any room or space used or intended to be used for sleeping purposes in either a dwelling or sleeping unit.

CITY COUNCIL. The Troy City Council.

CODE OFFICIAL. The code official charged with the administration and enforcement of this code is the City of Troy Director of Building and Zoning or his/her designee.

COMMON PROPERTY. Property commonly owned by a number of individuals in a condominium development (including site condominium), subdivision or other form of development with common areas, such as cul-de-sacs, traffic medians, boulevard, islands, parks, playgrounds, detention and retention areas, open space or other common areas.

DEADBOLT. A locking mechanism consisting of a bolt that when moved into the locked position cannot be retracted by end pressure on the bolt.

DWELLING UNIT. A residential structure, or portion thereof, permanently sited on a continuous frost-free masonry foundation, containing all required plumbing, heating and electrical systems attached to the available public utilities, designed for the occupancy of one (1) family with cooking facilities.

EASEMENT. That portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement shall be permitted to be for use under, on, or above a said lot or lots.

EXTERIOR PROPERTY. The open space on the premises and on adjoining property under the control of owners or operators of such premises.

EXTERMINATION. The control and elimination of insects, rats or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food or water source; by poison, spraying, fumigating, trapping or by any other approved pest elimination methods.

FIRE OFFICIAL. The fire official charged with the administration and

enforcement of this code is the City of Troy Fire Chief or his/her designee.

GARBAGE. The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

GUARD. A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

HABITABLE SPACE. Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.

HOUSEKEEPING UNIT. A room or group of rooms forming a single habitable space equipped and intended to be used for living, sleeping, cooking and eating which does not contain a toilet, lavatory and bathtub or shower within such a unit.

IMMINENT DANGER. A condition which could cause serious or life-threatening injury or death at any time.

INFESTATION. The presence, within or contiguous to, a structure or premises of rats, vermin or other pests.

INOPERABLE MOTOR VEHICLE. A vehicle which cannot be driven upon the public streets. Inoperable vehicles include, but are not limited to those that are unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

LABELED. Devices, equipment, appliances, or materials to which has been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-labeled items and by whose label the manufacturer attests to compliance with applicable nationally recognized standards.

LET FOR OCCUPANCY OR LET. To permit, provide or offer possession or occupancy of a dwelling, dwelling unit, rooming unit, building, premise or structure by a person who is or is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

OCCUPANCY. The purpose for which a building or portion thereof is utilized or occupied.

OCCUPANT. Any individual living or sleeping in a building, or having possession of a space within a building.

OPENABLE AREA. That part of a window, skylight or door which is available for unobstructed ventilation and which opens directly to the outdoors.

OPERATOR. Any owner, occupant, tenant, lessee, landlord, agent or person

who has charge, care, control or responsibility over a structure, premises or any private property which is let or offered for occupancy.

OWNER. Any person, partnership, association, agent, operator, firm or corporation and/or their legal successors and assigns having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control or responsibility over the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

PERSON. An individual, corporation, partnership or any other group acting as a unit.

PREMISE. A lot, plot or parcel of land, easement or public way, including any structures thereon, also including such portions of any street dedicated for public use that would be attached to the owner's property upon vacation of the public rights to the street that are not otherwise paved or improved. Premise includes easements or rights-of-way owned by the City or the Road Commission of Oakland County.

PRESERVATION OR RESTORATION AREA. All or a portion of a premise managed to preserve or restore native Michigan grasses, native trees, shrubs, wildflowers, and aquatic plants, including but not limited to: indian grass (*Sorghastrum nutans*), prairie cordgrass (*Spartina pectinata*), prairie dropseed (*Sporobolus heterolepis*), rice cut grass (*Leersia oryzoides*), panic grass (*Panicum implicatum*), switch grass (*Panicum virgatum*), riverbank wild-rye (*Elymus riparius*), purple love grass or tumble grass (*Eragrostis spectabilis*), fowl manna grass (*Glyceria striata*), bottlebrush grass (*Hystrix patula*), big bluestem (*Andropogon gerardii*), long-awned wood grass (*Brachyelytrum erectum*) and blue-joint grass (*Calamagrostis canadensis*); an oldfield succession of native and non-native plants; or a combination of these.

PUBLIC WAY. Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

ROOMING HOUSE. A building arranged or occupied for residential lodging for compensation with or without meals and not occupied as a one- or two-family dwelling.

ROOMING UNIT. Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

RUBBISH. Combustible and noncombustible waste materials, except garbage. The term includes burnt wood, burnt coal, burnt coke and other combustible materials; paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, dust,

residue and other similar materials.

SLEEPING UNIT. A room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are part of a dwelling unit are not sleeping units.

STORY. That part of a building, except a mezzanine, included between the surface of one floor and the surface of the next floor, or if there is not a floor above, then the ceiling next above. A story thus defined shall not be counted as a story when more than fifty (50) percent by cubic content, is below the height level of the adjoining ground.

STRICT LIABILITY OFFENSE. An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited, or failed to do an act which the defendant was legally required to do.

STRUCTURE. That which is built or constructed or a portion thereof.

TENANT. A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

TOILET ROOM. A room containing a water closet or urinal but not a bathtub or shower.

TURF GRASS. Grass commonly used in regularly-cut lawns or play areas, including but not limited to: bluegrass, fescue, and ryegrass blends.

VENTILATION. The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

WEEDS. Noxious weeds as defined under Michigan law (MCL 247.62) including, but not limited to:

Canada thistle (*Cirsium arvense*), dodders (any species of *Cuscuta*), mustards (charlock, black mustard and Indian mustard, species of *Brassica* or *Sinapis*), wild carrots (*Daucus carota*), bindweed (*Convolvulus arvensis*), perennial sowthistle (*Sonchus arvensis*), hoary alyssum (*Berteroa incana*), ragweed (*Ambrosia elatior* 1.); and poison ivy (*Rhus toxicodendron*), and poison sumac (*Toxicodendron vernix*).

Any other varieties, species or plant growth designated by the City as poisonous, injurious and/or regarded as a common nuisance in the opinion of the City of Troy Public Works Director or his/her designee.

WORKMANLIKE. Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

YARD. An open space on the same lot with a structure.

CHAPTER 3 GENERAL REQUIREMENTS

SECTION 301 GENERAL

301.1 Scope. The provisions of this chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and exterior property.

301.2 Responsibility. The owner of a premise shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided in this code. A person shall not occupy as owner-occupant or permit another person to occupy a premise that is not in a sanitary and safe condition and which does not comply with the requirements of this chapter. Occupants of a dwelling unit, rooming unit or housekeeping unit are responsible for keeping in a clean, sanitary and safe condition that part of the dwelling unit, rooming unit, housekeeping unit or premise which they occupy and control.

301.3 Vacant structures and land. All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

SECTION 302 EXTERIOR PROPERTY AREAS

302.1 Sanitation. All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property that is occupied or controlled by that occupant in a clean and sanitary condition.

302.2 Grading and drainage. All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon, including but not limited to garden pools and swimming pools.

Exception: Approved retention areas and reservoirs.

302.3 Sidewalks and driveways. The occupant or property owner is responsible to keep all sidewalks, walkways, stairs, driveways, parking spaces and similar areas in reasonable repair, and maintained free from hazardous conditions.

302.4 Turf Grass, Weeds and Plant Growth.

302.4.1 Weeds and Grass. The presence of turf grass and/or weeds exceeding ten (10) inches in height on any premises in the City is hereby declared to be a nuisance. The owner, occupant or any person having control or management of any premises is required to cut turf grass and weeds on the premises to a height that is ten (10) inches or less.

Exceptions:

- 1) Preservation or Restoration Areas are allowed to exceed ten (10) inches in height if those areas do not contain any turf grass and/or weeds.
- 2) Areas declared to be wetland or preservation areas by the Michigan Department of Natural Resources or the Michigan Department of Environmental Quality are allowed to exceed ten (10) inches in height.
- 3) Cultivated flowers and gardens or fields devoted to growing any small grain crop such as wheat, corn, oats, barley or rye.

302.4.2 Duty of Owner to abate. It shall be the duty of the owner, occupant or any person having control or management of any premises within the City upon which weeds are found growing or standing, to cut and destroy or cause to be cut and destroyed all such weeds in such a manner as to prevent such weeds from perpetuating themselves or going to seed.

302.4.3 Failure to abate. Upon failure of the owner, occupant or any person having control or management of any premises to cut turf grass and/or weeds and to take action to prevent such weeds from perpetuating themselves; the owner, occupant or any person having control or management of the premises shall be subject to prosecution as set forth in *Chapter 100, Municipal Civil Infractions, of the City of Troy Code of Ordinances*. Additionally the City may enter onto said premises as many times as necessary between May 1st to November 1st to cut turf grass and/or weeds, treat weeds or otherwise abate the nuisance.

302.4.4 Published Notice. It shall be the duty of the Public Works Director or his/her designee to give general notice to every owner, occupant, or person having control or management of any premises of the cutting and weed prevention requirements of this section. Such duty shall be satisfied if publication is made of the cutting and weed prevention requirements in the newspaper of record in the City during the month of March notifying the owners, occupants or persons having control or management of any premises that failure to cut turf grass or weeds or failure to prevent the perpetuation of weeds as required under this section during the period of May 1 to November 1 of each year, may result in the issuance of a Municipal Civil Infraction Notice or Citation under *Chapter 100, Municipal Civil Infractions, of the City of Troy Code of Ordinances* and/or the entry on the premises by the City to cut said turf grass and/or weeds or to prevent the perpetuation of weeds. The general notice shall also inform owners, occupants and persons having control or management of any premises that if the City is required to enter onto the premises to cut turf grass and/or weeds or to take an action to prevent the perpetuation of weeds, the property owner designated on the City assessment or tax rolls shall be assessed the cost, payable to the City, for each required abatement. The City may enter onto said premises as many times as necessary between May 1st to November 1st to cut turf grass and/or weeds or treat weeds and charge the cost to the property owner

for each such cutting or treatment. The City has the discretion to send via first class mail a ten (10) day notice to the last property owner of record and/or to attach a notice to the premises stating that the City intends to cut said turf grass and/or weeds or treat weeds, and if the turf grass and/or weeds are not cut or the weeds are not treated within ten (10) days from the date of the notice, the City may proceed to cut the turf grasses and/or weeds or treat the weeds. Failure to send such a warning notice does not in any way prevent the City from entering on the premises to cut turf grass and/or weeds or to treat weeds, as long as a general notice has been published, as set out herein.

302.4.5 Recovery of Cost by City. The Department of Public Works Director or his/her designee is hereby authorized and directed to keep accurate accounts of all reasonable expenses incurred by the City to abate a nuisance. The Public Works Director and/or his designee, is hereby authorized to include in its cost of recovery the following: wages, overtime wages, fringe benefits, cost of equipment, supplies, materials, and a ten (10) percent administration charge to cover the expense of administering the abatement work that is performed. The Public Works Director or his/her designee shall prepare an invoice of total charges for each premise and forward those invoices to the City Treasurer. Within ten (10) days after receipt of an invoice, the City Treasurer shall forward to the owner on the last local assessment or tax roll an invoice of the total charges assessed against each premises. Thirty (30) days from the date each statement was mailed, payment shall be made. If the invoice is not paid within thirty (30) days, the total amount charged shall become an assessment against the land and a lien against the property.

302.4.6 Common Property. If property is held as common property, such as, but not limited to: common areas of a condominium development (including a site condominium), subdivision, cul-de-sac, traffic medians, boulevards, islands, parks, playgrounds, detention and retention areas, open space or any other common area or other form of development for which the City is unable to determine the occupant or person having control or management over a common area with assessment or tax records, the City may enter onto the common property to abate any nuisance of a type set out in this Chapter. The costs incurred by the City for the nuisance abatement shall be pro-rated among each individual property owner in the condominium development, subdivision or other individual owner in a development with common property. The City Treasurer shall send a statement to each owner for their specific pro-rated portion. If the invoice is not timely paid, the total amount charged shall become an assessment against that particular property for that pro-rated share.

302.5 Rodent harborage. All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent re-infestation.

Exception: The presence of squirrels or chipmunks on the exterior of a

structure shall not constitute a rodent infestation.

302.6 Exhaust vents. Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.

302.7 Accessory structures. All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.

302.8 Motor vehicles. No person shall permit the accumulation of one or more inoperable vehicles outside of a completely enclosed building for a period of more than fourteen (14) days. Inoperable vehicles are those that are not in operating condition and eligible for use in accordance with the requirements of the Michigan Vehicle Code, being MCL 257.1 through 257.925. These minimum conditions include, but are not limited to: an engine that runs, four wheels and four pneumatic tires capable of holding air, working battery, and current license plates. This prohibition applies to owners, tenants, managers of private property, last registered owners of motor vehicles or transferees on a bill of sale covering a vehicle.

Exception: Any person enumerated in this section who, under special conditions of hardship, or for valid reasons such as the preservation of a historic or classic vehicle, may request an extension of the fourteen (14) day limitation above described by filing a timely request with Director of Building and Zoning. The Director of Building and Zoning may, after review of all of the circumstances, grant a reasonable extension of time for compliance.

302.9 Defacement of property. No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti. Owners of property bear the responsibility to remove or obliterate markings, carvings or graffiti from their property.

SECTION 303 SWIMMING POOLS, SPAS AND HOT TUBS

303.1 Swimming pools. Swimming pools shall be maintained in a clean and sanitary condition, and in good repair.

303.2 Enclosures. Private swimming pools, hot tubs and spas capable of holding water more than 24 inches in depth shall be completely surrounded by a fence or barrier at least 48 inches in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is less than 54 inches above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self latching gates shall be maintained such that the gate will positively close and latch when released

from an open position of 6 inches from the gatepost. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

Exception: Spas or hot tubs with a safety cover that complies with ASTM F 1346 shall be exempt from the provisions of this section.

SECTION 304 EXTERIOR STRUCTURE

304.1 General. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

304.2 Protective treatment. All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition. Exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

304.3 Premise identification. Buildings shall have approved address numbers as required by *Chapter 2 of the City of Troy Code of Ordinances*.

304.4 Structural members. All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.

304.5 Foundation walls. All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

304.6 Exterior walls. All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.

304.7 Roofs and drainage. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

304.8 Decorative features. All cornices, belt courses, corbels, terra cotta trim,

wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

304.9 Overhang extensions. All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

304.10 Stairways, decks, porches and balconies. Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

304.11 Chimneys and towers. All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.

304.12 Handrails and guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

304.13 Window, skylight and door frames. Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

304.13.1 Glazing. All glazing materials shall be maintained free from cracks and holes.

304.13.2 Openable windows. Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

304.14 Insect screens. During the period from April 1 to November 1, every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch, and every screen door used for insect control shall have a self-closing device in good working condition.

Exception: Screens shall not be required where other approved means are employed, such as air curtains or insect repellent fans.

304.15 Doors. All exterior doors, door assemblies and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door. Locks on means of egress doors shall be in accordance with Section 702.3.

304.16 Basement hatchways. Every basement hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.

304.17 Guards for basement windows. Every basement window that is openable shall be supplied with rodent shields, storm windows or other approved protection against the entry of rodents.

304.18 Building security. Doors, windows or hatchways for dwelling units, room units or housekeeping units shall be provided with devices designed to provide security for the occupants and property within.

304.18.1 Doors. Doors providing access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with a deadbolt lock designed to be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort and shall have a lock throw of not less than 1 inch. Such deadbolt locks shall be installed according to the manufacturer's specifications and maintained in good working order. For the purpose of this section, a sliding bolt shall not be considered an acceptable deadbolt lock.

304.18.2 Windows. Operable windows located in whole or in part within 6 feet above ground level or a walking surface below that provide access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with a window sash locking device.

304.18.3 Basement hatchways. Basement hatchways that provide access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with devices that secure the units from unauthorized entry.

SECTION 305 INTERIOR STRUCTURE

305.1 General. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Occupants shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every owner of a structure containing a rooming house, housekeeping units, a hotel, a dormitory, two or more dwelling units or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.

305.2 Structural members. All structural members shall be maintained structurally sound, and be capable of supporting the imposed loads.

305.3 Interior surfaces. All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.

305.4 Stairs and walking surfaces. Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair.

305.5 Handrails and guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

305.6 Interior doors. Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

SECTION 306 HANDRAILS AND GUARDRAILS

306.1 General. Every exterior and interior flight of stairs having more than four risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface which is more than 30 inches above the floor or grade below shall have guards. Handrails shall not be less than 30 inches high or more than 42 inches high measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. Guards shall not be less than 30 inches high above the floor of the landing, balcony, porch, deck, or ramp or other walking surface.

Exception: Guards shall not be required where exempted by the adopted building code.

SECTION 307 RUBBISH AND GARBAGE

307.1 Accumulation of rubbish or garbage. All exterior property and premises, and the interior of every structure shall be free from any accumulation of rubbish or garbage.

Exception: Fallen trees and branches from trees on the premise in a preservation or restoration area.

307.2 Disposal of rubbish. Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.

307.2.1 Rubbish storage facilities. The owner of every occupied premise shall supply approved covered containers for rubbish, and the owner of the premises shall be responsible for the removal of rubbish.

307.2.2 Refrigerators. Refrigerators and similar equipment not in operation shall not be discarded, abandoned or stored on premises without first removing the doors.

307.3 Disposal of garbage. Every occupant of a building shall dispose of garbage in a clean and sanitary manner by placing such garbage in an approved garbage disposal facility or approved garbage containers.

307.3.1 Garbage facilities. The owner of every dwelling shall supply one of the following: an approved mechanical food waste grinder in each dwelling unit; or an approved, leak-proof, covered, outside garbage container.

307.3.2 Containers. The operator of every establishment producing garbage shall provide, and at all times cause to be utilized, approved leak-proof containers with close-fitting covers for the storage of garbage until it is removed from the premise for disposal.

307.4 Rubbish removal after eviction notice for landlord/tenant or foreclosure. If a tenant or occupant has personal property on the premises at the time of an eviction or involuntary removal the owner or operator shall place a large movable container or receptacle on the private property which holds at least 6 cubic yards and can be mechanically emptied for disposal purposes of the tenant or occupant's personal property, such as but not limited to: household furniture, appliances, clothing, rugs, window treatments, books and paper products and personal goods. At no time shall any part of the container be placed on any public area adjacent to the private property.

307.4.1 Type of container. Upon eviction or involuntary removal, the tenant's or occupant's personal property shall be legally removed from the property or placed and disposed of only in the large movable container as referenced above. The container shall be of the type which will allow access from its side as opposed to access solely through the top of the container.

307.4.2 Removal of container. The movable container and its contents shall be removed from the real property within forty-eight (48) hours of placement.

307.4.3 Blight violation. In the event that a moveable container is not used for disposal of the tenant's or occupant's personal property and that property is improperly placed elsewhere on the property, or the container is not properly removed, then the owner, operator or other person in violation of this Section is subject to immediate issuance of a Municipal Civil Infraction Notice or a Municipal Civil Infraction Citation pursuant to *Chapter 100, Municipal Civil Infractions, of the City of Troy Code of Ordinances*.

307.4.4 Cost Recovery. In addition to any other penalties set out in the Troy Code of Ordinances, if the City of Troy incurs any costs to remove solid waste from property resulting from an eviction or foreclosure proceeding, the owner and the operator shall be billed by invoice sent by first class mail for the cost of the removal, including but not limited to: the cost of labor for removal of the solid waste and the cost of the use or rental of the container. If the owner or operator fails to pay the same within thirty (30) days after the invoice is mailed, the City shall add the amount to the next tax roll of the City of Troy, and it shall be collected in the same manner as provided by law for the collection of taxes by the City of Troy. The City Council shall also have the option of initiating a lawsuit to recover the City's full cost of necessary expenses. If the City receives a favorable judgment, then the judgment may be assessed against all of the assets of the owner of the property, both real and personal, not just the real property where the removal of solid waste occurred.

SECTION 308 EXTERMINATION

308.1 Infestation. All structures shall be kept free from rodent or pest infestation. All structures in which rodents or pests are found shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent re-infestation.

308.2 Responsibility. The owner, occupant, or any person having control of any structure or premises shall be responsible for extermination.

Exception: Where the infestations are caused by defects in the structure, the owner shall be responsible for extermination.

CHAPTER 4 LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS

SECTION 401 GENERAL

401.1 Scope. The provisions of this chapter shall govern the minimum conditions and standards for light, ventilation and space for occupying a structure.

401.2 Responsibility. The owner of the structure shall provide and maintain light, ventilation and space conditions in compliance with these requirements. A person shall not occupy as owner-occupant, or permit another person to occupy, any premises that do not comply with the requirements of this chapter.

401.3 Alternative devices. In lieu of the means for natural light and ventilation herein prescribed, artificial light or mechanical ventilation complying with the *Michigan Building Code* shall be permitted.

SECTION 402 LIGHT

402.1 Habitable spaces. Every habitable space shall have at least one window of approved size facing directly to the outdoors or to a court. The minimum total glazed area for every habitable space shall be 8 percent of the floor area of such room. Wherever walls or other portions of a structure face a window of any room and such obstructions are located less than 3 feet from the window and extend to a level above that of the ceiling of the room, such window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.

Exception: Where natural light for rooms or spaces without exterior glazing areas is provided through an adjoining room, the unobstructed opening to the adjoining room shall be at least 8 percent of the floor area of the interior room or space, but not less than 25 square feet. The exterior glazing area shall be based on the total floor area being served.

402.2 Common halls and stairways. Every common hall and stairway in residential occupancies, other than in one and two family dwellings, shall be lighted at all times with at least a 60-watt standard incandescent light bulb for each 200 square feet of floor area or equivalent illumination, provided that the spacing between lights shall not be greater than 30 feet. In other than residential occupancies, means of egress, including exterior means of egress stairways,

shall be illuminated at all times the building space served by the means of egress is occupied with a minimum of 1 foot-candle at floors, landings and treads.

402.3 Other spaces. All other spaces shall be provided with natural or artificial light sufficient to permit the maintenance of sanitary conditions, and the safe occupancy of the space and utilization of the appliances, equipment and fixtures.

SECTION 403 VENTILATION

403.1 Habitable spaces. Every habitable space shall have at least one openable window. The total openable area of the window in every room shall be equal to at least 45 percent of the minimum glazed area required in Section 402.1.

Exception: Where rooms and spaces without openings to the outdoors are ventilated through an adjoining room, the unobstructed opening to the adjoining room shall be at least 8 percent of the floor area of the interior room or space, but not less than 25 square feet. The ventilation openings to the outdoors shall be based on a total floor area being ventilated.

403.2 Bathrooms and toilet rooms. Every bathroom and toilet room shall comply with the ventilation requirements for habitable spaces as required by Section 403.1, except that a window shall not be required in such spaces equipped with a mechanical ventilation system. Air exhausted by a mechanical ventilation system from a bathroom or toilet room shall discharge to the outdoors and shall not be re-circulated.

403.3 Cooking facilities. Unless approved through the certificate of occupancy, cooking shall not be permitted in any rooming unit or dormitory unit, and a cooking facility or appliance shall not be permitted to be present in the rooming unit or dormitory unit.

Exceptions:

1. Where specifically approved in writing by the code official.
2. Devices such as coffee pots, hot plates, toaster ovens and microwave ovens shall not be considered cooking appliances.

403.4 Process ventilation. Where injurious, toxic, irritating or noxious fumes, gases, dusts or mists are generated, a local exhaust ventilation system shall be provided to remove the contaminating agent at the source. Air shall be exhausted to the exterior and not be re-circulated to any space.

403.5 Clothes dryer exhaust. Clothes dryer exhaust systems shall be independent of all other systems and shall be exhausted in accordance with the manufacturer's instructions.

SECTION 404 OCCUPANCY LIMITATIONS

404.1 Privacy. Dwelling units, hotel units, housekeeping units, rooming units and dormitory units shall be arranged to provide privacy and be separate from other

adjoining spaces.

404.2 Minimum room widths. A habitable room, other than a kitchen, shall not be less than 7 feet in any plan dimension. Kitchens shall have a clear passageway of not less than 3 feet between counter fronts and appliances or counter fronts and walls.

404.3 Minimum ceiling heights. Habitable spaces, hallways, corridors, laundry areas, bathrooms, toilet rooms and habitable basement areas shall have a clear ceiling height of not less than 7 feet.

Exceptions:

1. In one and two family dwellings, beams or girders spaced not less than 4 feet on center and projecting not more than 6 inches below the required ceiling height.
2. Basement rooms in one and two-family dwellings occupied exclusively for laundry, study or recreation purposes, having a ceiling height of not less than 6 feet 8 inches with not less than 6 feet 4 inches of clear height under beams, girders, ducts and similar obstructions.
3. Rooms occupied exclusively for sleeping, study or similar purposes and having a sloped ceiling over all or part of the room, with a clear ceiling height of at least 7 feet over not less than one-third of the required minimum floor area. In calculating the floor area of such rooms, only those portions of the floor area with a clear ceiling height of 5 feet or more shall be included.

404.4 Bedroom and living room requirements. Every bedroom and living room shall comply with the requirements of Sections 404.4.1 through 404.4.5.

404.4.1 Room area. Every living room shall contain at least 120 square feet and every bedroom shall contain at least 70 square feet.

404.4.2 Access from bedrooms. Bedrooms shall not constitute the only means of access to other bedrooms or habitable spaces and shall not serve as the only means of egress from other habitable spaces.

Exception: Units that contain fewer than two bedrooms.

404.4.3 Water closet accessibility. Every bedroom shall have access to at least one water closet and one lavatory without passing through another bedroom. Every bedroom in a dwelling unit shall have access to at least one water closet and lavatory located in the same story as the bedroom or an adjacent story.

404.4.4 Prohibited occupancy. Kitchens and non-habitable spaces shall not be used for sleeping purposes.

404.4.5 Other requirements. Bedrooms shall comply with the applicable provisions of this code including, but not limited to, the light, ventilation, room

area, ceiling height and room width requirements of this chapter; the plumbing facilities and water-heating facilities requirements of Chapter 5; the heating facilities and electrical receptacle requirements of Chapter 6; and the smoke detector and emergency escape requirements of Chapter 7.

404.5 Overcrowding. The number of persons occupying a dwelling unit shall not create conditions that, in the opinion of the code official, endanger the life, health, safety or welfare of the occupants.

404.6 Efficiency unit. Nothing in this section shall prohibit an efficiency living unit from meeting the following requirements:

1. A unit occupied by not more than two occupants shall have a clear floor area of not less than 220 square feet. A unit occupied by three occupants shall have a clear floor area of not less than 320 square feet. These required areas shall be exclusive of the areas required by Items 2 and 3.
2. The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than 30 inches in front. Light and ventilation conforming to this code shall be provided.
3. The unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower.
4. The maximum number of occupants shall be three.

404.7 Food preparation. All spaces to be occupied for food preparation purposes shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage.

CHAPTER 5 PLUMBING FACILITIES AND FIXTURE REQUIREMENTS

SECTION 501 GENERAL

501.1 Scope. The provisions of this chapter shall govern the minimum plumbing systems, facilities and plumbing fixtures to be provided.

501.2 Responsibility. The owner of the structure shall provide and maintain such plumbing facilities and plumbing fixtures in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any structure or premises which does not comply with the requirements of this chapter.

SECTION 502 REQUIRED FACILITIES

502.1 Dwelling units. Every dwelling unit shall contain its own bathtub or shower, lavatory, water closet and kitchen sink which shall be maintained in a sanitary, safe working condition. The lavatory shall be placed in the same room

as the water closet or located in close proximity to the door leading directly into the room in which such water closet is located. A kitchen sink shall not be used as a substitute for the required lavatory.

502.2 Rooming houses. At least one water closet, lavatory and bathtub or shower shall be supplied for every four rooming units.

502.3 Hotels. Where private water closets, lavatories and baths are not provided, one water closet, one lavatory and one bathtub or shower having access from a public hallway shall be provided for each ten occupants.

502.4 Employees' facilities. A minimum of one water closet, one lavatory and one drinking facility shall be available to employees.

502.4.1 Drinking facilities. Drinking facilities shall be a drinking fountain, water cooler, bottled water cooler or clean cups next to a sink or water dispenser. Drinking facilities shall not be located in toilet rooms or bathrooms.

SECTION 503 TOILET ROOMS

503.1 Privacy. Toilet rooms and bathrooms shall provide privacy and shall not constitute the only passageway to a hall or other space, or to the exterior. In multiple dwellings, a door and interior locking device shall be provided for all common or shared bathrooms and toilet rooms.

503.2 Location. Toilet rooms and bathrooms serving hotel units, rooming units or dormitory units or housekeeping units, shall have access by traversing not more than one flight of stairs and shall have access from a common hall or passageway.

503.3 Location of employee toilet facilities. Toilet facilities shall have access from within the employees' working area. The required toilet facilities shall be located not more than one story above or below the employees' working area and the path of travel to such facilities shall not exceed a distance of 500 feet. Employee facilities shall either be separate facilities or combined employee and public facilities.

Exception: Facilities that are required for employees in storage structures or kiosks, which are located in adjacent structures under the same ownership, lease or control, shall not exceed a travel distance of 500 feet from the employees' regular working area to the facilities.

503.4 Floor surface. In other than dwelling units, every toilet room floor shall be maintained to be a smooth, hard, nonabsorbent surface to permit such floor to be easily kept in a clean and sanitary condition.

SECTION 504 PLUMBING SYSTEMS AND FIXTURES

504.1 General. All plumbing fixtures shall be properly installed and maintained in

working order, and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which such plumbing fixtures are designed. All plumbing fixtures shall be maintained in a safe, sanitary and functional condition.

504.2 Fixture clearances. Plumbing fixtures shall have adequate clearances for usage and cleaning.

504.3 Plumbing system hazards. Where it is found that a plumbing system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, inadequate venting, cross connection, back siphonage, improper installation, deterioration or damage or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.

SECTION 505 WATER SYSTEM

505.1 General. Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the *Michigan Plumbing Code*.

505.2 Contamination. The water supply shall be maintained free from contamination, and all water inlets for plumbing fixtures shall be located above the flood-level rim of the fixture. Shampoo basin faucets, janitor sink faucets and other hose bibs or faucets to which hoses are attached and left in place shall be protected by an approved atmospheric-type vacuum breaker or an approved permanently attached hose connection vacuum breaker.

505.3 Supply. The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.

505.4 Water heating facilities. Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a temperature of not less than 110°F. A gas-burning water heater shall not be located in any bathroom, toilet room, bedroom or other occupied room normally kept closed, unless adequate combustion air is provided. An approved combination temperature and pressure-relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

SECTION 506 SANITARY DRAINAGE SYSTEM

506.1 General. All plumbing fixtures shall be properly connected to either a public sewer system or to an approved private sewage disposal system.

506.2 Maintenance. Every plumbing stack, vent, waste and sewer line shall

function properly and be kept free from obstructions, leaks and defects.

SECTION 507 STORM DRAINAGE

507.1 General. Drainage of roofs and paved areas, yards and courts, sub soil collection systems, and other open areas on the premises shall not be discharged in a manner that creates a public nuisance.

CHAPTER 6 MECHANICAL AND ELECTRICAL REQUIREMENTS

SECTION 601 GENERAL

601.1 Scope. The provisions of this chapter shall govern the minimum mechanical and electrical facilities and equipment to be provided.

601.2 Responsibility. The owner of the structure shall provide and maintain mechanical and electrical facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises which does not comply with the requirements of this chapter.

SECTION 602 HEATING FACILITIES

602.1 Facilities required. Heating facilities shall be provided in structures as required by this section.

602.2 Residential occupancies. Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F in all habitable rooms, bathrooms and toilet rooms based on the winter outdoor design temperature for the locality indicated in Appendix D of the *Michigan Plumbing Code*. Cooking appliances shall not be used to provide space heating to meet the requirements of this section.

602.3 Heat supply. Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from September 1 to June 1 to maintain a temperature of not less than 68°F in all habitable rooms, bathrooms, and toilet rooms.

Exception:

When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the *Michigan Plumbing Code*.

602.4 Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat during the period from September 1 to June 1 to maintain a temperature of not less than 65°F during the period the spaces are occupied.

Exceptions:

1. Processing, storage and operation areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

602.5 Room temperature measurement. The required room temperatures shall be measured 3 feet above the floor near the center of the room and 2 feet inward from the center of each exterior wall.

SECTION 603 MECHANICAL EQUIPMENT

603.1 Mechanical appliances. All mechanical appliances, fireplaces, solid fuel-burning appliances, cooking appliances and water heating appliances shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function.

603.2 Removal of combustion products. All fuel-burning equipment and appliances shall be connected to an approved chimney or vent.

Exception: Fuel-burning equipment and appliances which are labeled for unvented operation.

603.3 Clearances. All required clearances to combustible materials shall be maintained.

603.4 Safety controls. All safety controls for fuel-burning equipment shall be maintained in effective operation.

603.5 Combustion air. A supply of air for complete combustion of the fuel and for ventilation of the space containing the fuel-burning equipment shall be provided for the fuel-burning equipment.

603.6 Energy conservation devices. Devices intended to reduce fuel consumption by attachment to a fuel-burning appliance, to the fuel supply line thereto, or to the vent outlet or vent piping there from, shall not be installed unless labeled for such purpose and the installation is specifically approved.

603.7 Portable cooking equipment Unless otherwise approved, portable cooking equipment shall not be used on the interior of a structure in any area other than an area designated as a cooking room.

SECTION 604 ELECTRICAL FACILITIES

604.1 Facilities required. Every occupied building shall be provided with an electrical system in compliance with the requirements of this section and Section 605.

604.2 Service. The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with the

Michigan Electrical Code. Dwelling units shall be served by a three-wire, 120/240 volt, single-phase electrical service having a rating of not less than 60 amperes.

604.3 Electrical system hazards. Where it is found that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.

SECTION 605 ELECTRICAL EQUIPMENT

605.1 Installation. All electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and approved manner.

605.2 Receptacles. Every habitable space in a dwelling shall contain at least two separate and remote receptacle outlets. Every laundry area shall contain at least one grounded-type receptacle or a receptacle with a ground fault circuit interrupter. Every bathroom shall contain at least one receptacle. Any new bathroom receptacle outlet shall have ground fault circuit interrupter protection.

605.3 Luminaires. Every public hall, interior stairway, toilet room, kitchen, bathroom, laundry room, boiler room and furnace room shall contain at least one electric luminaire.

SECTION 606 ELEVATORS, ESCALATORS AND DUMBWAITERS

606.1 General. Elevators, dumbwaiters and escalators shall be maintained in compliance with ASME A17.1. The most current certification of inspection shall be on display at all times within the elevator or attached to the escalator or dumbwaiter, or the certificate shall be available for public inspection in the office of the building operator. The inspection and tests shall be performed at not less than the periodical intervals listed in ASME A17.1, Appendix N, except where otherwise specified by the authority having jurisdiction.

606.2 Elevators. In buildings equipped with passenger elevators, at least one elevator shall be maintained in operation at all times when the building is occupied.

Exception: Buildings equipped with only one elevator shall be permitted to have the elevator temporarily out of service for testing or servicing.

SECTION 607 DUCT SYSTEMS

607.1 General. Duct systems shall be maintained free of obstructions and shall be capable of performing the required function.

CHAPTER 7 FIRE SAFETY REQUIREMENTS

SECTION 701 GENERAL

701.1 Scope. The provisions of this chapter shall govern the minimum conditions and standards for fire safety relating to structures and exterior premises, including fire safety facilities and equipment to be provided.

701.2 Responsibility. The owner of the premises shall provide and maintain such fire safety facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises that do not comply with the requirements of this chapter.

SECTION 702 MEANS OF EGRESS

702.1 General. A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the public way. Means of egress shall comply with the *Fire Prevention Code of the City of Troy, Chapter 93 of the Troy Code of Ordinances*, hereafter referred to as the *Troy Fire Code*.

702.2 Aisles. The required width of aisles in accordance with the *Troy Fire Code* shall be unobstructed.

702.3 Locked doors. All means of egress doors shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort, except where the door hardware conforms to that permitted by the *Michigan Building Code*.

702.4 Emergency escape openings. Required emergency escape openings shall be maintained in accordance with the code in effect at the time of construction, and the following: required emergency escape and rescue openings shall be operational from the inside of the room without the use of keys or tools. Bars, grilles, grates or similar devices are permitted to be placed over emergency escape and rescue openings provided the minimum net clear opening size complies with the code that was in effect at the time of construction and such devices shall be releasable or removable from the inside without the use of a key, tool or force greater than that which is required for normal operation of the escape and rescue opening.

SECTION 703 FIRE-RESISTANCE RATINGS

703.1 Fire-resistance-rated assemblies. The required fire resistance rating of fire-resistance-rated walls, fire stops, shaft enclosures, partitions and floors shall be maintained.

703.2 Opening protectives. Required opening protectives shall be maintained in an operative condition. All fire and smoke stop doors shall be maintained in operable condition. Fire doors and smoke barrier doors shall not be blocked or obstructed or otherwise made inoperable.

SECTION 704 FIRE PROTECTION SYSTEMS

704.1 General. All systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be

maintained in an operable condition at all times in accordance with the *Troy Fire Code*.

704.2 Smoke alarms. Single or multiple-station smoke alarms shall be installed and maintained in Groups R-2, R-3, R-4 and in dwellings not regulated in Group R occupancies, regardless of occupant load at all of the following locations:

1. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.
2. In each room used for sleeping purposes.
3. In each story within a dwelling unit, including basements and cellars but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level. Single or multiple-station smoke alarms shall be installed in other groups in accordance with the *Troy Fire Code*.

704.3 Power source. In Group R occupancies and in dwellings not regulated as Group R occupancies, single-station smoke alarms shall receive their primary power from the building wiring provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.

Exception: Smoke alarms are permitted to be solely battery operated in buildings where no construction is taking place, buildings that are not served from a commercial power source and in existing areas of buildings undergoing alterations or repairs that do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for building wiring without the removal of interior finishes.

704.4 Interconnection. Where more than one smoke alarm is required to be installed within an individual dwelling unit in Group R-2, R-3, R-4 and in dwellings not regulated as Group R occupancies, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. Such interconnection shall be permitted to be through wired or approved wireless methods. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.

Exceptions:

1. Interconnection is not required in buildings which are not undergoing alterations, repairs, or construction of any kind.
2. Smoke alarms in existing areas are not required to be interconnected where alterations or repairs do not result in the removal of interior wall or

ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for interconnection without the removal of interior finishes.

CHAPTER 8 REFERENCED STANDARDS

This chapter lists the standards that are referenced in various sections of this document. The standards are listed herein by the promulgating agency of the standard, the standard identification, the effective date and title and the section or sections of this document that reference the standard. The application of the referenced standards shall be as specified in Section 102.7.

American Society of Mechanical Engineers Three Park Avenue New York, NY 10016-5990		
ASME		
Standard reference number	Title	Referenced in code section number
A17.1—2000	Safety Code for Elevators and Escalators with A17.1a 2002 Addenda	606.1
ASTM International 100 Barr Harbor Drive West Conshohocken, PA 19428-2959		
ASTM		
Standard reference number	Title	Referenced in code section number
F1346—91 (2003)	Performance Specifications for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs	303.2
Michigan Department of Energy Labor and Economic Growth Bureau of Construction Codes 2501 Woodlake Circle Okemos, MI 48864		
DELEG		
Standard reference number	Title	Referenced in code section number
MEC—06	Michigan Electrical Code	102.3, 201.3, 604.2
MBC—06	Michigan Building Code	102.3, 201.3, 401.3, 702.3
IMC—06	Michigan Mechanical Code	102.3, 201.3
IPC—06	Michigan Plumbing Code	102.3, 201.3, 505.1, 602.2, 602.3

City of Troy City of Troy 500 W. Big Beaver Troy, MI 48084		
Standard reference number	Title	Referenced in code section number
Charter	Charter of the City of Troy	104.3
Chapter 2	Address Numbering and Street Naming	304.3
Chapter 39	Troy Zoning Ordinance	102.3, 201.3
Chapter 60	Fees and Bonds Required	103.5
Chapter 79	General Building Regulations	111.2
Chapter 82A	Rental and Dwelling Inspection and Enforcement	104.3.1
Chapter 88	Nuisances	302.8
Chapter 93	Troy Fire Prevention Code	108.1, 201.3, 702.1, 702.2, 704.1, 704.2
Chapter 100	Municipal Civil Infractions	106.1, 106.2, 106.3, 107.1, 107.2, 108.1.1.2, 302.4.3, 302.4.4, 307.4.3

ICC International Code Council 5203 Leesburg Pike, Suite 600 Falls Church, VA 22041		
Standard reference number	Title	Referenced in code section number
IFGC-06	International Fuel Gas Code	102.3

Section 3. Savings

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

Section 4. Severability Clause

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

Section 5. Effective Date

This Ordinance shall become effective on August 1, 2009.

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 _____ 2009.

Louise E. Schilling, Mayor

Tonni L. Bartholomew, City Clerk

CITY OF TROY
AN ORDINANCE TO AMEND
CHAPTER 79 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 79, Sections 116, of the Code of the City of Troy.

Section 2. Amendment

Section 116.1 shall be amended as follows:

Application for Appeal. The owner of a building or structure or any other person may appeal from a decision of the building official refusing to grant a modification of the provisions of the building regulation enacted by the City Council, including but not limited to, the ~~Basic National~~Michigan Building Code, the Michigan Rehabilitation Code for Existing ~~Structure Code~~Buildings, the Troy Fire Prevention Code, Michigan Electrical Code, Michigan Plumbing Code, Michigan Mechanical Heating Code, Troy Property Maintenance Code, Troy Fence Ordinance, Troy Sign Ordinance, but not including the Troy Zoning Ordinance, covering the manner of construction or materials to be used in the erection, alteration or repair of a building or structure to the Board of Appeals. Application for appeal may be made when it is claimed that: the true intent of the building regulations, as listed above, adopted to regulate the construction or occupancies of buildings, or the rules legally adopted there under have been incorrectly interpreted, the provisions of the building regulations do not fully apply, or an equally good or better form of construction can be used.

Section 116.2 shall be amended as follows:

Membership of the Board. The Board of Appeals shall consist of the following: 1. The ~~Building Official~~City Manager. 2. ~~The Director of Public Works~~. 3. ~~The Fire Chief~~. 4. A Representative of the Oakland County Health Department. ~~5-3. Three residents of the City of Troy who shall have a background, training or experience in construction or similar trades, at least one of which shall be a~~ Professional structural or civil engineer of architectural engineering experience. ~~5-3. The residents who~~ shall be appointed by the City Council for a period of five (5) years.

Section 116.4 shall be added and read as follows:

Records of the Board. Minutes of each meeting shall be kept in accordance with the Open Meetings Act, Public Act 267 of 1975 (MCL 15.261 et. seq.), and provided to City Council upon approval.

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 _____, _____.

Louise E. Schilling, Mayor

Tonni L. Bartholomew, MMC
City Clerk

The Chairman, Glenn Clark, called the meeting of the Board of Zoning Appeals to order at 7:30 P.M. on Tuesday, August 18, 2009 in Council Chambers of the Troy City Hall.

PRESENT: Michael Bartnik (Arrived 7:42)
Glenn Clark
Kenneth Courtney
Ed Kempen
Dave Lambert
Lon Ullmann

ALSO PRESENT: Mark Stimac, Director of Building & Zoning
Allan Motzny, Assistant City Attorney
Pam Pasternak, Recording Secretary

ABSENT: Matthew Kovacs

ITEM #1 – APPROVAL OF MINUTES – MEETING OF JULY 21, 2009

Motion by Lambert
Supported by Courtney

MOVED, approve the minutes with the following changes made.

Final sentence at the end of the first paragraph on Page 5 to read: “Mr. Kalmar said that it is not his intention to keep the vehicle on his property, it is not a permanent parking place and that this is only temporary while he was waiting for parts to repair it and to remove it to a farm in Midland County where it belongs.”

Final sentence of the end of the first paragraph on Page 7 to read: “The street is narrow without sidewalks and with street parking and Mr. Bartnik said that he does not feel that Mr. Kalmar meets any of the criteria under Section C and that we do not even need to get to the criteria under A or B.”

Yeas: 5 – Clark, Courtney, Kempen, Lambert, Ullmann

Absent: 2 – Kovacs, Bartnik

MOTION TO APPROVE MINUTES AS AMENDED CARRIED

ITEM #2 – APPROVAL OF ITEM #3 THROUGH ITEM #5

Motion by Courtney
Supported by Ullmann

RESOLVED, that Items #3 through Item #5 are hereby approved in accordance with the suggested resolutions printed in the Agenda Explanation.

ITEM #2 – con't.

Yeas: 5 – Kempen, Lambert, Ullmann, Clark, Courtney

Absent: 2 – Kovacs, Bartnik

ITEM #3 – RENEWAL REQUESTED. WILLIAM NELSON, CITY OF TROY FIRE CHIEF, 4850 JOHN R., for relief of the Zoning Ordinance requirement for a 4'-6" high masonry screening wall between the off-street parking area and adjacent residential property on the east side of the site.

MOVED, to grant William Nelson, City of Troy Fire Chief, 4850 John R a three (3) year renewal of relief of the Zoning Ordinance requirement for a 4'-6" high masonry screening wall between the off-street parking area and adjacent residential property on the east side of the site.

- Conditions remain the same.
- There are no complaints or objections on file.

ITEM #4 – RENEWAL REQUESTED. ST. ELIZABETH ANN SETON CHURCH, 280 E. SQUARE LAKE ROAD, for relief of the 4'-6" high masonry screening wall required on the north and northern portion of the west side of the property where the parking lot abuts residential zoned property.

MOVED, to grant St. Elizabeth Ann Seton Catholic Church, 280 E. Square Lake, a three-year (3) renewal of relief of the Zoning Ordinance requirement for a 6' high masonry-screening wall required on the north and northern portion of the west side of the property where the parking lot abuts residential zoned property.

- Variance is not contrary to public interest.
- Conditions remain the same.
- There are no complaints or objections on file.

ITEM #5 – RENEWAL REQUESTED. MI DEV AMERICA, INC. 600 WILSHIRE, for relief of the required 6' high masonry-screening wall on the west property line abutting residential zoned property.

MOVED, to grant MI DEV America, Inc., 600 Wilshire, a three-year (3) renewal of relief of the Zoning Ordinance requirement for a 6' high masonry-screening wall on the west property line abutting residential zoned property.

- Variance is not contrary to public interest.
- Conditions remain the same.
- There are no complaints or objections on file.

ITEM #6 – APPROVAL REQUESTED. ANDREW PUMA, 951 E. SQUARE LAKE, for approval under Section 43.74.01 to store an enclosed utility trailer outside on residential property.

Mr. Stimac explained that the petitioner is requesting approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property. This enclosed utility trailer does not meet the exceptions found in Section 40.66.00 of Chapter 39 of the Troy Zoning Ordinance.

This item first appeared before this Board at the meeting of July 21, 2009 and was postponed to allow the petitioner the opportunity to remove the advertising from the trailer and to determine if this vehicle can be parked behind the front face of his home and use it as a utility trailer.

Mr. Stimac said that Building Department staff has been in contact with Mr. Puma and he has re-located the trailer and taken the signage off. Mr. Stimac also stated that the Building Department is waiting for further documentation regarding this item and the Board can either postpone action on this request or can resolve to take no further action.

Motion by Courtney
Supported by Ullmann

MOVED, to take no further action on the request of Mr. Andrew Puma, 951 E. Square Lake, for approval under Section 43.74.01 to store an enclosed utility trailer outside on residential property as there is no approval required.

Mr. Kempen asked if the petitioner would have to start all over again if he decided to use this trailer for commercial purposes.

Mr. Stimac said that if he did decide to use this trailer for a business he would have to appear before this Board again.

Motion by Kempen
Supported by Lambert

MOVED, to postpone action on the motion on the floor until the meeting of September 15, 2009.

- To allow the petitioner to present further documentation to the Building Department regarding the use of this trailer.

Yeas: 5 – Lambert, Ullmann, Clark, Courtney, Kempen
Absent: 2 – Bartnik, Kovacs

ITEM #6 – con't.

MOTION TO POSTPONE ACTION ON THIS MOTION UNTIL SEPTEMBER 15, 2009
CARRIED

ITEM #7 – VARIANCE REQUESTED. W. KAYE BARCLAY, 5501 HOUGHTEN, for relief of the Ordinance to maintain accessory buildings at 5501 Houghten. The site plan submitted indicates that there is a total of 7001 square feet of accessory buildings on this property. Section 40.56.02 of the Ordinance limits the combined square footage of all accessory buildings on this site to not more than the ground floor footprint of the living area of the home or 1816 square feet in this instance.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to maintain accessory buildings at 5501 Houghten. The site plan submitted indicates that there is a total of 7001 square feet of accessory buildings on this property. Section 40.56.02 of the Ordinance limits the combined square footage of all accessory buildings on this site to not more than the ground floor footprint of the living area of the home or 1816 square feet in this instance.

Mr. J. Mark Brown, Ms. Barclay's son was present. Mr. Brown explained that he lives across the street from his mother's home. The original property was purchased as a single lot approximately 40 years ago. Sometime later, his father purchased the property behind his home and they decided to raise horses. The City required them to have covered buildings to take care of the horses and the owners put up these structures. Permits to keep animals on the property were obtained from the City. The owners came to the Board of Zoning Appeals for a variance regarding the barn structure. The buildings fell into a state of disrepair and after his father passed away, his mother wanted to repair them. The contractor she hired stated that since they were not changing the footprints of the buildings, no permits were required.

Mr. Bartnik apologized for being late and asked the petitioner what he was hoping this Board would do.

Mr. Brown stated that he was hoping for a favorable response from the Board, which will allow them to obtain the necessary permits.

Mr. Bartnik asked what the property is being used for and Mr. Brown said that it is used as residential property.

Mr. Brown said that the house is unique as it is situated at a double dead end of the street. The property is completely tree lined and the buildings are not visible. On the west the property is bordered by I-75 and on the north side is a large commercial building.

The Chairman opened the Public Hearing.

ITEM #7 – con't.

Mr. Mark Hayes, 230 McKinley was present. Mr. Hayes stated that for the first five years he lived in this area he was completely unaware that these buildings were on the property. None of the neighbors have any complaints as the property is well maintained. Mr. Hayes read a letter from his wife and she also approves of this request.

No one else wished to be heard and the Public Hearing was closed.

There are no written approvals or complaints on file.

Mr. Courtney asked if there were any animals on the property now.

Mr. Brown stated that they have five miniature horses and a dog.

Motion by Lambert
Supported by Courtney

MOVED, to grant W. Kaye Barclay, 5501 Houghten, relief of the Ordinance to maintain a total of 7001 square feet of accessory buildings where Section 40.56.02 limits the square footage of all accessory buildings on this site to not more than 1816 square feet.

- Variance is not contrary to public interest.
- Variance does not permit the establishment of a prohibited use in a Zoning District.
- Variance relates only to the property described in this application.
- Conformance is unnecessarily burdensome.
- Property is large and bordered by a highway and a large commercial development.

Yeas: 6 – Lambert, Ullmann, Bartnik, Clark, Courtney, Kempen
Absent: 1 – Kovacs

MOTION TO GRANT VARIANCE CARRIED

ITEM #8 – APPROVAL REQUESTED. MR. & MRS. ROBERT RASCOL, 635 HARTLAND, 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 petitioners are seeking approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property. The Ford F450 stake truck described in the application does not meet the exceptions found in Section 40.66.00 of Chapter 39 of the Troy City Ordinance.

ITEM #8 – con't.

This item last appeared before this Board at the meeting of March 18, 2008 and the petitioners were granted a six (6) month time frame to look into the option of enlarging the existing garage; and to explore the possibility of parking this vehicle at another site.

Mr. Rascol was present and stated that he and his wife lived in Troy since 1996 and previously had lived at 680 Hartland. They had been before Council and received a variance either in 1996 or 1997. Mr. Rascol went on to say that in October 1998, City Council granted approval for him to keep the truck on his property, which at that time was 680 Hartland. In May 2006 they moved across the street to a home that has a larger lot. Due to the economy, it is much easier for them to keep the truck on their property rather than spend the extra money to store it in another location. The truck is not visible and Mr. Rascol would like to be able to keep the truck parked on his property as it does not affect any of the adjacent property.

Mr. Bartnik said that in March 2008 the petitioner was given a six-month extension in order for him to look at other locations to store this vehicle or to determine whether or not a garage could be built.

Mr. Rascol said that he did not look into storing this vehicle off-site.

Mr. Bartnik stated that this truck has been parked on residential property for ten years and any approval granted is to be on a temporary basis, not longer than two years. City Council gave approval for one year. Ten years is more than temporary usage.

Mr. Rascol said that it was his understanding that the property was adequate to provide parking for this vehicle.

Mr. Courtney stated that the Ordinance has been revised and is now completely different. Mr. Courtney stated that he did not mind if additional time was granted.

A discussion began regarding the approval by City Council and the Board of Zoning Appeals.

Mr. Stimac stated that officially the Ordinance does not call this a temporary approval but does limit the approval of the time frame granted by the Board of Zoning appeals to not more than two (2) years.

Mr. Rascol stated that the truck does not affect his neighbors and he would like to keep it on his property.

Mr. Clark stated that this Board has the ability to approve this request anywhere from six months to two years. Mr. Clark said that he is very familiar with this area and the lots are quite wide and deep. Mr. Clark asked how close the truck was to the neighbors' property.

ITEM #8 – con't.

Mr. Rascol said that it is parked within 5' of the property line and there are a lot of trees that have been planted. Mr. Rascol said that he would be willing to move the truck back on the property.

Mr. Courtney asked how long Mr. Rascol has owned this truck.

Mr. Rascol said that he has owned this truck since 2006.

Mr. Courtney asked how long the neighbor has lived in his home.

Mr. Rascol said that he has been there for a long time and this truck does not bother him at all.

The Chairman opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There is one (1) written approval on file. There are no written objections on file.

Mr. Lambert stated that he believes the petitioner meets the criteria under Item C, but there is no substantiation regarding Item A or B. Mr. Lambert suggested that the petitioner go out and determine if there is somewhere else he could park this vehicle. Mr. Lambert also stated that he would like this petitioner to come back before the Board with some kind of substantiation that he had explored other alternatives.

Mr. Bartnik said that this is a "permitting situation" and the Ordinance only calls for a temporary approval. Petitioner was granted a six month extension and did not come back before this Board for a year.

Mr. Rascol said that he had spoken to a couple of builders and they estimated that the cost of a garage would be between \$15,000.00 and \$25,000.00. Mr. Rascol said that they would put up a larger garage if they could. Mr. Rascol also stated that he did not check on parking this vehicle at a storage facility. In this economy it is very difficult to pay for outside storage. Mr. Rascol also stated that he believed that as long as he met the criteria listed in Item C, he did not have to meet any of the other criteria.

Mr. Courtney pointed out that the application states that the petitioner has to meet the criteria in Item C and also either A or B.

Motion by Courtney
Supported by Lambert

MOVED, to postpone the request of Mr. & Mrs. Robert Rascol, 635 Hartland, for approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property until the meeting of September 15, 2009.

ITEM #8 – con't.

- To allow the petitioner to bring in documentation regarding construction of a garage.
- To allow the petitioner to explore other sites to park this vehicle.

Yeas: 4 – Lambert, Ullmann, Courtney, Kempen

Nays: 2 – Bartnik, Clark

Absent: 1 – Kovacs

MOTION TO POSTPONE THIS REQUEST UNTIL SEPTEMBER 15, 2009 CARRIED

Motion by Courtney

Supported by Lambert

MOVED, to excuse Mr. Kovacs from this meeting as he is out of the county on vacation.

Yeas: 6 – Ullmann, Bartnik, Clark, Courtney, Kempen, Lambert

Absent: 1 – Kovacs

MOTION TO EXCUSE MR. KOVACS CARRIED

The Board of Zoning Appeals meeting adjourned at 8:19 P.M.

Glenn Clark, Chairman

Pam Pasternak, Recording Secretary

The Chairman, Glenn Clark, called the meeting of the Board of Zoning Appeals to order at 7:30 P.M. on Tuesday, September 15, 2009 in Council Chambers of the Troy City Hall.

PRESENT: Michael Bartnik
Glenn Clark
Kenneth Courtney
Edward Kempen
Matthew Kovacs (Arrived 7:48)
Lon Ullmann

ALSO PRESENT: Mark Stimac, Director of Building & Zoning
Allan Motzny, Assistant City Attorney
Pamela Pasternak, Recording Secretary

ABSENT: Dave Lambert

ITEM #1 – APPROVAL OF MINUTES – MEETING OF AUGUST 18, 2009

Motion by Bartnik
Supported by Courtney

MOVED, to approve the minutes of the meeting of August 18, 2009 with the following amendment.

Page 7, paragraph 9 to read “Mr. Bartnik said that is a “permitting situation” rather than “permitted situation”....

Yeas: 5 – Clark, Courtney, Kempen, Ullmann, Bartnik
Absent: 2 – Kovacs, Lambert

MOTION TO APPROVE MINUTES AS AMENDED CARRIED

ITEM #2 – RENEWAL REQUESTED. S & MM INTERNATIONAL INVESTMENTS, 1728 MAPLELAWN, for relief of the required 6’ high masonry obscuring wall at the north property line where the site abuts residential zoned property.

Mr. Stimac explained that the petitioner is requesting renewal of a variance granted by this Board in October 2007 for relief of the required 6’ high masonry obscuring wall at the north property line where the site abuts residential zoned property per Section 39.10.01 of the Zoning Ordinance.

This item first appeared before this Board in October 2007 at which time the property was owned by Somerset Pontiac GMC Truck, Inc. and was granted approval for a period of one year. This site has since come under new ownership and is before the Board for a renewal of that variance.

ITEM #2 – con't.

The petitioners have expanded the parking area at the rear of the site and have placed a 6' high screen wall at the north edge of the parking area. However this wall is approximately 20' south of the property line and does not extend the full width of the property. Mr. Stimac also stated that the area has a lot of foliage and screening that also helps to screen this area from the surrounding residential area.

Mr. Clark asked about the change in ownership and the time lapse of this renewal.

Mr. Stimac explained that originally this property was owned by Somerset GMC but was sold to S & MM International Investments, and the expiration date of the original variance was missed.

Mr. Larry Smith, owner of S & MM International Investments was present and stated that they had put up the wall in order to help screen this property. Mr. Smith indicated that they had also put up a wall on the east side of the property. The wall is approximately 15' – 20' inside the northern property line and foliage is on the outside of the wall.

Motion by Courtney
Supported by Kempen

MOVED, to grant S & MM International Investments, 1728 Maplelawn, a three-year (3) renewal of relief of the required 6' high masonry obscuring wall at the north property line where the site abuts residential zoned property per Section 39.10.01 of the Zoning Ordinance.

- Existing screen wall provides adequate screening of developed area
- Remainder of the site is undeveloped and heavily wooded.
- We have no complaints or objections on file.

Mr. Clark clarified the location of the wall. Mr. Stimac said that the wall has been installed at the eastern edge of the property. However, that adjacent property is also industrially zoned. The Ordinance dictates that a 6' high wall is required between this property and residentially zoned property.

Mr. Clark asked if the petitioner planned to keep the trees in this area and Mr. Smith replied that this is their intention.

Mr. Kempen stated that if he was a resident of the abutting residential area, he would prefer to look out and see trees rather than a wall.

Vote on the motion to approve.

Yeas: 5 – Kempen, Ullmann, Bartnik, Clark, Courtney

ITEM #2 – con't.

Absent: 2 – Lambert, Kovacs

MOTION TO GRANT RENEWAL FOR THREE (3) YEARS CARRIED

ITEM #3 - APPROVAL REQUESTED. ANDREW PUMA, 951 E. SQUARE LAKE, for approval under Section 43.74.01 to store an enclosed utility trailer outside on residential property.

Mr. Stimac explained that the petitioner is requesting approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property. The enclosed utility trailer described in the application does not meet the exceptions found in Section 40.66.00 of Chapter 39 of the Troy Zoning Ordinance.

This item last appeared before this Board at the meeting of August 18, 2009 and was postponed to this meeting to allow the petitioner to present further documentation to the Building Department regarding the use of this trailer. Mr. Stimac further explained that the petitioner had not given any further documentation to Building Department Staff.

Motion by Courtney
Supported by Bartnik

MOVED, to deny the request of Andrew Puma, 951 E. Square Lake, for approval under Section 43.74.01 to store an enclosed utility trailer outside on residential property.

- Petitioner has indicated that this trailer will not be used for commercial purposes therefore approval is not required.

Yeas: 5 – Ullmann, Bartnik, Clark, Courtney, Kempen
Absent: 2 – Lambert, Kovacs

MOTION TO DENY REQUEST CARRIED

ITEM #4 – APPROVAL REQUESTED. MR. & MRS. ROBERT RASCOL, 635 HARTLAND, 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 petitioners are seeking approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property. The Ford F450 stake truck described in the application does not meet the exceptions found in Section 40.66.00 of Chapter 39 of the Troy City Ordinance.

This item last appeared before this Board at the meeting of August 18, 2009 and was postponed to allow the petitioner to bring in documentation regarding costs of

ITEM #4 – con't.

constructing a garage; and also to allow the petitioner to explore other sites to park this vehicle.

Mr. Rascol was present and passed out quotes regarding construction of a garage. Mr. Rascol also stated that he did not find anywhere else to park this truck that would be considered a secure area. Mr. Rascol indicated that he had found commercial sites that may allow him to park his vehicle, but he does not feel they are safe.

Mr. Courtney asked if Mr. Rascol had contacted the Building Department regarding parking of this vehicle and he said that he did not.

Mr. Courtney stated that there is a list of secured parking for commercial vehicles that Mr. Rascol could look at. Mr. Courtney further stated that no one was around this vehicle at this time and asked why Mr. Rascol considered it safe in this location.

Mr. Rascol said that there were neighbors around. Mr. Rascol also brought in paperwork from the City Council meeting from 1998 indicating approval of the storage of this vehicle outside.

Mr. Courtney pointed out that it was only for one-year.

Mr. Rascol stated that he believed that once he had received approval from City Council he did not need to come back or do anything else.

Mr. Bartnik asked why Mr. Rascol was before this Board.

Mr. Rascol replied that it was because someone from the City had notified him that he needed to do this.

Mr. Bartnik confirmed that the City had let him know there was a violation. Mr. Rascol said that was correct and he want approval under the existing law.

Mr. Bartnik said that Mr. Rascol does not make any attempts to move this commercial vehicle until he is told there is a violation.

Mr. Rascol said that he believed the approval from City Council was for more than one year.

Mr. Bartnik pointed out that in March 2008, Mr. Rascol was given a six-month time frame to look into other alternatives for this vehicle and he did not come back before the Board. Mr. Rascol apologized.

ITEM #4 – con't.

Mr. Clark stated that Mr. Rascol had given the Board several quotes regarding the construction of a garage ranging in price from \$21,900.00 to \$26,000.00. Mr. Clark asked if Mr. Rascol would be able to construct a garage at this time.

Mr. Rascol said that right now it would be a financial hardship.

Mr. Clark said that this parcel is very deep and there is a list available regarding outside storage of this vehicle.

Mr. Bartnik asked if Mr. Rascol has had a commercial vehicle on his property since he moved to Troy in 1996. Mr. Rascol said that was correct.

The Chairman opened the Public Hearing.

Mr. Alan Brown, 672 Hartland, was present and stated that he lives across the street. Mr. Brown indicated that Mr. Rascol maintains his home and truck and it is never parked beyond the front of the house. Mr. Brown said that you couldn't ask for a better neighbor and is in favor of this request.

No one else wished to be heard and the Public Hearing was closed.

Mr. Kovacs asked how many objections were on file regarding this vehicle.

Mr. Clark looked through the file and determined that there are four (4) approvals and two (2) objections on file.

Mr. Stimac said that these responses did not include the property occupied by Mr. Rascol in 1996 at 680 Hartland.

Motion by Bartnik

MOVED, to deny the request of Mr. & Mrs. Robert Rascol, 635 Hartland, for approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property.

- Petitioner did not meet the criteria outlined in Item C.
- Petitioner has made no attempt to indicate that he is seeking a temporary approval.

Motion to deny fails due to lack of support.

Mr. Kovacs apologized for missing the August meeting and stated that he had been on vacation and also apologized for being late at this meeting.

ITEM #4 – con't.

Mr. Courtney said that he did not like the truck parked in a residential area, but that the location on the side of the house where it was parked was not a problem. Mr. Courtney indicated that he would rather not see a garage constructed on this property and indicated that Mr. Rascol should be looking into alternative parking spots. Mr. Courtney also said that he would be willing to grant a short term approval at this point so that Mr. Rascol could look into other locations to park this vehicle.

Motion by Courtney
Supported by Ullmann

MOVED, to grant Mr. & Mrs. Robert Rascol, approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property for a period of nine (9) months.

- The petitioner has complied with the requirements of Items B & C.
- To allow petitioner the opportunity to explore other sites on which to park this vehicle.

Mr. Kovacs stated that he did not understand why the petitioner does not meet the criteria outlined in Item C.

Mr. Bartnik said that in his opinion this is a large stake truck and believes that the box makes it appear larger.

Mr. Kovacs stated that the vehicle is always parked behind the front of the house and if it were a recreational vehicle it would be allowed to park in this area.

Mr. Kempen said that he thought the vehicle could be moved farther back on the property.

Mr. Clark stated that he believes it is very difficult for families to keep going in this economy and said that he would like to amend the motion to approve for one-year rather than nine (9) months.

Mr. Courtney said that he would support an amendment as he would rather not see a garage on this site and would rather see the vehicle parked off-site.

Motion by Clark
Supported by Courtney

MOVED, to amend the original motion by striking 9 months and substituting a time period of one (1) year.

ITEM #4 – con't.

- To allow petitioner the opportunity to explore other sites on which to park this vehicle.
- To aid the petitioner during this economic climate.

Mr. Bartnik stated that he is objecting to this motion. This is a residential area, one block north of Big Beaver and he does not believe a commercial vehicle belongs in this location. Mr. Bartnik further stated that he does not understand why the Board would put a commercial vehicle in a residential area. Commercial vehicles devalue property and this approval is in place for people to come before this Board to ask for more time to look for other alternatives. This petitioner did not ask permission again and no effort has been made on his part to find another location. Mr. Bartnik said that he would like to deny both motions as this vehicle has been parked in a residential location for the last 10 to 12 years. Economics have changed over the years and the truck has not been moved.

Mr. Kovacs said that in his opinion the petitioner meets the criteria outlined in Item C and furthermore, if this was a recreational vehicle it could remain in that location indefinitely. In order for this Board to grant approval the petitioner has to meet the criteria in Item C and either A or B. Mr. Kovacs said that he would like to give the petitioner one more year to find another location for this vehicle.

Mr. Clark said that he agrees with Mr. Kovacs in that the petitioner has met the criteria listed in Item C, but doesn't necessarily agree that any type of vehicle could be parked in this location. The facts are that southeast Michigan has been horribly impacted by today's economy and he believes this will only be a temporary situation. There are no traffic concerns in this area and the truck is gone for a good portion of each day. Mr. Clark is in favor of the amended motion.

Mr. Bartnik pointed out that a garage could be constructed based on the quotes brought in by the petitioner and he does not feel the petitioner meets the criteria in Item B.

Vote on motion to amend original motion.

Yeas: 4 – Kovacs, Clark, Courtney, Kempen
 Nays: 2 – Bartnik, Ullmann
 Absent: 1 – Lambert

MOTION TO AMEND MOTION CARRIED

Vote on amended motion which will state:

MOVED, grant Mr. & Mrs. Robert Rascol, approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property for a period of one (1) year.

ITEM #4 – con’t.

- The petitioner has complied with criteria B & C.
- To allow petitioner the opportunity to explore other sites on which to park this vehicle.
- To aid the petitioner during this economic climate.

Yeas: 4 – Clark, Courtney, Kempen, Kovacs
Nays: 2 – Ullmann, Bartnik
Absent: 1 – Lambert

MOTION TO GRANT APPROVAL FOR A PERIOD OF ONE (1) YEAR CARRIED

Motion by Courtney
Supported by Ullmann

MOVED, to excuse Mr. Lambert from tonight’s meeting as he is out of town.

Yeas: 6 – Clark, Courtney, Kempen, Kovacs, Ullmann
Absent: 1 – Lambert

MOTION TO EXCUSE MR. LAMBERT CARRIED

Mr. Stimac informed the Board that it was possible that the October meeting would be cancelled, depending on whether any new applications were received. A discussion began regarding the by-laws of the Board of Zoning Appeals and it was determined that the by-laws do not address the cancellation of a regularly scheduled meeting.

Motion by Courtney
Supported by Kovacs

MOVED, to allow Mr. Stimac to cancel the next meeting of the Board of Zoning Appeals on Tuesday, October 20, 2009 if no other new items are presented.

Yeas: 6 – Bartnik, Clark, Courtney, Kempen, Kovacs, Ullmann
Absent: 1 – Lambert

MOTION TO ALLOW MR. STIMAC TO CANCEL THE OCTOBER MEETING CARRIED

Mr. Stimac addressed the Board regarding the memo sent out by the City Manager. Mr. Stimac said that Mr. Szerlag offered to attend a future Board of Zoning Appeals meeting to discuss the plans. He will also be attending other Board’s meetings and would be happy to include the BZA members at any of those meetings as well. Mr. Stimac indicated that he would get a list together of the meetings Mr. Szerlag will be at and pass those along to the Board.

The Board of Zoning Appeals meeting adjourned at 8:31 P.M.

Glenn Clark, Chairman

Pamela Pasternak, Secretary

44766 Lowell Ave.
Canton, MI 48187-2997
September 9, 2009



The Honorable Ms. Louise Schilling
Mayor of the City of Troy
500 West Big Beaver Road
Troy, MI 48084-5254

RECEIVED

SEP 10 2009

CITY OF TROY
CITY MANAGER'S OFFICE

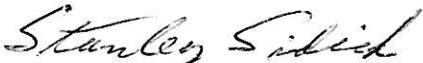
Dear Mayor Schilling:

I chose to attend both the 1:00 P.M. and the 6:30 PM rallies held on your front lawn yesterday. Thank you for being the host for both events.

I was very favorably impressed with the traffic control that was directed by your Police Department. As far as I know, there was only one traffic accident yesterday which occurred within the inside center lane of the west bound traffic on Big Beaver. I think the accident was caused by a driver not paying proper attention to the road conditions. This happened during the 1:00 PM rally, when there were approximately 50 persons in attendance.

I thought the movement of both pedestrians and vehicles was handled very well by your Police Department.

Sincerely,


Stanley Sidick



CITY COUNCIL REPORT

September 10, 2009

TO: John Szerlag, City Manager

FROM: John M. Lamerato, Assistant City Manager/Finance and Administration
Carol Anderson, Parks and Recreation Director

SUBJECT: Donation of Taxidermy Mounts to the
Lloyd A. Stage Nature Center

Background:

- Edward Polek an avid outdoorsman had collected, over his lifetime, an impressive collection of taxidermy mounts.
- Upon his death, his sister Crystal Lewandowski who is a Stage Nature Center volunteer, contacted Keith Polek about donating his father's collection of taxidermy mounts to the nature center.
- The nature center received the collection of mounts on September 2, 2009 through a generous donation by Keith Polek, in memory of his parents Edward and Mary Polek.
- The current retail value of the donation of taxidermy mounts is \$15,593.
- The collection contains a variety of taxidermy mounts including native waterfowl, birds, fish, and mammals. Additional geological specimens, game calls and tags were also donated.
- The donation will help the nature center achieve its mission of "creating passion for, and knowledge of the natural world in the hearts and minds of citizens," through educational use both in the classroom during instructor lead programs and while on display in the nature center lobby.

It is with much appreciation and thanks that the donation is accepted by the City.

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- Tom Wilson
- Mariam C. Noland
President

September 18, 2009

Mr. John Szerlag
 City Manager
 City of Troy
 500 W. Big Beaver Road
 Troy, MI 48084-5285

RECEIVED

SEP 18 2009

CITY OF TROY
 CITY MANAGER'S OFFICE

Dear Mr. Szerlag,

We are pleased to provide you with a check in the amount of \$5,125.00, representing the contributions to the Community Foundation for Southeast Michigan to support the Troy Museum and Historic Village through the Community Foundation Challenge – Arts & Culture. Please note this grant includes gifts, matched and nonmatched, received through the Challenge and the Community Foundation's 50 percent match.

The Community Foundation recognizes the important role that arts and cultural institutions play in enhancing the quality of life throughout the region. We express our appreciation to the organizations like yours that worked diligently with new social media tools to inform prospective donors of the Community Foundation Challenge – Arts & Culture.

The Board of Trustees has adopted the following resolution:

RESOLVED, that a grant of \$5,125.00 to the city of Troy for support for the general operations of the Troy Museum and Historic Village be approved.

Distribution of these funds is subject to the following conditions:

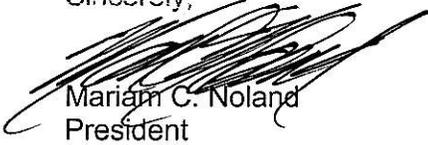
- The funds are used solely for the above purposes
- Your agency is currently classified as exempt from taxation as either (a) a tax exempt public charity within Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code") and Section 509(a)(2), or 509(a)(3) of the Code, or (b) a governmental entity or political subdivision within Section 170(c)(1) of the Code.
- Any unused portion is returned if your agency loses its exemption from taxation.
- Your agency maintains records adequate to verify its tax status and the use of this grant award should verification be requested by the Foundation.

Mr. John Szerlag
September 18, 2009
Page 2

By your acceptance of the distribution and the cashing of the enclosed check, we understand that the foregoing conditions will be met and are acceptable by you.

As the Community Foundation marks its 25th anniversary year, we are delighted to have had the opportunity to work with the Cultural Alliance of Southeastern Michigan and its member organizations to help increase support for arts and cultural organizations throughout the region. We deeply appreciate the support that you and your staff provided during the Challenge and as we worked to verify and acknowledge all of the donor gifts.

Sincerely,



Mariam C. Noland
President

Enclosure

cc: Ms. Loraine Campbell