



AGENDA

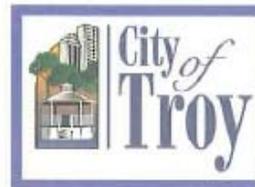
Regular Meeting of the

CITY COUNCIL OF THE CITY OF TROY

JANUARY 4, 2010
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 black ink, appearing to read "John Szerlag". The signature is fluid and cursive.

John Szerlag, City Manager

MEMBERS OF THE PUBLIC AND VISITORS

(City Council Rules of Procedure – Rule 16)

Any person not a member of the City Council may address the Council with recognition of the Chair, after clearly stating the nature of his/her inquiry or comment. *City Council requests that if you do have a question or concern, to bring it to the attention of the appropriate department(s) whenever possible. If you feel that the matter has not been resolved satisfactorily, you are encouraged to bring it to the attention of the City Manager, and if still not resolved satisfactorily, to the Mayor and Council*

- Petitioners shall be given a fifteen (15) minute presentation time that may be extended with the majority consent of City Council.
- Any member of the public, not a petitioner of an item, shall be allowed to speak for up to five (5) minutes to address any Public Hearing item.
- Any member of the public, not a petitioner of an item, shall be allowed to speak for up to five minutes to address Postponed, Regular Business or Consent Agenda items or any other item as permitted under the Open Meetings Act during the Public Comment portion of the agenda.
- City Council may waive the requirements of this section by a majority of the City Council members.
- City Council may wish to schedule a Special Meeting for Agenda items that are related to topics where there is significant public input anticipated.
- Through a request of the Chair and a majority vote of City Council, public Comment may be limited when there are fifteen (15) or more people signed up to speak either on a Public Hearing item or for the Public Comment period of the agenda.



CITY COUNCIL AGENDA

January 4, 2010 – 7:30 PM
Council Chambers
City Hall - 500 West Big Beaver
Troy, Michigan 48084
(248) 524-3317

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INVOCATION: Pastor Bill DesRochers – Calvary Chapel of Oakland County

PLEDGE OF ALLEGIANCE

A. CALL TO ORDER:

B. ROLL CALL:

- (a) Mayor Louise E. Schilling
Robin Beltramini
Mayor Pro Tem Wade Fleming
Martin Howrylak
Mary Kerwin
Maureen McGinnis
Dane Slater

- (b) Absent Council Members:

Suggested Resolution

Resolution #2010-01-

Moved by

Seconded by

RESOLVED, That Troy City Council hereby **EXCUSES** the absence of _____ at the Regular City Council Meeting of Monday, January 4, 2010 and the Closed Session of Monday, January 4, 2010 due to _____.

Yes:

No:

C. CERTIFICATES OF RECOGNITION:

C-1 No Presentations

D. CARRYOVER ITEMS:

D-1 No Carryover Items

E. PUBLIC HEARINGS:

E-1 No Public Hearings

F. PUBLIC COMMENT:

In accordance with the Rules of Procedure of the City Council, Article 16 – Members of the Public and Visitors

Any person not a member of the City Council may address the Council with recognition of the Chair, after clearly stating the nature of his/her inquiry or comment. *City Council requests that if you do have a question or concern, to bring it to the attention of the appropriate department(s) whenever possible. If you feel that the matter has not been resolved satisfactorily, you are encouraged to bring it to the attention of the City Manager, and if still not resolved satisfactorily, to the Mayor and Council.*

- Petitioners shall be given a fifteen (15) minute presentation time that may be extended with the majority consent of City Council.
- Any member of the public, not a petitioner of an item, shall be allowed to speak for up to five (5) minutes to address any Public Hearing item.
- Any member of the public, not a petitioner of an item, shall be allowed to speak for up to five minutes to address Postponed, Regular Business or Consent Agenda items or any other item as permitted under the Open Meetings Act during the Public Comment portion of the agenda.
- City Council may waive the requirements of this section by a majority of the City Council members.
- City Council may wish to schedule a Special Meeting for Agenda items that are related to topics where there is significant public input anticipated.
- Through a request of the Chair and a majority vote of City Council, public Comment may be limited when there are fifteen (15) or more people signed up to speak either on a Public Hearing item or for the Public Comment period of the agenda.

G. POSTPONED ITEMS:

G-1 No Postponed Items

H. REGULAR BUSINESS:

H-1 Appointments to Boards and Committees:

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: Board of Review

Suggested Resolution

Resolution #2010-01-

Moved by

Seconded by

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

Board of Review

Appointed by Mayor (3-Regular) 3-Year Term

James Edward Hatch

Term Expires 01/31/2013

Yes:

No:

- (b) City Council Appointments: Advisory Committee for Persons with Disabilities; Employee Retirement System Board of Trustees/Retiree Health Care Benefits Plan and Trust; Liquor Advisory Committee; and Municipal Building Authority**

Suggested Resolution

Resolution #2010-01-

Moved by

Seconded by

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

Advisory Committee for Persons with Disabilities

Appointed by Council (9-Regular) 3-Year Term: 3-Regular-with disabilities; 3-Regular-general populace; 3-Regular-in need of transportation (3-Alternate) 3-Year Term

Leslie Golden Witt

Term Expires 11/01/2012

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

Appointed by Council (City Council Appointee) 3-Year Term

Mark Calice-City Council Appointee

Term Expires 12/31/2012

Liquor Advisory Committee

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

Andrew Kaltsounis

Term Expires 01/31/2013

Municipal Building Authority

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

Thomas G. Sawyer, Jr.

Term Expires 01/31/2013

Yes:

No:

H-2 Nominations for Appointments to Boards and Committees:

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: Advisory Committee for Persons with Disabilities; Advisory Committee for Senior Citizens; Board of Zoning Appeals; Building Code Board of Appeals; Election Commission; Historic District Commission; Historic District Study Committee; Municipal Building Authority; Troy Daze; and Youth Council

Suggested Resolution

Resolution #2010-01-

Moved by

Seconded by

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

Advisory Committee for Persons with Disabilities

Appointed by Council (9-Regular) 3-Year Term: 3-Regular-with disabilities; 3-Regular-general populace; 3-Regular-in need of transportation (3-Alternate) 3-Year Term

	Unexpired Term 11/01/2011
	Term Expires 11/01/2012
	Term Expires 11/01/2012
Alternate	Term Expires 11/01/2012
Alternate	Term Expires 11/01/2012
Alternate	Term Expires 11/01/2012

Advisory Committee for Senior Citizens

Appointed by Council (9-Regular) – 3-Year Term

Unexpired Term 04/30/2011

Unexpired Term 04/30/2012

Board of Zoning Appeals

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

Planning Commission Rep.* Term Expires 01/31/2011

Planning Commission Alternate Rep.* Term Expires 01/31/2011

***Planning Commission to forward their recommendation**

Building Code Board of Appeals

Appointed by Council (5-Regular) 5-Year Term for 3 Residents: with background, training or experience in construction or similar trades; at least one shall be a professional structural or civil engineer of architectural engineering experience.*

2 by Ordinance: City Manager and Oakland County Health Department Representative

***Civil Engineer/Resident** Term Expires 01/01/2015

***Resident** Term Expires 01/01/2015

***Resident** Term Expires 01/01/2015

Election Commission

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

Term Expires 01/31/2011

Term Expires 01/31/2011

Historic District Commission

Appointed by Council (7-Regular) 3-Year Term; (Student) 1-Year Term
(All Troy residents; at least 2 chosen by a duly organized history group and 1 architect, if available.)

Student Term Expires 07/01/2010

Architect (if available) Unexpired Term 05/15/2012

Historic District Study Committee

Appointed by Council (7-Regular-Ad Hoc) 3-Year Term (1-Historic District Comm. Member; and 1-Local Historic Preservation Organization)

Ad Hoc

Ad Hoc

Historical Society Member

Ad Hoc

Historic District Comm. Member

Ad Hoc

Note: Historic District Commission notified and will forward their recommendation asap.

Municipal Building Authority

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

Unexpired Term 01/31/2011

Unexpired Term 01/31/2012

Troy Daze

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

Student Term Expires 07/30/2010

Youth Council

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

Term Expires 06/01/2010

Term Expires 06/01/2010

Yes:

No:

H-3 Approval of MDOT Construction Contract for the Reconstruction of Rochester Road from Torpey to Barclay and Wattles, East and West of Rochester Road – Project No. 99.203.5 and 01.106.5

Suggested Resolution

Resolution #2010-01-

Moved by

Seconded by

RESOLVED, That Troy City Council hereby **APPROVES** MDOT Contract No. 09-5747 between the City of Troy and the Michigan Department of Transportation for the reconstruction and widening of Rochester Road, from Torpey to Barclay and Wattles Road, east and west of Rochester Road, at an estimated cost to the City of Troy of \$4,216,250.00, and hereby **AUTHORIZES** the Mayor and City Clerk to execute the documents, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

Yes:

No:

H-4 City of Troy v. Susan Sandelman, as Trustee for the Esther Jeffrey Trust

Suggested Resolution

Resolution #2010-01-

Moved by

Seconded by

RESOLVED, That Troy City Council hereby **APPROVES** the proposed Consent Judgment in the condemnation case of *City of Troy v Susan Sandelman, as Trustee for the Esther Jeffrey Trust U/A Dated 12/18/70* (Oakland County Circuit Court Case No. 09-097979-CC), and hereby **AUTHORIZES** payment in the amounts stated therein; and

BE IT FURTHER RESOLVED, That Troy City Council hereby **AUTHORIZES** the City Attorney's Office to execute the document on behalf of the City of Troy, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

Yes:

No:

H-5 Request from NKG Business, Inc. to Transfer Ownership of Escrowed 2009 SDD and SDM Licensed Business from Peoples State Bank, Located at 3176 Rochester – MLCC Request #527498

(a) Transfer License

Suggested Resolution

Resolution #2010-01-

Moved by

Seconded by

RESOLVED, That Troy City Council hereby **CONSIDERS** for **APPROVAL** the request from NKG Business, Inc. to transfer ownership of Escrowed 2009 SDD and SDM Licensed Business from Peoples State Bank, located at 3176 Rochester, Troy, MI 48083, Oakland County {MLCC Request #527498} "above all others" **CONTINGENT** upon passing the Troy Fire Department's Final Inspection; and

BE IT FURTHER RESOLVED, That it is the consensus of this legislative body that the application **BE RECOMMENDED** "above all others" for issuance.

Yes:

No:

(b) AgreementSuggested Resolution

Resolution #2010-01-

Moved by

Seconded by

WHEREAS, The Troy City Council deems it necessary to enter agreements with applicants for liquor licenses for the purpose of providing civil remedies to the City of Troy in the event licensees fail to adhere to Troy Codes and Ordinances;

THEREFORE, BE IT RESOLVED, That Troy City Council hereby **APPROVES** an agreement with NKG Business, Inc. to transfer ownership of Escrowed 2009 SDD and SDM Licensed Business from Peoples State Bank, located at 3176 Rochester, Troy, MI 48083, Oakland County {MLCC Request #527498} **CONTINGENT** upon passing the Troy Fire Department's Final Inspection, and hereby **AUTHORIZES** the Mayor and City Clerk to execute the document, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

Yes:

No:

H-6 Request from Kher Enterprises, Inc. to Transfer Ownership of 2009 SDD and SDM Licensed Business from Troy Cheese and Wine Market, Located at 2558-2560 East Maple – MLCC Request #522806**(a) Transfer License**Suggested Resolution

Resolution #2010-01-

Moved by

Seconded by

RESOLVED, That Troy City Council hereby **CONSIDERS** for **APPROVAL** the request from Kher Enterprises, Inc. to transfer ownership of 2009 SDD and SDM Licensed Business from Troy Cheese and Wine Market, located at 2558-2560 East Maple, Troy, MI 48083, Oakland County {MLCC Request #522806}. "above all others"; and

BE IT FURTHER RESOLVED, That it is the consensus of this legislative body that the application BE RECOMMENDED "above all others" for issuance.

Yes:

No:

(b) AgreementSuggested Resolution

Resolution #2010-01-

Moved by

Seconded by

WHEREAS, The Troy City Council deems it necessary to enter agreements with applicants for liquor licenses for the purpose of providing civil remedies to the City of Troy in the event licensees fail to adhere to Troy Codes and Ordinances;

THEREFORE, BE IT RESOLVED, That Troy City Council hereby **APPROVES** an agreement with Kher Enterprises, Inc. to transfer ownership of 2009 SDD and SDM Licensed Business from Troy Cheese and Wine Market, located at 2558-2560 East Maple, Troy, MI 48083, Oakland County {MLCC Request #522806} and hereby **AUTHORIZES** the Mayor and City Clerk to execute the document, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

Yes:

No:

I. CONSENT AGENDA:

I-1a Approval of "I" Items NOT Removed for DiscussionSuggested Resolution

Resolution #2010-01-

Moved by

Seconded by

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

Yes:

No:

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

I-2 Approval of City Council MinutesSuggested Resolution

Resolution #2010-01-

RESOLVED, That Troy City Council hereby **APPROVES** the Minutes of the 7:30 PM Regular City Council Meeting of December 21, 2009 as submitted.

I-3 Proposed City of Troy Proclamations: None Submitted

I-4 Standard Purchasing Resolutions: None Submitted

J. MEMORANDUMS AND FUTURE COUNCIL AGENDA ITEMS:

J-1 Announcement of Public Hearings: None Submitted

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

K. COUNCIL REFERRALS:

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

K-1 No Council Referrals Advanced

L. COUNCIL COMMENTS

L-1 No Council Comments Advanced

M. REPORTS

M-1 Minutes – Boards and Committees:

- (a)** Brownfield Redevelopment Authority/Final – July 21, 2009
 - (b)** Employees' Retirement System Board of Trustees/Final – November 11, 2009
 - (c)** Youth Council/Final – November 18, 2009
 - (d)** Building Code Board of Appeals/Draft – December 2, 2009
 - (e)** Library Advisory Board/Draft – December 10, 2009
 - (f)** Board of Zoning Appeals/Draft – December 15, 2009
 - (g)** Youth Council/Draft – December 16, 2009
-

M-2 Department Reports:

- (a)** Purchasing Department – Final Reporting – BidNet On-Line Auction Services – November 2009
-

M-3 Letters of Appreciation: None Submitted

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

M-5 Communication from City Attorney Lori Grigg Bluhm and Police Chief Gary Mayer Regarding Mark Havas

N. STUDY ITEMS

N-1 No Study Items Submitted

O. CLOSED SESSION:

O-1 Closed Session

Suggested Resolution

Resolution #2010-01-

Moved by

Seconded by

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

Yes:

No:

P. ADJOURNMENT

Respectfully submitted,



John Szerlag, City Manager

SCHEDULED CITY COUNCIL MEETINGS:

Monday, January 25, 2010.....	Regular City Council
Monday, February 1, 2010.....	Regular City Council
Wednesday, February 10, 2010 (Liquor Violation Hearing)	Regular City Council
Monday, February 15, 2010.....	Regular City Council
Wednesday, February 17, 2010 (Liquor Violation Hearing)	Regular City Council
Monday, March 1, 2010	Regular City Council
Monday, March 15, 2010	Regular City Council
Monday, April 5, 2010	Regular City Council
Monday, April 19, 2010	Regular City Council
Monday, April 26, 2010	Special Study Session – Budget
Monday, May 3, 2010.....	Special Study Session – Budget



CITY COUNCIL ACTION REPORT

December 15, 2009

TO: John Szerlag, City Manager

FROM: Mark Miller, Acting Assistant City Manager/Economic Development Services
Steven J. Vandette, City Engineer *SV*

SUBJECT: Approval of MDOT Construction Contract for the Reconstruction of Rochester Road from Torpey to Barclay and Wattles, East & West of Rochester Road
Project No. 99.203.5 and 01.106.5

Recommendation:

Staff recommends that City Council approve the attached MDOT Contract No. 09-5747 with the Michigan Department of Transportation (MDOT) for the purpose of fixing the rights and obligations of each agency for the reconstruction and widening of Rochester Road, from Torpey to Barclay and Wattles Road, east and west of Rochester Road. Furthermore, staff recommends that the Mayor and City Clerk be authorized to execute the agreements.

Background:

The construction agreement provides for the next phase of the project and makes federal funds available to the city for the construction phase.

Previously, the design phase of this project was approved and federal funds obligated in 1999 for Rochester Road and in 2001 for Wattles Road. The right-of-way (property acquisition) phase was approved and obligated in 2006 for both phases. The Right-of-way phase was completed and certified in August 2009.

Rochester Road will be widened and reconstructed to a six-lane concrete boulevard between Torpey and Barclay. Wattles Road will be widened and reconstructed to a four-lane concrete boulevard from approximately 1,000 feet east and west of Rochester Road.

The work will also include water main, sanitary sewer, traffic signals, street lighting, sidewalks, and the construction of the next section of the McCulloch County Drain and associated utilities. All sidewalk crossings will be upgraded to comply with current American's with Disabilities Act (ADA) requirements. New pedestrian mid-block crossings will be constructed at Torpey Drive and Bishop/Troywood.

Bids for the project will be received and opened by MDOT on January 8, 2010. Work is anticipated to start in early February 2010 and be open to traffic by November 30, 2010. Restoration and final project completion is June 25, 2011.

Financial Considerations:

The engineer's estimate of construction is \$13,605,700. Force account work, which includes traffic signal controllers and cabinets as well as construction engineering, testing and inspection is estimated at \$2,016,900. The total estimated project cost is \$15,622,600.

There is \$11,406,350 in federal Surface Transportation Program funds (non-city funds) obligated to this project to pay for participating items of work.

The estimated city cost of \$4,216,250 is comprised of: \$1,149,100 from the Water Fund, \$220,000 from the Sewer Fund or a total of \$1,369,100 from enterprise funds; \$2,127,150 from the Major Road Fund and \$720,000 from the Drains Fund or a total of \$2,847,150 from the capital fund.

The contract, as submitted, is based on estimated costs, as is standard with all MDOT agreements, since these agreements are prepared before bids are received and well before actual construction costs are known. The city's actual cost is based on the actual cost incurred by the contractors work.

Funding for the city's share is available in the respective 2009-10 Capital and Enterprise funds and appropriate funds to pay the remainder of the city's share of the project will be included in the proposed 2010-11 budget.

Legal Considerations:

The approval and execution of the contract is part of the resulting bid award by MDOT and a full award to a contractor cannot be made until the contract has been approved and signed by the city and MDOT.

The format and content of the contract has been reviewed by the City Attorney's Office and is consistent with past MDOT contracts approved by City Council for Rochester Road, Long Lake Road, Big Beaver and Stephenson Highway projects.

Rochester Road is a National Highway System (NHS) route and as such there is additional oversight by the Federal Highway Administration (FHWA) on all aspects of the project.

Policy Considerations:

- Troy has enhanced the health and safety of the community (Goal I)
- Troy adds value to properties through maintenance or upgrades of infrastructure and quality of life venues (Goal II)

REVIEWED AND APPROVED:

Lori Grigg Bluhm, City Attorney



STATE OF MICHIGAN
DEPARTMENT OF TRANSPORTATION
LANSING

JENNIFER M. GRANHOLM
GOVERNOR

KIRK T. STEUDLE
DIRECTOR

December 10, 2009

Ms. Tonni Bartholomew
Clerk
City of Troy
500 W. Big Beaver Road,
Troy, MI 48084-5285

Dear Ms. Bartholomew:

RE: MDOT Contract No.: 09-5747
Control Section: STH 63459
Job Number: 104678; 105491

Enclosed is the original and one copy of the above described contract between your organization and the Michigan Department of Transportation (MDOT). Please take time to read and understand this contract. If this contract meets with your approval, please complete the following checklist:

 PLEASE DO NOT DATE THE CONTRACTS. MDOT will date the contracts when they are executed. A contract is not executed unless it has been signed by both parties.

 Secure the necessary signatures on all contracts.

 Include a certified resolution. The resolution should specifically name the officials who are authorized to sign the contracts.

 Return all copies of the contracts to my attention of the Department's Design Division, Local Agency Programs, 2nd floor for MDOT execution.

In order to ensure that the work and payment for this project is not delayed, the agreement needs to be returned within 35 days from the date of this letter.

A copy of the executed contract will be forwarded to you. If you have any questions, please feel free to contact me at (517) 335-2264.

Sincerely,
Jackie Burch
Jackie Burch
Contract Processing Specialist
Design Division – Local Agency Programs

RECEIVED

DEC 15 2009

Enclosure

ENGINEERING

STP

DAB

Control Section STU 63459
Job Number 104678; 105941
Project STP 0963(246);
STP 1063(006)
Federal Item No. HH 6088; HH 6240
CFDA No. 20.205 (Highway Research
Planning & Construction)
Contract No. 09-5747

PART I

THIS CONTRACT, consisting of PART I and PART II (Standard Agreement Provisions), is made and entered into this date of _____, by and between the MICHIGAN DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the "DEPARTMENT"; and the CITY OF TROY, a Michigan municipal corporation, hereinafter referred to as the "REQUESTING PARTY"; for the purpose of fixing the rights and obligations of the parties in agreeing to the following improvements, in the City of Troy, Michigan, hereinafter referred to as the "PROJECT" and estimated in detail on EXHIBIT "I", dated December 4, 2009, attached hereto and made a part hereof:

PART A – STU 63459; JOB #104678; STP 0963(246); HH 6088; FEDERAL PARTICIPATION

Reconstruction work along Rochester Road from Torpey Drive northerly to Barclay Court; including concrete pavement, storm sewer, sanitary sewer, county drain, traffic signals, concrete sidewalk, and street lighting work; and all together with necessary related work.

PART B – STU 63459; JOB #104678; STP 0963(246); HH 6088; NO FEDERAL PARTICIPATION

Watermain work along Rochester Road from Torpey Drive northerly to Barclay Court; and all together with necessary related work.

PART C – STU 63459; JOB #105941; STP 1063(006); HH 6240; FEDERAL PARTICIPATION

Reconstruction work along Wattles Road from approximately 1000 feet east to approximately 1000 feet west of Rochester Road; including concrete pavement, concrete curb and gutter, sidewalk ramps, drainage structures, storm sewer, and traffic signal upgrading work; and all together with necessary related work.

PART D – STU 63459; JOB #105941; STP 1063(006); HH 6240; NO FEDERAL PARTICIPATION

Watermain and irrigation system work along Wattles Road from approximately 1000 feet east to approximately 1000 feet west of Rochester Road; and all together with necessary related work.

WITNESSETH:

WHEREAS, pursuant to Federal law, monies have been provided for the performance of certain improvements on public roads; and

WHEREAS, the reference "FHWA" in PART I and PART II refers to the United States Department of Transportation, Federal Highway Administration; and

WHEREAS, the PROJECT, or portions of the PROJECT, at the request of the REQUESTING PARTY, are being programmed with the FHWA, for implementation with the use of Federal Funds under the following Federal program(s) or funding:

SURFACE TRANSPORTATION PROGRAM

WHEREAS, the parties hereto have reached an understanding with each other regarding the performance of the PROJECT work and desire to set forth this understanding in the form of a written contract.

NOW, THEREFORE, in consideration of the premises and of the mutual undertakings of the parties and in conformity with applicable law, it is agreed:

1. The parties hereto shall undertake and complete the PROJECT in accordance with the terms of this contract.

2. The term "PROJECT COST", as herein used, is hereby defined as the cost of the force account work incurred by the REQUESTING PARTY and the cost of the physical construction necessary for the completion of the PROJECT, including costs incurred by the DEPARTMENT and the REQUESTING PARTY for construction engineering, construction materials testing, and inspection for the PART A and C portions of the PROJECT and any other costs incurred by the DEPARTMENT as a result of this contract.

Costs for construction engineering, construction materials testing, and inspection incurred by the REQUESTING PARTY for the PART A and C portions of the PROJECT shall be limited to the lesser of: (1) 100 percent of the actual costs for construction engineering, construction materials testing, and inspection for the PART A and C portions of the PROJECT, or (2) 15 percent of the actual contracted physical construction costs for the PART A and C portions of the PROJECT.

The costs incurred by the REQUESTING PARTY for construction engineering, construction materials testing, and inspection for the PART B and D portions of the PROJECT, preliminary engineering, and right-of-way are excluded from the PROJECT COST as defined by this contract.

3. The DEPARTMENT is authorized by the REQUESTING PARTY to administer on behalf of the REQUESTING PARTY all phases of the PROJECT, including advertising and awarding the construction contract for the PROJECT or portions of the PROJECT. Such administration shall be in accordance with PART II, Section II of this contract.

Any items of the PROJECT COST incurred by the DEPARTMENT may be charged to the PROJECT.

4. The REQUESTING PARTY, under the terms of this contract, shall:
- A. Appoint a project engineer who shall be in responsible charge of the PROJECT and ensure that the plans and specifications are followed.
 - B. At PROJECT COST
 - (1) Perform or cause to be performed the traffic signal controller and cabinet work necessary for the completion of the PART A and C portions of the PROJECT.
 - (2) Perform or cause to be performed the construction engineering, construction materials testing, and inspection services necessary for the completion of the PART A and C portions of the PROJECT.
 - C. At no cost to the PROJECT
 - (1) Design or cause to be designed the plans for the PROJECT.
 - (2) Perform or cause to be performed the construction engineering, construction materials testing, and inspection services necessary for the completion of the PART B and D portions of the PROJECT.

The REQUESTING PARTY will furnish the DEPARTMENT proposed timing sequences for trunkline signals that, if any, are being made part of the improvement. No timing adjustments shall be made by the REQUESTING PARTY at any trunkline intersection, without prior issuances by the DEPARTMENT of Standard Traffic Signal Timing Permits.

The method of performing the work will be indicated on the work authorization. The REQUESTING PARTY will comply with PART II, Section IIF, when applicable.

5. The PROJECT COST shall be met in accordance with the following:

PART A

Federal Surface Transportation Funds shall be applied to the eligible items of the PART A portion of the PROJECT COST at the established Federal participation ratio equal to 81.85 percent. The balance of the PART A portion of the PROJECT COST, after deduction of Federal funds, shall be charged to and paid by the REQUESTING PARTY in the manner and at the times hereinafter set forth.

PARTS B and D

The PART B and D portions of the PROJECT COST are not eligible for Federal participation and shall be charged to and paid 100 percent by the REQUESTING PARTY in the manner and at the times hereinafter set forth.

PART C

Federal Surface Transportation Funds shall be applied to the eligible items of the PART C portion of the PROJECT COST up to the lesser of: (1) \$1,888,750, or (2) an amount such that 81.85 percent, the normal Federal participation ratio for such funds, for the PART C portion of the PROJECT is not exceeded at the time of the award of the construction contract. The balance of the PART C portion of the PROJECT COST, after deduction of Federal Funds, shall be charged to and paid by the REQUESTING PARTY in the manner and at the times hereinafter set forth.

Any items of PROJECT COST not reimbursed by Federal Funds will be the sole responsibility of the REQUESTING PARTY.

6. No working capital deposit will be required for this PROJECT.

In order to fulfill the obligations assumed by the REQUESTING PARTY under the provisions of this contract, the REQUESTING PARTY shall make prompt payments of its share of the PROJECT COST upon receipt of progress billings from the DEPARTMENT as herein provided. All payments will be made within 30 days of receipt of billings from the DEPARTMENT. Billings to the REQUESTING PARTY will be based upon the REQUESTING PARTY'S share of the actual costs incurred less Federal Funds earned as the PROJECT progresses.

In the event of any discrepancies between PART I and PART II of this contract, the provisions of PART I shall prevail.

7. Upon completion of construction of the PROJECT, the REQUESTING PARTY will promptly cause to be enacted and enforced such ordinances or regulations as may be necessary to prohibit parking in the roadway right-of-way throughout the limits of the PROJECT.

8. The performance of the entire PROJECT under this contract, whether Federally funded or not, will be subject to the provisions and requirements of PART II that are applicable to a Federally funded project.

9. The REQUESTING PARTY certifies that a) it is a person under 1995 PA 71 and is not aware of and has no reason to believe that the property is a facility as defined in MSA 13A.20101(1)(1); b) the REQUESTING PARTY further certifies that it has completed the tasks required by MCL 324.20126 (3)(h); MSA 13A.20126(3)(h); c) it conducted a visual inspection of property within the existing right of way on which construction is to be performed to determine if any hazardous substances were present; and at sites on which historically were located businesses that involved hazardous substances, it performed a reasonable investigation to determine whether hazardous substances exist. This reasonable investigation should include, at a minimum, contact with local, state and federal environmental agencies to determine if the site has been identified as, or potentially as, a site containing hazardous substances; d) it did not cause or contribute to the release or threat of release of any hazardous substance found within the PROJECT limits.

The REQUESTING PARTY also certifies that, in addition to reporting the presence of any hazardous substances to the Department of Environmental Quality, it has advised the DEPARTMENT of the presence of any and all hazardous substances which the REQUESTING PARTY found within the PROJECT limits, as a result of performing the investigation and visual inspection required herein. The REQUESTING PARTY also certifies that it has been unable to identify any entity who may be liable for the cost of remediation. As a result, the REQUESTING PARTY has included all estimated costs of remediation of such hazardous substances in its estimated cost of construction of the PROJECT.

10. If, subsequent to execution of this contract, previously unknown hazardous substances are discovered within the PROJECT limits, which require environmental remediation pursuant to either state or federal law, the REQUESTING PARTY, in addition to reporting that fact to the Department of Environmental Quality, shall immediately notify the DEPARTMENT, both orally and in writing of such discovery. The DEPARTMENT shall consult with the REQUESTING PARTY to determine if it is willing to pay for the cost of remediation and, with the FHWA, to determine the eligibility, for reimbursement, of the remediation costs. The REQUESTING PARTY shall be charged for and shall pay all costs associated with such remediation, including all delay costs of the contractor for the PROJECT, in the event that remediation and delay costs are not deemed eligible by the FHWA. If the REQUESTING PARTY refuses to participate in the cost of remediation, the DEPARTMENT shall terminate the PROJECT. The parties agree that any costs or damages that the DEPARTMENT incurs as a result of such termination shall be considered a PROJECT COST.

11. If federal and/or state funds administered by the DEPARTMENT are used to pay the cost of remediating any hazardous substances discovered after the execution of this contract and if there is a reasonable likelihood of recovery, the REQUESTING PARTY, in cooperation with the Department of Environmental Quality and the DEPARTMENT, shall make a diligent effort to recover such costs from all other possible entities. If recovery is made, the DEPARTMENT shall be reimbursed from such recovery for the proportionate share of the

amount paid by the FHWA and/or the DEPARTMENT and the DEPARTMENT shall credit such sums to the appropriate funding source.

12. The DEPARTMENT'S sole reason for entering into this contract is to enable the REQUESTING PARTY to obtain and use funds provided by the Federal Highway Administration pursuant to Title 23 of the United States Code.

Any and all approvals of, reviews of, and recommendations regarding contracts, agreements, permits, plans, specifications, or documents, of any nature, or any inspections of work by the DEPARTMENT or its agents pursuant to the terms of this contract are done to assist the REQUESTING PARTY in meeting program guidelines in order to qualify for available funds. Such approvals, reviews, inspections and recommendations by the DEPARTMENT or its agents shall not relieve the REQUESTING PARTY and the local agencies, as applicable, of their ultimate control and shall not be construed as a warranty of their propriety or that the DEPARTMENT or its agents is assuming any liability, control or jurisdiction.

The providing of recommendations or advice by the DEPARTMENT or its agents does not relieve the REQUESTING PARTY and the local agencies, as applicable of their exclusive jurisdiction of the highway and responsibility under MCL 691.1402, MSA 3.996(102).

When providing approvals, reviews and recommendations under this contract, the DEPARTMENT or its agents is performing a governmental function, as that term is defined in MCL 691.1401; MSA 3.996(101), which is incidental to the completion of the PROJECT.

13. The DEPARTMENT, by executing this contract, and rendering services pursuant to this contract, has not and does not assume jurisdiction of the highway, described as the PROJECT for purposes of MCL 691.1402; MSA 3.996(102). Exclusive jurisdiction of such highway for the purposes of MCL 691.1402; MSA 3.996(102) rests with the REQUESTING PARTY and other local agencies having respective jurisdiction.

14. The REQUESTING PARTY shall approve all of the plans and specifications to be used on the PROJECT and shall be deemed to have approved all changes to the plans and specifications when put into effect. It is agreed that ultimate responsibility and control over the PROJECT rests with the REQUESTING PARTY and local agencies, as applicable.

15. The REQUESTING PARTY agrees that the costs reported to the DEPARTMENT for this contract will represent only those items that are properly chargeable in accordance with this contract. The REQUESTING PARTY also certifies that it has read the contract terms and has made itself aware of the applicable laws, regulations, and terms of this contract that apply to the reporting of costs incurred under the terms of this contract.

16. The parties shall promptly provide comprehensive assistance and cooperation in defending and resolving any claims brought against the DEPARTMENT by the contractor, vendors or suppliers as a result of the DEPARTMENT'S award of the construction contract for the PROJECT. Costs incurred by the DEPARTMENT in defending or resolving such claims shall be considered PROJECT COSTS.

17. The DEPARTMENT shall require the contractor who is awarded the contract for the construction of the PROJECT to provide insurance in the amounts specified and in accordance with the DEPARTMENT'S current Standard Specifications for Construction and to:

- A. Maintain bodily injury and property damage insurance for the duration of the PROJECT.
- B. Provide owner's protective liability insurance naming as insureds the State of Michigan, the Michigan State Transportation Commission, the DEPARTMENT and its officials, agents and employees, the REQUESTING PARTY and any other county, county road commission, or municipality in whose jurisdiction the PROJECT is located, and their employees, for the duration of the PROJECT and to provide, upon request, copies of certificates of insurance to the insureds. It is understood that the DEPARTMENT does not assume jurisdiction of the highway described as the PROJECT as a result of being named as an insured on the owner's protective liability insurance policy.
- C. Comply with the requirements of notice of cancellation and reduction of insurance set forth in the current standard specifications for construction and to provide, upon request, copies of notices and reports prepared to those insured.

18. This contract shall become binding on the parties hereto and of full force and effect upon the signing thereof by the duly authorized officials for the parties hereto and upon the adoption of the necessary resolutions approving said contract and authorizing the signatures thereto of the respective officials of the REQUESTING PARTY, a certified copy of which resolution shall be attached to this contract.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be executed the day and year first above written.

CITY OF TROY

MICHIGAN DEPARTMENT
OF TRANSPORTATION

By _____
Title:

By _____
Department Director MDOT

By _____
Title:

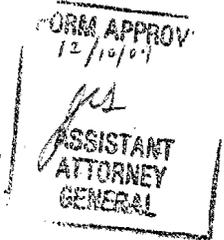


EXHIBIT I

CONTROL SECTION	STU 63459
JOB NUMBER	104678; 105941
PROJECT	STP 0963(246); STP 1063(006)

ESTIMATED COST

CONTRACTED WORK

	<u>PART A</u>	<u>PART B</u>	<u>PART C</u>	<u>PART D</u>	<u>TOTAL</u>
Estimated Cost	\$10,008,400	\$1,031,100	\$2,448,200	\$118,000	\$13,605,700

FORCE ACCOUNT WORK (REQUESTING PARTY)

Traffic Signal Controller and Cabinet Work	\$ 118,500	\$ 0	\$ 30,000	\$ 0	\$ 148,500
Construction Engineering, Construction Materials Testing, & Inspection	\$ 1,501,200	\$ 0	\$ 367,200	\$ 0	\$ 1,868,400
TOTAL ESTIMATED COST (FORCE ACCOUNT, ETC.)	\$ 1,619,700	\$ 0	\$ 397,200	\$ 0	\$ 2,016,900

GRAND TOTAL ESTIMATED COST	\$11,628,100	\$1,031,100	\$2,845,400	\$118,000	\$15,622,600
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COST PARTICIPATION

GRAND TOTAL ESTIMATED COST	\$11,628,100	\$1,031,100	\$2,845,400	\$118,000	\$15,622,600
Less Federal Funds*	\$ 9,517,600	\$ 0	\$1,888,750	\$ 0	\$11,406,350
BALANCE (REQUESTING PARTY'S SHARE)	\$ 2,110,500	\$1,031,100	\$ 956,650	\$118,000	\$ 4,216,250

*Federal Funds for the PART C portion of the PROJECT are limited to an amount as described in Section 5.

NO DEPOSIT

DOT

TYPE B
BUREAU OF HIGHWAYS
03-15-93

PART II

STANDARD AGREEMENT PROVISIONS

SECTION I COMPLIANCE WITH REGULATIONS AND DIRECTIVES

SECTION II PROJECT ADMINISTRATION AND SUPERVISION

SECTION III ACCOUNTING AND BILLING

SECTION IV MAINTENANCE AND OPERATION

SECTION V SPECIAL PROGRAM AND PROJECT CONDITIONS

SECTION I

COMPLIANCE WITH REGULATIONS AND DIRECTIVES

- A. To qualify for eligible cost, all work shall be documented in accordance with the requirements and procedures of the DEPARTMENT.
- B. All work on projects for which reimbursement with Federal funds is requested shall be performed in accordance with the requirements and guidelines set forth in the following Directives of the Federal-Aid Policy Guide (FAPG) of the FHWA, as applicable, and as referenced in pertinent sections of Title 23 and Title 49 of the Code of Federal Regulations (CFR), and all supplements and amendments thereto.
 - 1. Engineering
 - a. FAPG (6012.1): Preliminary Engineering
 - b. FAPG (23 CFR 172): Administration of Engineering and Design Related Service Contracts
 - c. FAPG (23 CFR 635A): Contract Procedures
 - d. FAPG (49 CFR 18.22): Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments--Allowable Costs
 - 2. Construction
 - a. FAPG (23 CFR 140E): Administrative Settlement Costs-Contract Claims
 - b. FAPG (23 CFR 140B): Construction Engineering Costs
 - c. FAPG (23 CFR 17): Recordkeeping and Retention Requirements for Federal-Aid Highway Records of State Highway Agencies
 - d. FAPG (23 CFR 635A): Contract Procedures
 - e. FAPG (23 CFR 635B): Force Account Construction
 - f. FAPG (23 CFR 645A): Utility Relocations, Adjustments and Reimbursement

- g. FAPG (23 CFR 645B): Accommodation of Utilities (PPM 30-4.1)
 - h. FAPG (23 CFR 655F): Traffic Control Devices on Federal-Aid and other Streets and Highways
 - i. FAPG (49 CFR 18.22): Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments-Allowable Costs
3. Modification Or Construction Of Railroad Facilities
- a. FAPG (23 CFR 140I): Reimbursement for Railroad Work
 - b. FAPG (23 CFR 646B): Railroad Highway Projects
- C. In conformance with FAPG (23 CFR 630C) Project Agreements, the political subdivisions party to this contract, on those Federally funded projects which exceed a total cost of \$100,000.00 stipulate the following with respect to their specific jurisdictions:
- 1. That any facility to be utilized in performance under or to benefit from this contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities issued pursuant to the requirements of the Federal Clean Air Act, as amended, and the Federal Water Pollution Control Act, as amended.
 - 2. That they each agree to comply with all of the requirements of Section 114 of the Federal Clean Air Act and Section 308 of the Federal Water Pollution Control Act, and all regulations and guidelines issued thereunder.
 - 3. That as a condition of Federal aid pursuant to this contract they shall notify the DEPARTMENT of the receipt of any advice indicating that a facility to be utilized in performance under or to benefit from this contract is under consideration to be listed on the EPA List of Violating Facilities.
- D. Ensure that the PROJECT is constructed in accordance with and incorporates all committed environmental impact mitigation measures listed in approved environmental documents unless modified or deleted by approval of the FHWA.
- E. All the requirements, guidelines, conditions and restrictions noted in all other pertinent Directives and Instructional Memoranda of the FHWA will apply to this contract and will be adhered to, as applicable, by the parties hereto.

SECTION II

PROJECT ADMINISTRATION AND SUPERVISION

- A. The DEPARTMENT shall provide such administrative guidance as it determines is required by the PROJECT in order to facilitate the obtaining of available federal and/or state funds.
- B. The DEPARTMENT will advertise and award all contracted portions of the PROJECT work. Prior to advertising of the PROJECT for receipt of bids, the REQUESTING PARTY may delete any portion or all of the PROJECT work. After receipt of bids for the PROJECT, the REQUESTING PARTY shall have the right to reject the amount bid for the PROJECT prior to the award of the contract for the PROJECT only if such amount exceeds by twenty percent (20%) the final engineer's estimate therefor. If such rejection of the bids is not received in writing within two (2) weeks after letting, the DEPARTMENT will assume concurrence. The DEPARTMENT may, upon request, readvertise the PROJECT. Should the REQUESTING PARTY so request in writing within the aforesaid two (2) week period after letting, the PROJECT will be cancelled and the DEPARTMENT will refund the unused balance of the deposit less all costs incurred by the DEPARTMENT.
- C. The DEPARTMENT will perform such inspection services on PROJECT work performed by the REQUESTING PARTY with its own forces as is required to ensure compliance with the approved plans & specifications.
- D. On those projects funded with Federal monies, the DEPARTMENT shall as may be required secure from the FHWA approval of plans and specifications, and such cost estimates for FHWA participation in the PROJECT COST.
- E. All work in connection with the PROJECT shall be performed in conformance with the Michigan Department of Transportation Standard Specifications for Construction, and the supplemental specifications, Special Provisions and plans pertaining to the PROJECT and all materials furnished and used in the construction of the PROJECT shall conform to the aforesaid specifications. No extra work shall be performed nor changes in plans and specifications made until said work or changes are approved by the project engineer and authorized by the DEPARTMENT.

- F. Should it be necessary or desirable that portions of the work covered by this contract be accomplished by a consulting firm, a railway company, or governmental agency, firm, person, or corporation, under a subcontract with the REQUESTING PARTY at PROJECT expense, such subcontracted arrangements will be covered by formal written agreement between the REQUESTING PARTY and that party.

This formal written agreement shall: include a reference to the specific prime contract to which it pertains; include provisions which clearly set forth the maximum reimbursable and the basis of payment; provide for the maintenance of accounting records in accordance with generally accepted accounting principles, which clearly document the actual cost of the services provided; provide that costs eligible for reimbursement shall be in accordance with clearly defined cost criteria such as 49 CFR Part 18, 48 CFR Part 31, 23 CFR Part 140, OMB Circular A-87, etc. as applicable; provide for access to the department or its representatives to inspect and audit all data and records related to the agreement for a minimum of three years after the department's final payment to the local unit.

All such agreements will be submitted for approval by the DEPARTMENT and, if applicable, by the FHWA prior to execution thereof, except for agreements for amounts less than \$100,000 for preliminary engineering and testing services executed under and in accordance with the provisions of the "Small Purchase Procedures" FAPG (23 CFR 172), which do not require prior approval of the DEPARTMENT or the FHWA.

Any such approval by the DEPARTMENT shall in no way be construed as a warranty of the subcontractor's qualifications, financial integrity, or ability to perform the work being subcontracted.

- G. The REQUESTING PARTY, at no cost to the PROJECT or the DEPARTMENT, shall make such arrangements with railway companies, utilities, etc., as may be necessary for the performance of work required for the PROJECT but for which Federal or other reimbursement will not be requested.
- H. The REQUESTING PARTY, at no cost to the PROJECT, or the DEPARTMENT, shall secure, as necessary, all agreements and approvals of the PROJECT with railway companies, the Railroad Safety & Tariffs Division of the DEPARTMENT and other concerned governmental agencies other than the FHWA, and will forward same to the DEPARTMENT for such reviews and approvals as may be required.
- I. No PROJECT work for which reimbursement will be requested by the REQUESTING PARTY is to be subcontracted or performed until the DEPARTMENT gives written notification that such work may commence.

- J. The REQUESTING PARTY shall be responsible for the payment of all costs and expenses incurred in the performance of the work it agrees to undertake and perform.
- K. The REQUESTING PARTY shall pay directly to the party performing the work all billings for the services performed on the PROJECT which are authorized by or through the REQUESTING PARTY.
- L. The REQUESTING PARTY shall submit to the DEPARTMENT all paid billings for which reimbursement is desired in accordance with DEPARTMENT procedures.
- M. All work by a consulting firm will be performed in compliance with the applicable provisions of 1980 PA 299, Subsection 2001, MCL 339.2001; MSA 18.425(2001), as well as in accordance with the provisions of all previously cited Directives of the FHWA.
- N. The project engineer shall be subject to such administrative guidance as may be deemed necessary to ensure compliance with program requirement and, in those instances where a consultant firm is retained to provide engineering and inspection services, the personnel performing those services shall be subject to the same conditions.
- O. The DEPARTMENT, in administering the PROJECT in accordance with applicable Federal and State requirements and regulations, neither assumes nor becomes liable for any obligations undertaken or arising between the REQUESTING PARTY and any other party with respect to the PROJECT.
- P. In the event it is determined by the DEPARTMENT that there will be either insufficient Federal funds or insufficient time to properly administer such funds for the entire PROJECT or portions thereof, the DEPARTMENT, prior to advertising or issuing authorization for work performance, may cancel the PROJECT, or any portion thereof, and upon written notice to the parties this contract shall be void and of no effect with respect to that cancelled portion of the PROJECT. Any PROJECT deposits previously made by the parties on the cancelled portions of the PROJECT will be promptly refunded.
- Q. Those projects funded with Federal monies will be subject to inspection at all times by the DEPARTMENT and the FHWA.

SECTION III
ACCOUNTING AND BILLING

A. Procedures for billing for work undertaken by the REQUESTING PARTY:

1. The REQUESTING PARTY shall establish and maintain accurate records, in accordance with generally accepted accounting principles, of all expenses incurred for which payment is sought or made under this contract, said records to be hereinafter referred to as the "RECORDS". Separate accounts shall be established and maintained for all costs incurred under this contract.

The REQUESTING PARTY shall maintain the RECORDS for at least three (3) years from the date of final payment of Federal Aid made by the DEPARTMENT under this contract. In the event of a dispute with regard to the allowable expenses or any other issue under this contract, the REQUESTING PARTY shall thereafter continue to maintain the RECORDS at least until that dispute has been finally decided and the time for all available challenges or appeals of that decision has expired.

The DEPARTMENT, or its representative, may inspect, copy, or audit the RECORDS at any reasonable time after giving reasonable notice.

If any part of the work is subcontracted, the REQUESTING PARTY shall assure compliance with the above for all subcontracted work.

In the event that an audit performed by or on behalf of the DEPARTMENT indicates an adjustment to the costs reported under this contract, or questions the allowability of an item of expense, the DEPARTMENT shall promptly submit to the REQUESTING PARTY, a Notice of Audit Results and a copy of the audit report which may supplement or modify any tentative findings verbally communicated to the REQUESTING PARTY at the completion of an audit.

Within sixty (60) days after the date of the Notice of Audit Results, the REQUESTING PARTY shall: (a) respond in writing to the responsible Bureau or the DEPARTMENT indicating whether or not it concurs with the audit report, (b) clearly explain the nature and basis for any disagreement as to a disallowed item of expense and, (c) submit to the DEPARTMENT a written explanation as to any questioned or no opinion expressed item of expense, hereinafter referred to as the "RESPONSE". The RESPONSE shall be clearly stated and provide any supporting documentation necessary to resolve any disagreement or questioned or no opinion expressed item of expense. Where the documentation is voluminous, the REQUESTING PARTY may supply appropriate excerpts and make alternate

arrangements to conveniently and reasonably make that documentation available for review by the DEPARTMENT. The RESPONSE shall refer to and apply the language of the contract. The REQUESTING PARTY agrees that failure to submit a RESPONSE within the sixty (60) day period constitutes agreement with any disallowance of an item of expense and authorizes the DEPARTMENT to finally disallow any items of questioned or no opinion expressed cost.

The DEPARTMENT shall make its decision with regard to any Notice of Audit Results and RESPONSE within one hundred twenty (120) days after the date of the Notice of Audit Results. If the DEPARTMENT determines that an overpayment has been made to the REQUESTING PARTY, the REQUESTING PARTY shall repay that amount to the DEPARTMENT or reach agreement with the DEPARTMENT on a repayment schedule within thirty (30) days after the date of an invoice from the DEPARTMENT. If the REQUESTING PARTY fails to repay the overpayment or reach agreement with the DEPARTMENT on a repayment schedule within the thirty (30) day period, the REQUESTING PARTY agrees that the DEPARTMENT shall deduct all or a portion of the overpayment from any funds then or thereafter payable by the DEPARTMENT to the REQUESTING PARTY under this contract or any other agreement, or payable to the REQUESTING PARTY under the terms of 1951 PA 51, as applicable. Interest will be assessed on any partial payments or repayment schedules based on the unpaid balance at the end of each month until the balance is paid in full. The assessment of interest will begin thirty (30) days from the date of the invoice. The rate of interest will be based on the Michigan Department of Treasury common cash funds interest earnings. The rate of interest will be reviewed annually by the DEPARTMENT and adjusted as necessary based on the Michigan Department of Treasury common cash funds interest earnings. The REQUESTING PARTY expressly consents to this withholding or offsetting of funds under those circumstances, reserving the right to file a lawsuit in the Court of Claims to contest the DEPARTMENT'S decision only as to any item of expense the disallowance of which was disputed by the REQUESTING PARTY in a timely filed RESPONSE.

The REQUESTING PARTY shall comply with the Single Audit Act of 1984, P.L. 98-502.

The REQUESTING PARTY shall adhere to the following requirements associated with audits of accounts and records:

- a. Agencies expending a total of \$500,000 or more in federal funds, from one or more funding sources in its fiscal year, shall comply with the requirements of the federal Office of Management and Budget (OMB) Circular A-133, as revised or amended.

The agency shall submit two copies of:

- The Reporting Package
- The Data Collection Form
- The management letter to the agency, if one issued by the audit firm

The OMB Circular A-133 audit must be submitted to the address below in accordance with the time frame established in the circular, as revised or amended.

b. Agencies expending less than \$500,000 in federal funds must submit a letter to the Department advising that a circular audit was not required. The letter shall indicate the applicable fiscal year, the amount of federal funds spent, the name(s) of the Department federal programs, and the CFDA grant number(s). This information must also be submitted to the address below.

c. Address: Michigan Department of Transportation
Bureau of Highways Technical Services
425 W. Ottawa, P.O. Box 30050
Lansing, MI 48909

d. Agencies must also comply with applicable State laws and regulations relative to audit requirements.

e. Agencies shall not charge audit costs to Department's federal programs which are not in accordance with the OMB Circular A-133 requirements.

f. All agencies are subject to the federally required monitoring activities, which may include limited scope reviews and other on-site monitoring.

2. Agreed Unit Prices Work - All billings for work undertaken by the REQUESTING PARTY on an agreed unit price basis will be submitted in accordance with the Michigan Department of Transportation Standard Specifications for Construction and pertinent FAPG Directives and Guidelines of the FHWA.

3. Force Account Work and Subcontracted Work - All billings submitted to the DEPARTMENT for Federal reimbursement for items of work performed on a force account basis or by any subcontract with a consulting firm, railway company, governmental agency or other party, under the terms of this contract, shall be prepared in accordance with the provisions of the pertinent FHPM Directives and the procedures of the DEPARTMENT. Progress billings may be submitted monthly during the time work is being performed provided, however, that no bill of a lesser amount than \$1,000.00 shall be submitted unless it is a final

or end of fiscal year billing. All billings shall be labeled either "Progress Bill Number _____", or "Final Billing".

4. Final billing under this contract shall be submitted in a timely manner but not later than six months after completion of the work. Billings for work submitted later than six months after completion of the work will not be paid.
5. Upon receipt of billings for reimbursement for work undertaken by the REQUESTING PARTY on projects funded with Federal monies, the DEPARTMENT will act as billing agent for the REQUESTING PARTY, consolidating said billings with those for its own force account work and presenting these consolidated billings to the FHWA for payment. Upon receipt of reimbursement from the FHWA, the DEPARTMENT will promptly forward to the REQUESTING PARTY its share of said reimbursement.
6. Upon receipt of billings for reimbursement for work undertaken by the REQUESTING PARTY on projects funded with non-Federal monies, the DEPARTMENT will promptly forward to the REQUESTING PARTY reimbursement of eligible costs.

B. Payment of Contracted and DEPARTMENT Costs:

1. As work on the PROJECT commences, the initial payments for contracted work and/or costs incurred by the DEPARTMENT will be made from the working capital deposit. Receipt of progress payments of Federal funds, and where applicable, State Critical Bridge funds, will be used to replenish the working capital deposit. The REQUESTING PARTY shall make prompt payments of its share of the contracted and/or DEPARTMENT incurred portion of the PROJECT COST upon receipt of progress billings from the DEPARTMENT. Progress billings will be based upon the REQUESTING PARTY'S share of the actual costs incurred as work on the PROJECT progresses and will be submitted, as required, until it is determined by the DEPARTMENT that there is sufficient available working capital to meet the remaining anticipated PROJECT COSTS. All progress payments will be made within thirty (30) days of receipt of billings. No monthly billing of a lesser amount than \$1,000.00 will be made unless it is a final or end of fiscal year billing. Should the DEPARTMENT determine that the available working capital exceeds the remaining anticipated PROJECT COSTS, the DEPARTMENT may reimburse the REQUESTING PARTY such excess. Upon completion of the PROJECT, payment of all PROJECT COSTS, receipt of all applicable monies from the FHWA, and completion of necessary audits, the REQUESTING PARTY will be reimbursed the balance of its deposit.

2. In the event that the bid, plus contingencies, for the contracted, and/or the DEPARTMENT incurred portion of the PROJECT work exceeds the estimated cost therefor as established by this contract, the REQUESTING PARTY may be advised and billed for the additional amount of its share.

C. General Conditions:

1. The DEPARTMENT, in accordance with its procedures in existence and covering the time period involved, shall make payment for interest earned on the balance of working capital deposits for all projects on account with the DEPARTMENT. The REQUESTING PARTY in accordance with DEPARTMENT procedures in existence and covering the time period involved, shall make payment for interest owed on any deficit balance of working capital deposits for all projects on account with the DEPARTMENT. This payment or billing is processed on an annual basis corresponding to the State of Michigan fiscal year. Upon receipt of billing for interest incurred, the REQUESTING PARTY promises and shall promptly pay the DEPARTMENT said amount.
2. Pursuant to the authority granted by law, the REQUESTING PARTY hereby irrevocably pledges a sufficient amount of funds received by it from the Michigan Transportation Fund to meet its obligations as specified in PART I and PART II. If the REQUESTING PARTY shall fail to make any of its required payments when due, as specified herein, the DEPARTMENT shall immediately notify the REQUESTING PARTY and the State Treasurer of the State of Michigan or such other state officer or agency having charge and control over disbursement of the Michigan Transportation Fund, pursuant to law, of the fact of such default and the amount thereof, and, if such default is not cured by payment within ten (10) days, said State Treasurer or other state officer or agency is then authorized and directed to withhold from the first of such monies thereafter allocated by law to the REQUESTING PARTY from the Michigan Transportation Fund sufficient monies to remove the default, and to credit the REQUESTING PARTY with payment thereof, and to notify the REQUESTING PARTY in writing of such fact.
3. Upon completion of all work under this contract and final audit by the DEPARTMENT or the FHWA, the REQUESTING PARTY promises to promptly repay the DEPARTMENT for any disallowed items of costs previously disbursed by the DEPARTMENT. The REQUESTING PARTY pledges its future receipts from the Michigan Transportation Fund for repayment of all disallowed items and, upon failure to make repayment for any disallowed items within ninety (90) days of demand made by the DEPARTMENT, the DEPARTMENT is hereby authorized to withhold an equal amount from the REQUESTING PARTY'S share of any future distribution of Michigan Transportation Funds in settlement of said claim.

4. The DEPARTMENT shall maintain and keep accurate records and accounts relative to the cost of the PROJECT and upon completion of the PROJECT, payment of all items of PROJECT COST, receipt of all Federal Aid, if any, and completion of final audit by the DEPARTMENT and if applicable, by the FHWA, shall make final accounting to the REQUESTING PARTY. The final PROJECT accounting will not include interest earned or charged on working capital deposited for the PROJECT which will be accounted for separately at the close of the State of Michigan fiscal year and as set forth in Section C(1).
5. The costs of engineering and other services performed on those projects involving specific program funds and one hundred percent (100%) local funds will be apportioned to the respective portions of that project in the same ratio as the actual direct construction costs unless otherwise specified in PART I.

SECTION IV

MAINTENANCE AND OPERATION

A. Upon completion of construction of each part of the PROJECT, at no cost to the DEPARTMENT or the PROJECT, each of the parties hereto, within their respective jurisdictions, will make the following provisions for the maintenance and operation of the completed PROJECT:

1. All Projects:

Properly maintain and operate each part of the project, making ample provisions each year for the performance of such maintenance work as may be required, except as qualified in paragraph 2b of this section.

2. Projects Financed in Part with Federal Monies:

a. Sign and mark each part of the PROJECT, in accordance with the current Michigan Manual of Uniform Traffic control Devices, and will not install, or permit to be installed, any signs, signals or markings not in conformance with the standards approved by the FHWA, pursuant to 23 USC 109(d).

b. Remove, prior to completion of the PROJECT, all encroachments from the roadway right-of-way within the limits of each part of the PROJECT.

With respect to new or existing utility installations within the right-of-way of Federal Aid projects and pursuant to FAPG (23 CFR 645B): Occupancy of non-limited access right-of-way may be allowed based on consideration for traffic safety and necessary preservation of roadside space and aesthetic quality. Longitudinal occupancy of non-limited access right-of-way by private lines will require a finding of significant economic hardship, the unavailability of practicable alternatives or other extenuating circumstances.

c. Cause to be enacted, maintained and enforced, ordinances and regulations for proper traffic operations in accordance with the plans of the PROJECT.

d. Make no changes to ordinances or regulations enacted, or traffic controls installed in conjunction with the PROJECT work without prior review by the DEPARTMENT and approval of the FHWA, if required.

- B. On projects for the removal of roadside obstacles, the parties, upon completion of construction of each part of the PROJECT, at no cost to the PROJECT or the DEPARTMENT, will, within their respective jurisdictions, take such action as is necessary to assure that the roadway right-of-way, cleared as the PROJECT, will be maintained free of such obstacles.
- C. On projects for the construction of bikeways, the parties will enact no ordinances or regulations prohibiting the use of bicycles on the facility hereinbefore described as the PROJECT, and will amend any existing restrictive ordinances in this regard so as to allow use of this facility by bicycles. No motorized vehicles shall be permitted on such bikeways or walkways constructed as the PROJECT except those for maintenance purposes.
- D. Failure of the parties hereto to fulfill their respective responsibilities as outlined herein may disqualify that party from future Federal-aid participation in projects on roads or streets for which it has maintenance responsibility. Federal Aid may be withheld until such time as deficiencies in regulations have been corrected, and the improvements constructed as the PROJECT are brought to a satisfactory condition of maintenance.

SECTION V

SPECIAL PROGRAM AND PROJECT CONDITIONS

- A. Those projects for which the REQUESTING PARTY has been reimbursed with Federal monies for the acquisition of right-of-way must be under construction by the close of the twentieth (20th) fiscal year following the fiscal year in which the FHWA and the DEPARTMENT projects agreement covering that work is executed, or the REQUESTING PARTY may be required to repay to the DEPARTMENT, for forwarding to the FHWA, all monies distributed as the FHWA'S contribution to that right-of-way.
- B. Those projects for which the REQUESTING PARTY has been reimbursed with Federal monies for the performance of preliminary engineering must be under construction by the close of the tenth (10th) fiscal year following the fiscal year in which the FHWA and the DEPARTMENT projects agreement covering that work is executed, or the REQUESTING PARTY may be required to repay to the DEPARTMENT, for forwarding to the FHWA, all monies distributed as the FHWA'S contribution to that preliminary engineering.
- C. On those projects funded with Federal monies, the REQUESTING PARTY, at no cost to the PROJECT or the DEPARTMENT, will provide such accident information as is available and such other information as may be required under the program in order to make the proper assessment of the safety benefits derived from the work performed as the PROJECT. The REQUESTING PARTY will cooperate with the DEPARTMENT in the development of reports and such analysis as may be required and will, when requested by the DEPARTMENT, forward to the DEPARTMENT, in such form as is necessary, the required information.
- D. In connection with the performance of PROJECT work under this contract the parties hereto (hereinafter in Appendix "A" referred to as the "contractor") agree to comply with the State of Michigan provisions for "Prohibition of Discrimination in State Contracts", as set forth in Appendix A, attached hereto and made a part hereof. The parties further covenant that they will comply with the Civil Rights Acts of 1964, being P.L. 88-352, 78 Stat. 241, as amended, being Title 42 U.S.C. Sections 1971, 1975a-1975d, and 2000a-2000h-6 and the Regulations of the United States Department of Transportation (49 C.F.R. Part 21) issued pursuant to said Act, including Appendix "B", attached hereto and made a part hereof, and will require similar covenants on the part of any contractor or subcontractor employed in the performance of this contract.
- E. The parties will carry out the applicable requirements of the DEPARTMENT'S Disadvantaged Business Enterprise (DBE) program and 49 CFR, Part 26, including, but not limited to, those requirements set forth in Appendix C.

APPENDIX A
PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS

In connection with the performance of work under this contract; the contractor agrees as follows:

1. In accordance with Act No. 453, Public Acts of 1976, the contractor hereby agrees not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or as a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, or marital status. Further, in accordance with Act No. 220, Public Acts of 1976 as amended by Act No. 478, Public Acts of 1980 the contractor hereby agrees not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. A breach of the above covenants shall be regarded as a material breach of this contract.
2. The contractor hereby agrees that any and all subcontracts to this contract, whereby a portion of the work set forth in this contract is to be performed, shall contain a covenant the same as hereinabove set forth in Section 1 of this Appendix.
3. The contractor will take affirmative action to insure that applicants for employment and employees are treated without regard to their race, color, religion, national origin, age, sex, height, weight, marital status or a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
4. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, age, sex, height, weight, marital status or disability that is unrelated to the individual's ability to perform the duties of a particular job or position.
5. The contractor or his collective bargaining representative will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the contractor's commitments under this appendix.
6. The contractor will comply with all relevant published rules, regulations, directives, and orders of the Michigan Civil Rights Commission which may be in effect prior to the taking of bids for any individual state project.
7. The contractor will furnish and file compliance reports within such time and upon such forms as provided by the Michigan Civil Rights Commission, said forms may also elicit information as to the practices, policies, program, and employment statistics of each subcontractor as well as the contractor himself, and said contractor will permit access to his books, records, and accounts by the Michigan Civil Rights Commission and/or its agent, for purposes of investigation to ascertain compliance with this contract and relevant with rules, regulations, and orders of the Michigan Civil Rights Commission.
8. In the event that the Civil Rights Commission finds, after a hearing held pursuant to its rules, that a contractor has not complied with the contractual obligations under this agreement, the Civil Rights Commission may, as part of its order based upon such findings, certify said findings to the Administrative Board of the State of Michigan, which Administrative Board may order the cancellation of the contract found to have been violated and/or declare the contractor ineligible for future contracts with the state and its political and civil subdivisions, departments, and officers, and including the governing boards of institutions of higher education, until the contractor complies with said order of the Civil Rights Commission. Notice of said declaration of future ineligibility may be given to any or all of the persons with whom the contractor is declared ineligible to contract as a contracting party in future contracts. In any case before the Civil Rights Commission in which cancellation of an existing contract is a possibility, the contracting agency shall be notified of such possible remedy and shall be given the option by the Civil Rights Commission to participate in such proceedings.
9. The contractor will include, or incorporate by reference, the provisions of the foregoing paragraphs (1) through (8) in every subcontract or purchase order unless exempted by the rules, regulations or orders of the Michigan Civil Rights Commission, and will provide in every subcontract or purchase order that said provisions will be binding upon each subcontractor or seller.

March, 1998

APPENDIX B

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. Compliance with Regulations: The contractor shall comply with the Regulations relative to nondiscrimination in Federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 27, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
2. Nondiscrimination: The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or natural origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
4. Information and Reports: The contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Michigan Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the Michigan Department of Transportation, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the Michigan Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
 - (a) Withholding of payments to the contractor under the contract until the contractor complies, and/or
 - (b) Cancellation, termination, or suspension of the contract, in whole or in part.
6. Incorporation of Provisions: The contractor shall include the provisions of paragraphs 1 through 6 of every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the Michigan Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for non-compliance; provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the Michigan Department of Transportation to enter into such litigation to protect the interests of the State, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX C

TO BE INCLUDED IN ALL FINANCIAL ASSISTANCE AGREEMENTS WITH LOCAL AGENCIES

Assurance that Recipients and Contractors Must Make (Excerpts from US DOT Regulation 49 CFR 26.13)

- A. Each financial assistance agreement signed with a DOT operating administration (or a primary recipient) must include the following assurance:

The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any US DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of US DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR Part 26 and as approved by US DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

- B. Each contract MDOT signs with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of US DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.



TO: Members of Troy City Council
FROM: Lori Grigg Bluhm , City Attorney
Susan M. Lancaster, Assistant City Attorney
DATE: December 23, 2009
SUBJECT: City of Troy v. Susan Sandelman, as Trustee of the
Esther Jeffrey Trust

The City needed an additional 32 feet of right of way (4,445 square feet) and a 4 foot wide public utility easement (627 square feet) from the property at 3914 Rochester Road for the Rochester Road Reconstruction project. A condemnation lawsuit was initiated, since we were unable to agree with the property owners for a voluntary sale. The only remaining issue is the amount of just compensation to be paid for the property. The case was recently submitted to case evaluation. Subsequently, we were able to negotiate a proposed consent judgment, which would finalize this case for the amount of the case evaluation, plus statutory costs and fees.

We recommend approval of the proposed consent judgment. 80% of the amount will be paid with federal funds, and the City is responsible for paying 20%, under the Rochester Road Improvement Project contract. Please let us know if you have any questions about this matter.

STATE OF MICHIGAN

OAKLAND COUNTY CIRCUIT COURT

CITY OF TROY, a Michigan
Municipal Corporation,

Plaintiff,

v

Case No. 09-097979-CC
Hon. Leo Bowman

SUSAN SANDELMAN, as Trustee of the
Esther Jeffrey Trust U/A Dated 12/18/70;
CONSUMERS POWER COMPANY, n/k/a
Consumers Energy Company,

Defendants.

City of Troy – City Attorney’s Office
Lori Grigg Bluhm (P46908)
Susan M. Lancaster (P33168)
Attorneys for Plaintiff
500 W. Big Beaver Road
Troy, MI 48084
(248) 524-3320
Lancastesm@troymi.gov

H. Adam Cohen (P47202)
Steinhardt, Pesick & Cohen, P.C.
Attorney for Defendant- ESTHER
JEFFREY TRUST
380 North Old Woodward Ave.
Suite 120
Birmingham, MI 48009
(248) 646-0888
HACohen@spclaw.com

CONSENT JUDGMENT

At a session of the Oakland County Circuit Court held
in the City of Pontiac, Michigan,

on: _____
Present: the Hon. Leo Bowman

A case evaluation hearing was held in this matter on December 2, 2009. Plaintiff (the “City”) and Defendant (“Susan Sandelman as Trustee for Esther Jeffrey Trust U/A Dated 12/18/70”) have both accepted the case evaluation award, and the parties have requested that the Court enter this Consent Judgment to resolve all outstanding issues

in this case. Having been so advised, and being otherwise fully advised in the premises, this Court therefore **ORDERS** and **ADJUDGES** as follows:

1. The City shall pay to Susan Sandelman, as Trustee of the Esther Jeffrey Trust U/A Dated 12/18/70 final just compensation in the amount of \$160,000.00, less estimated just compensation previously paid in the amount of \$ 64,100.00, resulting in increased just compensation totaling \$95,900.00 (the "Increased Compensation"), plus statutory interest thereon pursuant to MCL 213.65 in the amount of \$4,100.00 (the "Interest").

2. Pursuant to MCL 213.66, the City shall reimburse Susan Sandelman, as Trustee of the Esther Jeffrey Trust U/A Dated 12/18/70 for expert real estate appraisal fees in the amount of \$7,500.00, and expert engineering fees in the amount of \$7,000.00, for a total of \$14,500.00 (collectively the "Expert Reimbursement").

3. The City shall pay the Increased Compensation, the Interest, and the Expert Reimbursement to Susan Sandelman, as Trustee of the Esther Jeffrey Trust U/A Dated 12/18/70 in the form of a check payable to: "Susan Sandelman, as Trustee of the Esther Jeffrey Trust U/A Dated 12/18/70".

4. Pursuant to MCL 213.66, the City shall reimburse Susan Sandelman, as Trustee of the Esther Jeffrey Trust U/A Dated 12/18/70 for attorney fees incurred in the amount of \$33,333.33 (the "Attorney Fee Reimbursement").

5. The City shall pay the Attorney Fee Reimbursement to Susan Sandelman, Trustee of the Esther Jeffrey Trust U/A Dated 12/18/70 in the form of a check payable to: "Steinhardt Pesick & Cohen, Professional Corporation".

6. All payments set forth in the Judgment shall be delivered by the City to

Steinhardt Pesick & Cohen, Professional Corporation, within 21 days of the date of this Judgment.

7. An identification pole sign is located on the southerly side of the Property at a distance of approximately 83.75 feet from the center of Rochester Road and which has a dimension of approximately 24 feet in height and approximately 95 square feet of face area on each side of the sign face. The City shall allow the Identification pole sign to continue to exist as a legal, non-conforming structure as long as it is maintained in reasonably good repair. If the sign is relocated on the Property it must comply with the Troy Sign Ordinances in effect at the time of relocation.

8. The number of parking spaces on the Property before the taking in this matter was considered legal but non-conforming to the Troy Zoning Ordinance. The City shall allow the current number of parking spaces to continue as legal and non-conforming providing the building currently on the Property is not demolished and rebuilt, or altered in a way that increases the non-conformity of the parking.

9. This judgment shall be recorded with the Oakland County Register of Deeds and Paragraphs 7 and 8 shall run with the land and be binding on the City and any heirs, successors and assigns to the Property.

10. This court retains jurisdiction in this matter concerning the terms and conditions set out in therein.

11. This Judgment resolves the last pending claim and closes this case.

Hon. Leo Bowman

Stipulation for Entry of Consent Judgment

On behalf of the parties, we hereby stipulate and agree to entry of the foregoing
Consent Judgment.

TROY CITY ATTORNEY

STEINHARDT PESICK & COHEN
Professional Corporation

By: _____
Lori Grigg Bluhm (P46908)
Susan M. Lancaster (P33168)
Attorneys for Plaintiff

By: _____
H. Adam Cohen (P29039)
Attorney for Susan Sandelman,
Trustee for the Esther Jeffrey Trust
Trust U/A dated 12/18/70

Dated: _____

Dated: _____



CITY COUNCIL ACTION REPORT

RECEIVED

December 29, 2009

DEC 30 2009

TO: John Szerlag, City Manager *MJM For*

FROM: Gary Mayer, Chief of Police *GM*
 Captain Gerard Scherlinck, Services Division *GS*
 Lieutenant Michael Lyczkowski *M.L.*
 Sergeant Russel Harden *RH*
 Officer James Feld *JMF*

SUBJECT: Application for Transfer Ownership of Escrowed SDD & SDM License.

CITY OF TROY
MANAGER'S OFFICE

Background:

- NKG Business, Inc. requests transfer ownership of Escrowed 2009 SDD & SDM Licensed Business from Peoples State Bank, located at 3176 Rochester, Troy, MI 48083, Oakland County {MLCC Request #527498}.
- On December 14, 2009, Nagi Abdal, Owner and representative for the applicants and Attorney John Hindo, answered questions for the Liquor Advisory Committee.
- Mr. Abdal and Mr. Hindo explained to the Committee that the purpose of this request is to allow Mr. Abdal and two other business partners to re-open the Buscemi's Party Store at the same location of the prior store. Mr. Abdal states his business partners and he own other Buscemi's Party Stores in the metro area and have been operating stores for over 12 years.
- The Committee unanimously approved this request.

Legal Considerations:

- The request complies with all applicable Troy City Ordinances and Michigan Liquor Control Commission Rules.
- The Police Department did not find any disqualifying factors for this request.
- The Fire Department did inspect the business location and found violations. They have given tentative approval contingent upon passing a final inspection prior to the store being allowed to open. Mr. Abdal has agreed to this stipulation.

Policy Considerations:

- This action supports Council's Outcomes Statement III: "Troy is rebuilding for a healthy economy reflecting the values of a unique community in a changing and interconnected world."

H-5

MAILED 09/22/09



Michigan Department of Labor & Economic Growth
MICHIGAN LIQUOR CONTROL COMMISSION (MLCC)
7150 Harris Drive, P.O. Box 30005
Lansing, Michigan 48909-7505

FOR MLCC USE ONLY
Request ID # 527498
Business ID # 221578

POLICE INVESTIGATION REPORT

[Authorized by MCL 436.1217 and R 436.1105; MAC]

Please conduct your investigation as soon as possible, complete all four sections of this report and return the completed report and fingerprint cards to the MLCC.

LICENSEE/APPLICANT NAME, BUSINESS ADDRESS AND LICENSING REQUEST:

NKG BUSINESS, INC. REQUESTS TRANSFER OWNERSHIP OF ESCROWED 2009 SDD & SDM LICENSED BUSINESS FROM PEOPLES STATE BANK, LOCATED AT 3176 ROCHESTER, TROY, MI 48083, OAKLAND COUNTY.

Section 1. APPLICANT INFORMATION

APPLICANT #1: GHAZWAN AZIZ ABDAL, 36217 JEFFREY DR, STERLING HEIGHTS, MI 48310, PHONE: (586)242-8808
APPLICANT #2: KARIM JARBO, 701 PANORAMA DR, ROCHESTER HILLS, MI 48306, PHONE: (248)601-1944

DATE FINGERPRINTED**: DATE FINGERPRINTED**: NO FINGERPRINTS NEEDED

DATE OF BIRTH: Is the applicant a U.S. Citizen: [] Yes [] No*
Does the applicant have permanent Resident Alien status? [] Yes [] No
*Does the applicant have a Visa? Enter status:

Attach the fingerprint card and \$30.00 for each card and mail to the Michigan Liquor Control Commission

ARREST RECORD: [] Felony [] Misdemeanor
Enter record of all arrests and convictions (Attach a signed and dated sheet if more space is needed)

Section 2. INVESTIGATION OF BUSINESS AND ADDRESS TO BE LICENSED

Does applicant intend to have dancing, entertainment, topless activity, or extended hours permit? [] No [] Yes, complete LC-1636
Are motor vehicle fuel pumps at or directly adjacent to the establishment? [] No [] Yes, explain relationship:

Section 3. LOCAL AND STATE CODES AND ORDINANCES, AND GENERAL RECOMMENDATIONS

Will the applicant's proposed location meet all appropriate state and local building, plumbing, zoning, fire, sanitation and health laws and ordinances, if this license is granted? [] Yes [] No
If No, indicate which state and local ordinances the location does not meet: [] Building [] Plumbing [] Zoning [] Fire [] Sanitation [] Health

Section 4. RECOMMENDATION

1. Is this applicant qualified to conduct this business if licensed? [] Yes [] No*
2. Should the MLCC grant this request? [] Yes [] No*
*If any of the above questions were answered No, you must state your reasons for MLCC consideration of this recommendation on the back of this form or on an attached signed and dated sheet.
3. Is this recommendation subject to final inspection to determine that the proposed location meets all building, plumbing, zoning, fire, sanitation and health laws and ordinances? [] Yes [] No
4. Is this recommendation subject to any other conditions? [] Yes [] No
If Yes, list the conditions below or on an attached signed and dated sheet if more space is needed

Signature (Sheriff or Chief of Police) Date
TROY POLICE DEPARTMENT



Michigan Department of Labor & Economic Growth
MICHIGAN LIQUOR CONTROL COMMISSION (MLCC)
 7150 Harris Drive, P.O. Box 30005
 Lansing, Michigan 48909-7505

MAIL 09/21/09 Thu
FOR MLCC USE ONLY
 Request ID # 527498
 Business ID # 221578

POLICE INVESTIGATION REPORT

[Authorized by MCL 436.1217 and R 436.1105; MAC]

Please conduct your investigation as soon as possible, complete all four sections of this report and return the completed report and fingerprint cards to the MLCC.

LICENSEE/APPLICANT NAME, BUSINESS ADDRESS AND LICENSING REQUEST:

NKG BUSINESS, INC. REQUESTS TRANSFER OWNERSHIP OF ESCROWED 2009 SDD & SDM LICENSED BUSINESS FROM PEOPLES STATE BANK, LOCATED AT 3176 ROCHESTER, TROY, MI 48083, OAKLAND COUNTY.

Section 1. APPLICANT INFORMATION

APPLICANT #3: NAGI ABDAL LICENSED AS NAGI ABDAAL 4644 ADMIRAL DR STERLING HEIGHTS, MI 48310 PHONE: (586)850-3570	APPLICANT #4:
--	---------------

DATE FINGERPRINTED**: NO FINGERPRINTS NEEDED	DATE FINGERPRINTED**:
--	-----------------------

DATE OF BIRTH: Is the applicant a U.S. Citizen: <input type="checkbox"/> Yes <input type="checkbox"/> No* *Does the applicant have permanent Resident Alien status? <input type="checkbox"/> Yes <input type="checkbox"/> No* *Does the applicant have a Visa? Enter status:	DATE OF BIRTH: Is the applicant a U.S. Citizen: <input type="checkbox"/> Yes <input type="checkbox"/> No* *Does the applicant have permanent Resident Alien status? <input type="checkbox"/> Yes <input type="checkbox"/> No* *Does the applicant have a Visa? Enter status:
--	--

Attach the fingerprint card and \$30.00 for each card and mail to the Michigan Liquor Control Commission

ARREST RECORD: <input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor Enter record of all arrests and convictions (Attach a signed and dated sheet if more space is needed)	ARREST RECORD: <input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor Enter record of all arrests and convictions (Attach a signed and dated sheet if more space is needed)
---	---

Section 2. INVESTIGATION OF BUSINESS AND ADDRESS TO BE LICENSED

Does applicant intend to have dancing, entertainment, topless activity, or extended hours permit?
 No Yes, complete LC-1636

Are motor vehicle fuel pumps at or directly adjacent to the establishment? No Yes, explain relationship:

Section 3. LOCAL AND STATE CODES AND ORDINANCES, AND GENERAL RECOMMENDATIONS

Will the applicant's proposed location meet all appropriate state and local building, plumbing, zoning, fire, sanitation and health laws and ordinances, if this license is granted? Yes No **If No**, indicate which state and local ordinances the location does not meet: Building Plumbing Zoning Fire Sanitation Health

Section 4. RECOMMENDATION

1. Is this applicant qualified to conduct this business if licensed? Yes No*

2. Should the MLCC grant this request? Yes No*

*If any of the above questions were answered No, you must state your reasons for MLCC consideration of this recommendation on the back of this form or on an attached signed and dated sheet.

3. Is this recommendation subject to final inspection to determine that the proposed location meets all building, plumbing, zoning, fire, sanitation and health laws and ordinances? Yes No

4. Is this recommendation subject to any other conditions? Yes No

If Yes, list the conditions below or on an attached signed and dated sheet if more space is needed

Signature (Sheriff or Chief of Police)

Date

TROY POLICE DEPARTMENT

AGREEMENT REGARDING LIQUOR LICENSE REQUEST

This Agreement, made this 7th day of October, 2009, by and between the CITY OF TROY, MICHIGAN, a municipal corporation, with offices located at 500 W. Big Beaver Road, Troy, Michigan, 48084, hereinafter known as THE CITY, and NKG Business, Inc. the Applicant, hereinafter known as APPLICANT.

1. The City Council of the City of Troy, for and in consideration of the following covenants and conditions, agrees to recommend to the Michigan Liquor Control Commission Approval of the request to transfer ownership of Escrowed 2009 SDD & SDM license to be located at 3176 Rochester Road, Troy MI.
2. In consideration of the City of Troy's recommendation for approval of the request, the applicant hereby agrees that:
 - (a) It has read and is aware of the provisions of City of Troy Ordinances, Chapter No. 67, Chapter No. 68, Chapter No. 98 and Chapter No. 101, and agrees that it shall be deemed to have knowledge of any subsequent amendments to said Chapters which may become effective during the term of this agreement.
 - (b) It agrees to observe and comply with all laws, statutes, ordinances, rules, regulations or resolutions of the United States government, State of Michigan, and the City of Troy, or any department or agency of the governmental entities, as well as the rules and regulations of the Michigan Liquor Control Commission as they pertain to the operation of a liquor licensed business in the City of Troy.
 - (c) It agrees to immediately require all employees who serve/sell alcohol to attend a recognized alcohol awareness program, and forward the names of each certified employee to the Troy Police Department. The alcohol awareness program must either be recognized by the Troy Police Department (i.e. TIPS, TAMS), or the program must be reviewed by the Troy Police Department to insure that the program is comparable to the recognized programs.
3. Applicant agrees that the recommendation for Approval agreed upon by the City Council is not a property right and is approved upon the express and continuing condition that no violation as set forth in paragraph 2 of this agreement shall occur.
4. Applicant agrees that the recommendation for Approval agreed upon by the City Council is approved upon the express and continuing condition that the physical characteristics (including but not limited to the inside layout, building design and engineering, seating capacity, parking space allocations, fire exits, and other physical attributes); and also the nature and type of business intended to be conducted remain virtually the same.
5. Applicant agrees that upon such violation, after full investigation and an opportunity for said applicant to be heard, upon a finding by the City Council that a violation as set forth in paragraph 2 of this agreement has occurred, the City Council shall have just cause for revocation of said recommendation for approval.

LICENSEE AUTHORIZED REPRESENTATIVE

Witnesses: Kurtus E. Davis By: Ghazwan Abadi
[Signature]

Subscribed and sworn to before me this 7th day of October 2009
Notary Public, Oakland County, MI
Acting in the County of Oakland
My commission expires: 9/23/2014
Kurtus E. Davis

CITY OF TROY

Witnesses: _____ By: _____
Louise Schilling, Mayor
By: _____
Tonni Bartholomew, City Clerk

Subscribed and sworn to before me this _____ day of _____ 200 ____
Notary Public, _____ County, MI
Acting in the County of Oakland
My commission expires: _____

AGREEMENT REGARDING LIQUOR LICENSE REQUEST

This Agreement, made this 7th day of October, 2009, by and between the CITY OF TROY, MICHIGAN, a municipal corporation, with offices located at 500 W. Big Beaver Road, Troy, Michigan, 48084, hereinafter known as THE CITY, and NKG Business, Inc. the Applicant, hereinafter known as APPLICANT.

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5. Applicant agrees that upon such violation, after full investigation and an opportunity for said applicant to be heard, upon a finding by the City Council that a violation as set forth in paragraph 2 of this agreement has occurred, the City Council shall have just cause for revocation of said recommendation for approval.

LICENSEE AUTHORIZED REPRESENTATIVE

Witnesses: Kristine E. Davra By: Karim S. Jarbo
[Signature] KARIM JARBO

Subscribed and sworn to before me this 7th day of October 2009
Notary Public, Oakland County, MI
Acting in the County of Oakland
My commission expires: 9/23/2014
Kristine E. Davra

CITY OF TROY

Witnesses: _____ By: _____
Louise Schilling, Mayor
By: _____
Tonni Bartholomew, City Clerk

Subscribed and sworn to before me this _____ day of _____ 200 ____
Notary Public, _____ County, MI
Acting in the County of Oakland
My commission expires: _____

AGREEMENT REGARDING LIQUOR LICENSE REQUEST

This Agreement, made this 7th day of October, 2009, by and between the CITY OF TROY, MICHIGAN, a municipal corporation, with offices located at 500 W. Big Beaver Road, Troy, Michigan, 48084, hereinafter known as THE CITY, and NKG Business, Inc. the Applicant, hereinafter known as APPLICANT.

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2. In consideration of the City of Troy's recommendation for approval of the request, the applicant hereby agrees that:
 - (a) It has read and is aware of the provisions of City of Troy Ordinances, Chapter No. 67, Chapter No. 68, Chapter No. 98 and Chapter No. 101, and agrees that it shall be deemed to have knowledge of any subsequent amendments to said Chapters which may become effective during the term of this agreement.
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 - (c) It agrees to immediately require all employees who serve/sell alcohol to attend a recognized alcohol awareness program, and forward the names of each certified employee to the Troy Police Department. The alcohol awareness program must either be recognized by the Troy Police Department (i.e. TIPS, TAMS), or the program must be reviewed by the Troy Police Department to insure that the program is comparable to the recognized programs.
3. Applicant agrees that the recommendation for Approval agreed upon by the City Council is not a property right and is approved upon the express and continuing condition that no violation as set forth in paragraph 2 of this agreement shall occur.
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5. Applicant agrees that upon such violation, after full investigation and an opportunity for said applicant to be heard, upon a finding by the City Council that a violation as set forth in paragraph 2 of this agreement has occurred, the City Council shall have just cause for revocation of said recommendation for approval.

LICENSEE AUTHORIZED REPRESENTATIVE

Witnesses: _____

Frederic E. Davis
[Signature]

By: _____

Naji Abdal
[Signature]

Subscribed and sworn to before me this 7th day of October 2009
Notary Public, Oakland County, MI
Acting in the County of Oakland
My commission expires: 9/23/2014

Frederic E. Davis
[Signature]

CITY OF TROY

Witnesses: _____

By: _____

Louise Schilling, Mayor

By: _____

Tonni Bartholomew, City Clerk

Subscribed and sworn to before me this _____ day of _____ 200 ____
Notary Public, _____ County, MI
Acting in the County of Oakland
My commission expires: _____

Officer Feld stated that the Building Department inspections will be scheduled upon completion of the renovations.

Resolution #LC2009-12-027

Moved by Hall

Seconded by Ogg

RESOLVED, That the Liquor Advisory Committee recommends that the request to transfer ownership of 2006 Class C licensed business located in escrow at 29855 Northwestern, Southfield, MI 48034, Oakland, from F & S Food Service, Inc., David H. Fink, Receiver, to Sinbad, Inc.; request to transfer location to 336 John R, Troy, MI 48083, Oakland County; and request for a new Dance-Entertainment Permit to be held in conjunction be **APPROVED** contingent on the approval of all Building Department inspections.

Yes: 6

No: 0

Absent: Kaltsounis

-
4. **NKG Business, Inc.** requests transfer ownership of escrowed 2009 SDD & SDM Licensed Business from Peoples State Bank, located at 3176 Rochester, Troy, MI 48083, Oakland County {MLCC Req#527498} – *Former site of the Buscemi's Party Store*

Present to answer questions from the Committee were attorney John Hindo and business owner Nagi Abad.

Mr. Hindo advised the Committee that his clients are re-opening the Buscemi's Party Store. They own another Buscemi's location and have been in the party store business for over 12 years. All employees will receive TIPS/TAMS training.

Officer Feld stated that the Police Department has nothing to report.

Resolution #LC2009-12-028

Moved by Ukrainec

Seconded by Hall

RESOLVED, That the Liquor Advisory Committee recommends that the request of NKG Business, Inc. to transfer ownership of escrowed 2009 SDD & SDM Licensed Business from Peoples State Bank, located at 3176 Rochester, Troy, MI 48083, Oakland County, be **APPROVED**.

Yes: 6
No: 0
Absent: Kaltsounis

Officer Feld updated the Committee on the following information items:

Numan Troy, Inc.

There are problems with the necessary minimum inventory for Ordinance compliance.

The Saint Andrew's Society of Detroit

This location will undergo major renovation after a Club License is obtained.

Space Station of Troy, Inc.

The owners wish to obtain a SDM license. There may be opposition from residents in the area.

E Mart, L.L.C.

This is an oriental market at East Big Beaver and Dequindre.

Ram's Horn

The owners are pursuing the transfer of a Class C license. If successful, they will close the restaurant for renovation.

Franco's Restaurant

There will be a transfer of ownership

The meeting adjourned at 7:40 p.m.

Max K. Ehlert, Chairman

Patricia A. Gladysz, Secretary II



CITY COUNCIL ACTION REPORT

RECEIVED

December 27, 2009

TO: John Szerlag, City Manager *MM For*

FROM: Gary Mayer, Chief of Police *GM*
 Captain Gerard Scherlinck, Services Division *SSIF 606*
 Lieutenant Michael Lyczkowski *M.L.*
 Sergeant Russel Harden *Rn #225*
 Officer James Feld *JMF*

DEC 30 2009
 CITY OF TROY
 MANAGER'S OFFICE

SUBJECT: Application for Transfer Ownership of SDD & SDM License.

Background:

- Kher Enterprises, Inc. requests transfer ownership of 2009 SDD & SDM Licensed Business from Troy Cheese and Wine Market, located at 2558, 2560 East Maple, Troy, MI 48083, Oakland County {MLCC Request #522806}.
- On December 14, 2009, Labhu and Hansaben Kher, Owners, answered questions for the Liquor Advisory Committee.
- Mr. Labhu Kher and Ms. Hansaben Kher explained to the Committee that the purpose of this request is to allow them to complete the purchase of the Troy Cheese and Wine Market.
- The Committee unanimously approved this request.

Legal Considerations:

- The request complies with all applicable Troy City Ordinances and Michigan Liquor Control Commission Rules.
- The Police Department did not find any disqualifying factors for this request.

Policy Considerations:

- This action supports Council's Outcomes Statement III: "Troy is rebuilding for a healthy economy reflecting the values of a unique community in a changing and interconnected world."

H-6



Michigan Department of Labor & Economic Growth
MICHIGAN LIQUOR CONTROL COMMISSION (MLCC)

7150 Harris Drive, P.O. Box 30005
Lansing, Michigan 48909-7505

POLICE INVESTIGATION REPORT

[Authorized by MCL 436.1217 and R 436.1105; MAC]

FOR MLCC USE ONLY

Request ID # 522806

Business ID # 220265

Please conduct your investigation as soon as possible, complete all four sections of this report and return the completed report and fingerprint cards to the MLCC.

LICENSEE/APPLICANT NAME, BUSINESS ADDRESS AND LICENSING REQUEST:

KHER ENTERPRISES, INC. REQUESTS TRANSFER OWNERSHIP OF 2009 SDD & SDM FROM TROY CHEESE & WINE MARKET, INC LOCATED AT 2558-, 2560 E MAPLE, TROY, MI 48083, OAKLAND COUNTY.

Section 1. APPLICANT INFORMATION

APPLICANT #1:
HANSABEN L. KHER
1219 TENNYSON DR
TROY, MI 48083
PHONE: (248)689-0031

APPLICANT #2:

DATE FINGERPRINTED**:

DATE FINGERPRINTED**:

DATE OF BIRTH:
Is the applicant a U.S. Citizen: Yes No*
*Does the applicant have permanent Resident Alien status?
 Yes No*
*Does the applicant have a Visa? Enter status:

DATE OF BIRTH:
Is the applicant a U.S. Citizen: Yes No*
*Does the applicant have permanent Resident Alien status?
 Yes No*
*Does the applicant have a Visa? Enter status:

Attach the fingerprint card and \$30.00 for each card and mail to the Michigan Liquor Control Commission

ARREST RECORD: Felony Misdemeanor
Enter record of all arrests and convictions (Attach a signed and dated sheet if more space is needed)

ARREST RECORD: Felony Misdemeanor
Enter record of all arrests and convictions (Attach a signed and dated sheet if more space is needed)

Section 2. INVESTIGATION OF BUSINESS AND ADDRESS TO BE LICENSED

Does applicant intend to have dancing, entertainment, topless activity, or extended hours permit?

No Yes, complete LC-1636

Are motor vehicle fuel pumps at or directly adjacent to the establishment? No Yes, explain relationship:

Section 3. LOCAL AND STATE CODES AND ORDINANCES, AND GENERAL RECOMMENDATIONS

Will the applicant's proposed location meet all appropriate state and local building, plumbing, zoning, fire, sanitation and health laws and ordinances, if this license is granted? Yes No If No, indicate which state and local ordinances the location does not meet: Building Plumbing Zoning Fire Sanitation Health

Section 4. RECOMMENDATION

1. Is this applicant qualified to conduct this business if licensed? Yes No*

2. Should the MLCC grant this request? Yes No*

*If any of the above questions were answered No, you must state your reasons for MLCC consideration of this recommendation on the back of this form or on an attached signed and dated sheet.

3. Is this recommendation subject to final inspection to determine that the proposed location meets all building, plumbing, zoning, fire, sanitation and health laws and ordinances? Yes No

4. Is this recommendation subject to any other conditions? Yes No

If Yes, list the conditions below or on an attached signed and dated sheet if more space is needed

Signature (Sheriff or Chief of Police)

Date

TROY POLICE DEPARTMENT

AGREEMENT REGARDING LIQUOR LICENSE REQUEST

This Agreement, made this 26 day of August, 2009, by and between the CITY OF TROY, MICHIGAN, a municipal corporation, with offices located at 500 W. Big Beaver Road, Troy, Michigan, 48084, hereinafter known as THE CITY, and Kher Enterprises, Inc. the Applicant, hereinafter known as APPLICANT.

1. The City Council of the City of Troy, for and in consideration of the following covenants and conditions, agrees to recommend to the Michigan Liquor Control Commission Approval of the request to transfer ownership of 2009 SDD & SDM license to be located at 2558-, 2560 East Maple, Troy MI.
2. In consideration of the City of Troy's recommendation for approval of the request, the applicant hereby agrees that:
 - (a) It has read and is aware of the provisions of City of Troy Ordinances, Chapter No. 67, Chapter No. 68, Chapter No. 98 and Chapter No. 101, and agrees that it shall be deemed to have knowledge of any subsequent amendments to said Chapters which may become effective during the term of this agreement.
 - (b) It agrees to observe and comply with all laws, statutes, ordinances, rules, regulations or resolutions of the United States government, State of Michigan, and the City of Troy, or any department or agency of the governmental entities, as well as the rules and regulations of the Michigan Liquor Control Commission as they pertain to the operation of a liquor licensed business in the City of Troy.
 - (c) It agrees to immediately require all employees who serve/sell alcohol to attend a recognized alcohol awareness program, and forward the names of each certified employee to the Troy Police Department. The alcohol awareness program must either be recognized by the Troy Police Department (i.e. TIPS, TAMS), or the program must be reviewed by the Troy Police Department to insure that the program is comparable to the recognized programs.
3. Applicant agrees that the recommendation for Approval agreed upon by the City Council is not a property right and is approved upon the express and continuing condition that no violation as set forth in paragraph 2 of this agreement shall occur.
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5. Applicant agrees that upon such violation, after full investigation and an opportunity for said applicant to be heard, upon a finding by the City Council that a violation as set forth in paragraph 2 of this agreement has occurred, the City Council shall have just cause for revocation of said recommendation for approval.

LICENSEE AUTHORIZED REPRESENTATIVE

Witnesses: Frank J. Palazzolo By: HANSABEN L. KHER
Dolores E. Gaston

Subscribed and sworn to before me this 26th day of August 2009
 Notary Public, Wayne County, MI
 Acting in the County of Macomb
 My commission expires: 7/30/14

Dolores E. Gaston
 Dolores E. Gaston

CITY OF TROY

Witnesses: _____ By: Louise Schilling, Mayor
 _____ By: Tonni Bartholomew, City Clerk

Subscribed and sworn to before me this _____ day of _____ 200 ____
 Notary Public, _____ County, MI
 Acting in the County of Oakland
 My commission expires: _____

Yes: 6
No: 0
Absent: Kaltsounis

Agenda Items

1. **M&M Troy, Inc.**; requests new SDM license to be located at 1634 John R, Troy, MI 48083, Oakland County. {MLCC Req #438202} *This applicant was originally denied by the Liquor Advisory Committee because the business did not have the minimum \$250,000 in approved stock inventory. The business is now in compliance with the City Ordinance and wishes to return to seek approval*

Present to answer questions from the Committee was Majid Kesto.

Mr. Kesto stated that he is now in compliance with the City Ordinance in that he has \$250,000 of approved stock inventory. All inspections by the Building and Fire Departments have been approved.

Officer Feld confirmed that all inspections have been approved.

Resolution #LC2009-12-025

Moved by Hall

Seconded by Ehlert

RESOLVED, That the Liquor Advisory Committee recommends that the request of M&M Troy, Inc. for a new SDM licensed to be located at 1634 John R, Troy, MI 48083, Oakland County, be **APPROVED**.

Yes: 5
No: Ukrainec
Absent: Kaltsounis

2. **Kher Enterprises, Inc.** requests transfer ownership of 2009 SDD & SDM from Troy Cheese and Wine Market, Inc. located at 2558 – 2560 East Maple Road, Troy, MI 48083 {MLCC Req. #522806}. *This is a new owner purchasing the business.*

Present to answer questions from the Committee were Labhu and Hansaben Kher.

Mr. Kher advised the Committee that he and his wife have purchased this business. The previous owner has agreed to remain on site for training purposes as long as necessary. All employees will be TIPS/TAMS trained. The final electrical inspection has been requested but not yet conducted.

Officer Feld stated that all Building Department inspections have passed with the exception of the electrical inspection.

Resolution #LC2009-12-026

Moved by Hall

Seconded by Godlewski

RESOLVED, That the Liquor Advisory Committee recommends that the request of Kher Enterprises, Inc. to transfer ownership of 2009 SDD & SDM license from Troy Cheese and Wine Market, Inc. located at 2558-2560 East Maple Road, Troy, MI 48083 be **APPROVED** contingent on the successful completion of employee training and approval of the Building Department electrical inspection.

Yes: 6
No: 0
Absent: Kaltsounis

-
3. **Sinbad Inc.** requests transfer ownership of 2006 Class C Licensed Business, located in Escrow at 29855 Northwestern, Southfield, MI 48034, Oakland County, From F & S Food Service, Inc.: David H. Fink, Receiver to Sinbad, Inc.: Transfer Location (Governmental Unit) MCL 436.1531(1) to 336 John R, Troy, MI 48083, Oakland County; and request a new Dance-Entertainment Permit to be held in conjunction {MLCC Req. #528006}. Sinbad seeks approval for a Class C License pending final inspections. (Sinbad Inc. will then complete renovations including a new bar area prior to opening. License **will not** be issued until passing final inspections of the business). *Sinbad Inc. is leasing the space that originally was the Troy Manor located within the Oakland Plaza Shopping Area.*

Present to answer questions from the Committee were attorney John Hindo and business owners Sabah Garmo and Raad Shango.

Mr. Hindo advised the Committee that his clients have signed a lease for this restaurant and plan to host small private parties. The capacity of this establishment is 230 people. Upon approval of the license transfer, the owners plan to do minor interior renovations, predominantly of a cosmetic nature. All employees will receive TIPS/TAMS training.

Pastor Cliff Johnson of Woodside Bible Church gave the Invocation. The Pledge of Allegiance to the Flag was given.

A. CALL TO ORDER:

A Regular Meeting of the Troy City Council was held Monday, December 21, 2009, at City Hall, 500 W. Big Beaver Road. Mayor Schilling called the Meeting to order at 7:30 PM.

B. ROLL CALL:

Mayor Louise E. Schilling
Robin Beltramini
Wade Fleming
Martin Howrylak
Mary Kerwin
Maureen McGinnis
Dane Slater

C. CERTIFICATES OF RECOGNITION:

C-1 Presentations:

- a) On behalf of the City of Troy Employees' Casual for a Cause Program for the months of September and October, Community Affairs Director Cindy Stewart presented a check in the amount of \$1,053.00 to Major Greg Corbett for *US Marines Corps Reserves Toys for Tots Program*.
- b) On behalf of the City of Troy, Mayor Schilling presented Corporal Eric Nakalsky with a *Welcome Home Proclamation* recognizing his three years of service in the United States Marine Corps.
- c) On behalf of the City of Troy, Mayor Schilling presented Corporal Derrick Savage with a *Welcome Home Proclamation* recognizing his three years of service in the United States Marine Corps.
- d) Mayor Schilling indicated that Lance Corporal Matthew Hebert was unable to be present to accept a *Welcome Home Proclamation* recognizing his three years of service in the United States Marine Corps.

D. CARRYOVER ITEMS:

D-1 No Carryover Items

E. PUBLIC HEARINGS:

E-1 Zoning Ordinance Text Amendment (File Number ZOTA 241) – Establishment of Zoning Administrator

The Mayor opened the public hearing.

The Mayor closed the public hearing after receiving no public comment.

Resolution #2009-12-370

Moved by Kerwin

Seconded by Beltramini

RESOLVED, That Troy City Council hereby **AMENDS** Articles 22, 23, 28, 41, 42 and 43 of the City of Troy Zoning Ordinance, pertaining to the establishment of the position of Zoning Administrator and assigning the responsibilities of the Zoning Administrator, to read as written in the proposed Zoning Ordinance Text Amendment (ZOTA 241), City Council Public Hearing Draft, as recommended by the Planning Commission.

Yes: Schilling, Beltramini, Fleming, Kerwin, McGinnis, Slater

No: Howrylak

MOTION CARRIED

F. PUBLIC COMMENT: In accordance with the Rules of Procedure of the City Council, Article 16 – Members of the Public and Visitors

Janice Daniels: Discussed the millage increase and informational brochure.

Mark Havas: Commented on taser weapons.

James Savage: Discussed the transit center.

John Witt: Discussed the informational brochure and city employee furlough days.

Bill Redfield: Discussed various topics.

G. POSTPONED ITEMS:

G-1 No Postponed Items

H. REGULAR BUSINESS:

H-1 Appointments to Boards and Committees:

a) **Mayoral Appointments: Planning Commission**

Resolution #2009-12-371

Moved by Schilling

Seconded by Fleming

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

Planning Commission

Appointed by Mayor, Council Approval (9-Regular) 3-Year Terms

Michael W. Hutson Term Expires 12/31/2012

Philip Sanzica Term Expires 12/31/2012

John J. Tagle Term Expires 12/31/2012

Yes: All-7

No: None

MOTION CARRIED

b) City Council Appointments: Building Code Board of Appeals and Southeastern Michigan Council of Governments (SEMCOG)

Resolution #2009-12-372
Moved by Fleming
Seconded by McGinnis

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

Building Code Board of Appeals

Appointed by Council (5-Regular) 5-Year Term for 3 Residents: with background, training or experience in construction or similar trades; at least one shall be a professional structural or civil engineer of architectural engineering experience.*

2 by Ordinance: City Manager and Oakland County Health Department Representative

John Szerlag-City Manager **ORDINANCE – Chapter 79 Section 116.2**

Michael Pylar-Oakland County Health Dept. **ORDINANCE – Chapter 79 Section 116.2**

Southeastern Michigan Council of Governments (SEMCOG)

Appointed by Council (1-Delegate & 1-Alternate) Appointment Every Odd Year Election

Robin E. Beltramini-Delegate Term Expires 11/08/2011

Mark F. Miller-Alternate Term Expires 11/08/2011

Yes: All-7
No: None

MOTION CARRIED

H-2 Nominations for Appointments to Boards and Committees:

a) Mayoral Nominations: Board of Review

Resolution #2009-12-373
Moved by Schilling
Seconded by Kerwin

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

Board of Review

Appointed by Mayor (3-Regular) 3-Year Term

James Edward Hatch

Term Expires 01/31/2013

Yes: All-7

No: None

MOTION CARRIED

- b) **City Council Nominations: Advisory Committee for Persons with Disabilities; Employee Retirement System Board of Trustees/Retiree Health Care Benefits Plan and Trust; Liquor Advisory Committee; Municipal Building Authority**

Resolution #2009-12-374

Moved by Fleming

Seconded by Beltramini

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 Persons with Disabilities

Appointed by Council (9-Regular) 3-Year Term: 3-Regular-with disabilities; 3-Regular-general populace; 3-Regular-in need of transportation (3-Alternate) 3-Year Term

Leslie Golden Witt

Term Expires 11/01/2012

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

Appointed by Council (City Council Appointee) 3-Year Term

Mark Calice-City Council Appointee

Term Expires 12/31/2012

Liquor Advisory Committee

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

Andrew Kaltsounis

Term Expires 01/31/2013

Municipal Building Authority

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

Thomas G. Sawyer, Jr.

Term Expires 01/31/2013

Yes: All-7
No: None

MOTION CARRIED

H-3 Scheduled Contract Re-opener with Detroit Water and Sewerage (Year 2)

Resolution #2009-12-375
Moved by Beltramini
Seconded by Kerwin

WHEREAS, In 2008, the City of Troy and the Detroit Water and Sewerage Department (DWSD) entered into a 30 year contract to provide wholesale water which also includes the right of a re-opener of the DWSD commitment and adjusting factors used to develop the water rates charged to the City of Troy; and

WHEREAS, After two (2) years of successfully shifting peaks the city has qualified for reduced fees on the schedules based on the limitations to peak water volumes and thus resulted in the re-opening of the contract for minor clarification of contract language;

THEREFORE, BE IT RESOLVED, That Troy City Council hereby **APPROVES** the attached amendment to the 30-year contract to provide wholesale water between the City of Troy and the Detroit Water and Sewerage Department, as recommended by City Administration, and hereby **AUTHORIZES** the Mayor and City Clerk to execute the documents, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

Yes: All-7
No: None

MOTION CARRIED

H-4 Abolishment of Brownfield Plan #1 – Grand Sakwa/Midtown

Resolution #2009-12-376
Moved by Kerwin
Seconded by Howrylak

WHEREAS, The Troy Brownfield Redevelopment Authority (TBRA) adopted Resolution #2009-12-02, that recommends abolishment of Brownfield Plan #1 as amended (Grand Sakwa/Midtown);

THEREFORE, BE IT RESOLVED, That Troy City Council hereby **ABOLISHES** Brownfield Plan #1, as amended (Grand Sakwa/Midtown), as permitted by MCL 125.2666 (2), since the purposes for which the plan were established have been accomplished, and hereby **DIRECTS** the City Clerk to forward a certified resolution of abolishment to the State of Michigan.

Yes: All-7
No: None

MOTION CARRIED

H-5 Deficit Elimination Plans

Resolution #2009-12-377
Moved by Beltramini
Seconded by Fleming

RESOLVED, That Troy City Council hereby **APPROVES** and **ADOPTS** the Downtown Development Authority, Aquatic Center and Sanctuary Lake Golf Course Deficit Elimination Plans presented to this meeting.

Yes: All-7
No: None

MOTION CARRIED

H-6 Approval of Troy City Code Ordinance Amendment – Chapter 3 – Administrative Service

Resolution #2009-12-378
Moved by McGinnis
Seconded by Fleming

BE IT RESOLVED, That Troy City Council hereby **ADOPTS** an ordinance to amend Chapter 3, Administrative Service, as prepared by City Administration, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

Yes: Beltramini, Fleming, Kerwin, McGinnis, Slater, Schilling
No: Howrylak

MOTION CARRIED

H-7 Approval of Proposed Troy City Code Ordinance – Chapter 102 – Cost Recovery

Resolution #2009-12-379
Moved by Slater
Seconded by Kerwin

RESOLVED, That Troy City Council hereby **ADOPTS** an ordinance as Chapter 102, Cost Recovery, as recommended by City Administration, a copy of which shall be **ATTACHED** to the original Minutes of the meeting; and

BE IT FURTHER RESOLVED, That Troy City Council hereby **ADOPTS** an ordinance to amend Chapter 93, Fire Prevention, to delete Section 112.2 and Section 112.3 from the ordinance, as recommended by City Administration, a copy of which shall be **ATTACHED** to the original Minutes of the meeting.

Yes: Fleming, Kerwin, McGinnis, Slater, Schilling, Beltramini
No: Howrylak

MOTION CARRIED

H-8 Approval of Request from M & M Troy, Inc. for a New SDM License with Gas Pumps to be Located at 1634 John R – MLCC Request #438202

a) New License

Resolution #2009-12-380a
Moved by Kerwin
Seconded by Slater

RESOLVED, That Troy City Council hereby **CONSIDERS** for **APPROVAL** the request from M & M Troy, Inc. for a new SDM License with Gas Pumps to be located at 1634 John R, Troy, MI 48083, Oakland County {MLCC Request #438202} “above all others”; and

BE IT FURTHER RESOLVED, That it is the consensus of this legislative body that the application **BE RECOMMENDED** “above all others” for issuance.

Yes: All-7
No: None

MOTION CARRIED

b) Agreement

Resolution #2009-12-380b
Moved by Kerwin
Seconded by Slater

WHEREAS, The Troy City Council deems it necessary to enter agreements with applicants for liquor licenses for the purpose of providing civil remedies to the City of Troy in the event licensees fail to adhere to Troy Codes and Ordinances;

THEREFORE, BE IT RESOLVED, That Troy City Council hereby **APPROVES** an agreement with M & M Troy, Inc., for a new SDM License with Gas Pumps to be located at 1634 John R, Troy, MI 48083, Oakland County {MLCC Request #438202}, and hereby **AUTHORIZES** the Mayor and City Clerk to execute the document, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

Yes: All-7
No: None

MOTION CARRIED

I. CONSENT AGENDA:

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

Resolution #2009-12-381
Moved by Fleming
Seconded by Beltramini

RESOLVED, That all items as presented on the Consent Agenda are hereby **APPROVED** as presented with the exception of Items I-2 and I-9, which **SHALL BE CONSIDERED** after Consent Agenda (I) items, as printed.

Yes: All-7
No: None

MOTION CARRIED

I-3 Approval of City of Troy Proclamations:

Resolution #2009-12-381-I-3

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

- a) Welcome Home Proclamation – Corporal Eric Nakalsky
- b) Welcome Home Proclamation – Corporal Derrick Savage
- c) Welcome Home Proclamation – Lance Corporal Matthew Hebert

I-4 Standard Purchasing Resolutions:

- a) **Standard Purchasing Resolution 1: Award to Low Bidder – Document Scanner and Printer**

Resolution #2009-12-381-I-4a

BE IT RESOLVED, That Troy City Council hereby **AWARDS** a contract to furnish and install one (1) new GEI Colortrac SmartLF Gx+ T42C Scanner and one (1) new Canon iPF750 Printer for the City of Troy Fire department to the low total bidder, Priority Office Solutions LLC of Shelby Township, MI, for an estimated total cost of \$16,398.00, at prices contained in the bid tabulation opened October 29, 2009, a copy of which shall be **ATTACHED** to the original Minutes of this meeting; and

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

I-5 Ratification of Revised MDOT Subcontract with Hubbell, Roth & Clark, Inc. for Construction Engineering Services for the Reconstruction of Wattles Road, 1000' East and West of Rochester Road – Project No. 01.106.5

Resolution #2009-12-381-I-5

RESOLVED, That Troy City Council hereby **RATIFIES** the revised MDOT subcontract with Hubbell, Roth & Clark, Inc. for construction engineering services for the reconstruction and widening of Wattles Road, 1,000' East and West of Rochester Road and hereby **AUTHORIZES** the Mayor and City Clerk to execute the documents, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

I-6 Ratification of Revised MDOT Subcontract with Hubbell, Roth & Clark, Inc. for Construction Engineering Services for the Reconstruction of Rochester Road from Torpey to Barclay – Project No. 99.203.5

Resolution #2009-12-381-I-6

RESOLVED, That Troy City Council hereby **RATIFIES** the revised MDOT subcontract with Hubbell, Roth & Clark, Inc. for construction engineering services for the reconstruction and widening of Rochester Road, from Torpey to Barclay and hereby **AUTHORIZES** the Mayor and City Clerk to execute the documents, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

I-7 Private Agreement for Renaissance Spa – Project No. 08.905.3

Resolution #2009-12-381-I-7

RESOLVED, That Troy City Council hereby **APPROVES** the Contract for the Installation of Municipal Improvements (Private Agreement) between the City of Troy and RPS, Troy LLC, for the installation of water main, sanitary sewer, storm sewer, paving and sidewalks on the site and in the adjacent right of way, and hereby **AUTHORIZES** the Mayor and City Clerk to execute the documents, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

I-8 Approval of Request for Recognition as a Nonprofit Organization Status from Milton A. Gust, Executive Secretary for the Order of Ahepa District #10, Educational Foundation

Resolution #2009-12-381-I-8

RESOLVED, That Troy City Council hereby **APPROVES** the request from the *Order of Ahepa District #10, Educational Foundation* 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.

I-10 Arbor Day Proclamation

Resolution #2009-12-381-I-10

WHEREAS, The City of Troy wishes to acknowledge that Troy’s urban forest reduces noise, air pollution, energy costs, reflected light, flooding, stabilizes soils, sequesters carbon, provides habitat for wildlife and improves the overall quality of life;

WHEREAS, Trees in our City increase property values, enhance the economic vitality of business areas, and beautify our community;

WHEREAS, It is in the interest of all to plant and protect trees; and

WHEREAS, Troy desires to be recognized as a Tree City USA by The National Arbor Day Foundation and wishes to continue its tree planting ways;

THEREFORE, BE IT RESOLVED, That the Troy City Council hereby **PROCLAIMS** May 7, 2010, May 6, 2011, and May 4, 2012 as Arbor Day in the City of Troy, and urges all citizens to support our City’s urban forestry program and to plant trees to gladden the hearts and promote the well-being of present and future generations.

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

I-2 Approval of City Council Minutes

Resolution #2009-12-382

Moved by Beltramini

Seconded by McGinnis

RESOLVED, That Troy City Council hereby **APPROVES** the Minutes of the 7:30 PM Regular City Council Meeting of December 7, 2009 with the Public Comment section being changed to annotate the speaker and the subject only.

Yes: All-7

No: None

MOTION CARRIED

I-9 Andrew Zurowski v. City of Troy

Resolution #2009-12-383

Moved by Howrylak

Seconded by Kerwin

RESOLVED, That Troy City Council hereby **DIRECTS** the City Attorney to defend the City of Troy and the Troy Police Department in the *Zurowski v. City of Troy and Troy Police Department* lawsuit, and hereby **AUTHORIZES** the City Attorney to pay reasonable and necessary costs and fees in the defense of the action.

Yes: All-7

No: None

MOTION CARRIED

J. MEMORANDUMS AND FUTURE COUNCIL AGENDA ITEMS:

J-1 Announcement of Public Hearings: None Submitted

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

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

K-1 No Council Referrals Advanced

L. COUNCIL COMMENTS

L-1 Council Comments:

Mayor Schilling wished everyone a Happy Holidays, Merry Christmas, and a safe, healthy, Happy New Year from Council.

Council Member Kerwin commended the generosity of the City employees, including the Police Department, and Troy People Concerned.

Mayor Pro Tem Fleming commented on the first speaker during Public Comment, and proposed a resolution to remove the language regarding what a Yes and No vote means from the informational brochure.

Council Member Howrylak proposed that Council suspend the Rules of Procedure so City Council can consider an additional motion on the table.

Vote on Resolution to Suspend Rules of Procedure for the City Council - Rule #6 – Order of Business Article L – Council Comments

Resolution #2009-12-384

Moved by Howrylak

Seconded by Fleming

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

Yes: Fleming, Howrylak

No: Schilling, Beltramini, Kerwin, McGinnis, Slater

MOTION FAILED

Council Member Howrylak commented on the information presented in the informational brochure.

Council Member Beltramini inquired about the status of the tax calculator feature on the website in regards to the proposed tax increase. Mr. Lamerato indicated that this feature is currently being designed.

Council Member Beltramini offered data regarding the average size of police departments versus the size of the City of Troy Police Department.

Council Member Howrylak inquired further regarding tax calculator feature on the City's website.

Council Member McGinnis commented on items on the informational brochure that were changed at the last meeting regarding the brochure.

M. REPORTS

M-1 Minutes – Boards and Committees:

- a) Traffic Committee/Final – July 15, 2009
 - b) Parks and Recreation Advisory Board/Final – September 17, 2009
 - c) Library Advisory Board/Final – October 8, 2009
 - d) Downtown Development Authority/Final – October 21, 2009
 - e) Traffic Committee/Final – October 21, 2009
 - f) Historic Commission/Final – October 27, 2009
 - g) Liquor Advisory Committee/Final – November 9, 2009
 - h) Board of Zoning Appeals/Final – November 17, 2009
 - i) Planning Commission Special/Study/Draft – December 1, 2009
 - j) Planning Commission Special/Study/Final – December 1, 2009
 - k) Liquor Advisory Committee/Draft – December 14, 2009
 - l) Election Commission/Final – September 25, 2009
 - m) Election Commission/Draft – December 17, 2009
Noted and Filed
-

M-2 Department Reports:

- a) Council Member Beltramini Travel Expense Report – NLC – FAIR Steering Committee – on October 8-11, 2009
Noted and Filed
-

M-3 Letters of Appreciation:

- a) Letter of Thanks to Chief Mayer from Warren Police Patrol Services Bureau Captain Scott Pavlik Regarding Troy Police Assistance with Special Sweep Operation
 - b) Letter of Appreciation to Chief Mayer from Linda Strand Regarding the Assistance Received from Officer Mairorano
Noted and Filed
-

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

M-5 Communication from City Manager John Szerlag and Human Resources Director Peggy Sears Regarding the Results of Union Elections
Noted and Filed

M-6 Communication from Troy Police Department Regarding 2009 Grant Summary
Noted and Filed

M-7 Communication from Risk Manager Stephen Cooperrider Regarding City Employees’ Dental Insurance Coverage
Noted and Filed

N. STUDY ITEMS

N-1 No Study Items Submitted

O. CLOSED SESSION:

O-1 Closed Session

Resolution #2009-12-385
Moved by Beltramini
Seconded by Kerwin

BE IT RESOLVED, That Troy City Council **SHALL MEET** in Closed Session, as permitted by MCL 15.268 (e) Pending Litigation – *City of Troy v. Susan Sandelman*, Trustee for Esther Jeffrey Trust.

Yes: All-7
No: None

MOTION CARRIED

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

The meeting **RECONVENED** at 9:32 PM.

ADJOURNMENT

The meeting **ADJOURNED** at 9:42 PM.

Louise E. Schilling, Mayor

Barbara A. Pallotta, CMC
Deputy City Clerk

BROWNFIELD REDEVELOPMENT AUTHORITY
FINAL MEETING MINUTES

JULY 21, 2009

The meeting was called to order at 3:01 p.m. at Troy City Hall, Council Boardroom by Bruce Wilberding.

Members Present: Victor Lenivov
Robert Swartz
Joseph Vassallo
Bruce Wilberding (Chairman)

Members Absent: Jim Campbell
Art Cotsonika
Donald Schenk

Also Present: Lori Grigg Bluhm, City Attorney
Mark F. Miller, Secretary/Treasurer
Richard Leach, City Attorney Intern
Patti Holland, Recording Secretary

APPROVAL OF MINUTES

Resolution # BRA 2009-07-01
Moved by Vassallo
Seconded by Lenivov

RESOLVED, that the BRA approve the minutes of May 5, 2009.

Yeas: All (4)
Absent: Campbell, Cotsonika, Schenk

MOTION PASSED

OLD BUSINESS

A. Audio Recording of Meetings

Mr. Miller discussed the options of recording and the cost to the Board. Mr. Miller informed the Board the Planning Department has a tape recorder the Board could use for their meetings.

NEW BUSINESS

A. Amendment of Grand/Sakwa Brownfield Plan

Mr. Miller discussed the amendment and anticipates the public hearing will be scheduled for the October 20, 2009 meeting.

BOARD MEMBER COMMENT

Mr. Lenivov discussed the email he sent to Mr. Licari, City Assessor and the reply he received regarding local school tax capture. Mr. Lenivov requested that if school taxes were collected for a Brownfield Plan in 2008/09, what account was it placed in and what was the amount?

Mr. Lenivov initiated a discussion concerning the 2007-2008 TBRA expenses (excluding Remediation Revolving Fund). Mr. Lenivov noted that while \$26,100 was budgeted, the audit showed \$54,407 being spent. Because the actual expenditures were more than double what was budgeted and were lumped into two descriptions that did not match the budgeted descriptions, Mr. Lenivov requested a more detailed breakout of how much and where the money was spent. Mr. Miller will try to provide that information for the next meeting.

Mr. Lenivov apologized to the Board over the confusion with the budget and asked for the Board to always be informed of any new information and/or changes.

PUBLIC COMMENT

None

Meeting was adjourned at 3:51 p.m.

The next meeting scheduled is October 20, 2009.

Bruce Wilberding, Chairman

Mark Miller, Secretary/Treasurer

A meeting of the Employees' Retirement System Board of Trustees was held on Wednesday, November 11, 2009, at Troy City Hall, 500 W. Big Beaver Road, Troy, MI 48084.

The meeting was called to order at 12:05 p.m.

Trustees Present: Mark Calice
Thomas J. Gordon, II
John M. Lamerato
William R. Need (Ex-Officio)
Steve Pallotta
A. John Szerlag

Trustee Absent: Thomas Rosewarne

Minutes

Resolution # ER – 2009-11- 36

Moved by Pallotta
Seconded by Szerlag

RESOLVED, That the Minutes of the October 14, 2009 meeting be approved.

Yeas: All – 5
Absent: Rosewarne

Other Business – September 30, 2009 Investment Performance

John Grant and Rebecca Sorensen, UBS reviewed our Corporate Bond holdings and the September 30, 2009 Investment Performance.

Other Business – Retirement Requests

Resolution # ER – 2009-11- 37

Moved by Lamerato
Seconded by Gordon

RESOLVED, That the Retirement Request of:

Name	Stephen R. Gallas (Deferred)	Scott Conrad	Suzanne Post	Danny Daniel
Pension Program	DB	DB	DB	DB
Retirement Date	1/27/10	1/12/10	12/1/09	1/16/10
Department	Parks & Recreation	Engineering	Police	Police
Service Time	15 years, 8 months	24 years, 4 months	25 years	19 years

Yeas: All – 5
Absent: Rosewarne

Investments

Resolution # ER – 2009-11- 38

Moved by Szerlag

Seconded by Pallotta

RESOLVED, That the board buy and sell the following investments:

- Buy:**
- 5,000 shares of Apple;
 - 5,000 shares of Wal-Mart;
 - 5,000 shares of Wallgreen;
 - 5,000 shares of Waste Management;
 - 100 shares of Berkshire Hathaway B;
 - 500 shares of Google;
 - 5,000 shares of Republic Services;
- Sell:**
- 13,000 shares of Wells Fargo
 - 7,000 shares of CVS
 - 125,000 shares of Eaton Vance National Municipal Fund

Yeas: All – 5

Absent: Rosewarne

Other Business – Prior Government Service

The following employees were granted Prior Government Service:

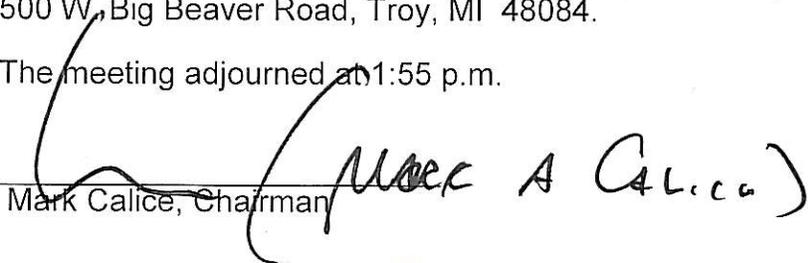
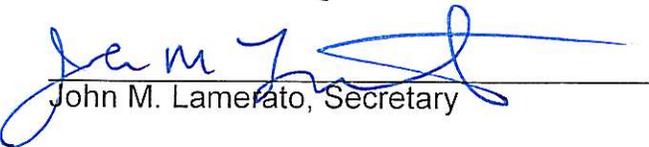
- o Michael Bastien: 2 years, 11 months
- o Barbara Pallotta: 4 years, 11 months
- o Stephen Cooperrider: 1 year, 6 months

Public Comment

No public Comment.

The next meeting is December 9, 2009 at 1 p.m. at Troy City Hall, Conference Room C, 500 W. Big Beaver Road, Troy, MI 48084.

The meeting adjourned at 1:55 p.m.


Mark Calice, Chairman
John M. Lamerato, Secretary

A meeting of the **Troy Youth Council (TYC)** was held on November 18, 2009 at 7:00 PM at Troy Community Center, 3179 Livernois. Vikram Prasad called the meeting to order at 7:06 p.m.

MEMBERS PRESENT: Disha Bora
Supriya Jalukar
Ananya Mukundan
Kelly Niemiec
Sumana Palle
Vikram Prasad
Sevita Rama
Rachita Singh
Rajiv Vutukuru
Emily Wang

MEMBERS ABSENT: Willa Adamo, Shaina Sekhri, David Wylie
VISITORS: Sterling Heights Youth Council
STAFF PRESENT: Scott Mercer, Recreation Supervisor

1. Roll Call

2. Approval of Minutes

Resolution # TY-2009-11-13

Moved by Singh
Seconded by Palle

RESOLVED, That the minutes of September 23, 2009 be approved with changes.

Yes: All – 10
No: 0
Absent: 3 – Adamo, Sekhri, Wylie

3. Attendance Report:

Report reviewed by council members, no comments.

4. City Council Restructuring Options

Youth Council was updated on current status and Sterling Heights members offered assistance to keep Community Center open as they do not have a facility in Sterling Heights.

5. Sterling Heights Youth Council

Newly formed group wanted to meet with TYC to see how meetings were run and to open up communications.

6. Teens Taking Action

No Update.

7. Troy Daze

No Update

8. Motion to Excuse Absent Members Who Have Provided Advance Notification

Tabled until December Meeting

9. Public Comments – None

10. Youth Council Comments – None

**11. Adjournment to Police Station for tour and discussion (7:30pm) – Meeting
adjourned at 8:30 p.m.**

Vikram Prasad, chair

Scott Mercer, Recreation Supervisor

Reminder Next Meeting: December 16 at 7:00 P.M.

The Chairman, Ted Dziurman, called the meeting of the Building Code Board of Appeals to order at 8:30 A.M. on Wednesday, December 2, 2009 in the Lower Level Conference Room of the Troy City Hall.

PRESENT: Ted Dziurman
Keith Lenderman
Tim Richnak
Mark Stimac

ABSENT: Michael Pylar

ALSO PRESENT: Paul Evans, Housing & Zoning Inspector Supervisor
Pam Pasternak, Recording Secretary

ITEM #1 – APPROVAL OF MINUTES – MEETING OF NOVEMBER 4, 2009

Motion by Richnak
Supported by Stimac

MOVED, to approve the minutes of the meeting of November 4, 2009 as written.

Yeas: 4 – Dziurman, Lenderman, Richnak, Stimac
Absent: 1 – Pylar

MOTION TO APPROVE MINUTES CARRIED

ITEM #2 – VARIANCE REQUESTED. JEFF JOHNSON, HARMON SIGNS, 3946-3978 ROCHESTER, ROCHESTER SQUARE, for relief of Chapter 85 to erect a 200 square foot ground sign.

Mr. Stimac explained that the petitioner is requesting relief of Chapter 85 to erect a 200 square foot ground sign with a proposed 5' setback from the planned street right of way. Table 85.02.05 of the Sign Ordinance requires ground signs over 100 square feet in size to be setback more than 30' from the planned street right of way.

This item first appeared before this Board at the meeting of November 4, 2009 and was postponed to this meeting to allow the petitioner the opportunity to stake out the current proposed location; and, also to allow the petitioner the opportunity to stake out alternative locations that could be considered.

Mr. Jeff Johnson was present.

Mr. Richnak stated that he had gone out and taken a good look at the site and believes that the sign will meet the safety concerns expressed at the last meeting.

ITEM #2 – con't.

Mr. Stimac asked if the location staked out on the property is the same location depicted on the plans submitted.

Mr. Johnson stated that he believes the stakes are correct and said that he measured back 1 foot from the easement.

Mr. Stimac said that it appears that the leading edge of the sign would be approximately 6' from the sidewalk.

Mr. Evans asked how far the sign would be south of the driveway.

Mr. Johnson said that the driveway is 15' from the sidewalk and the sidewalk out to Rochester Road is approximately 5 ½' – 6' from the driveway. It is possible that modifications will be done to the driveway at the time the road is widened. The deceleration lane gets wider as it gets closer to Wattles Road. There is also a very mature tree to the south of the property line, which may be removed at the time of construction.

Motion by Richnak
Supported by Lenderman

MOVED, to grant Jeff Johnson, Harmon Signs, 3946-3978 Rochester, Rochester Square, relief of Chapter 85 to erect a 200 square foot ground sign with a proposed 5' setback from the planned street right of way.

- Variance is not contrary to public interest.
- Variance will not have an adverse effect to surrounding property.
- Location of sign will not affect view of oncoming traffic.

Yeas: 4 – Lenderman, Richnak, Stimac, Dziurman
Absent: 1 – Pylar

MOTION TO GRANT VARIANCE CARRIED .

ITEM #3 – VARIANCE REQUESTED. MARK ZOLTOWSKI, ART ONE SIGNS, 5903-5953 JOHN R, EMERALD LAKES PLAZA, for relief of Chapter 85 to erect a 10' tall 32 square foot ground sign.

The petitioner was not present. Mr. Evans indicated that he had spoken to Mr. Zoltowski on December 1, 2009 and was told that they planned to withdraw this request. Mr. Zoltowski was to provide that request in writing but has not done so at this time. This item was moved to the end of the Agenda, Item #6, to allow the petitioner the opportunity to be present.

ITEM #4 – VARIANCE REQUESTED. INTERCITY NEON, 578 W. 14 MILE, for relief of the Ordinance to erect a 107 square foot sign.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to erect a 107 square foot wall sign. This property is zoned B-3. Chapter 85.02.05 (C) (4) of the Sign Ordinance requires that tenant wall signs be located on the face of the area that is occupied by the tenant. The sign is proposed to be located on a portion of the exterior wall that is not occupied by the tenant.

Mr. Walter Schafer of Intercity Neon was present and stated that similar variances have been granted for this site in the past. A second floor corridor is behind this wall. The landlord has approved this request and would like to see this sign in that area.

Mr. Dziurman asked if there was any other location for this sign. Mr. Schafer stated that if the sign was placed on the lower level it would not be visible due to the location of trees in the area.

Mr. Stimac asked if there were other tenants located above the “Famous Labels” sign.

Mr. Schafer explained that there are a number of tenants on the second floor, but there is a corridor located behind this wall. This location is exactly the same as the location that has received variances in the past.

The Chairman opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There are no written approvals or objections on file.

Motion by Richnak
Supported by Lenderman

MOVED, to grant Intercity Neon, 578 W. 14 Mile, relief of Chapter 85 to erect a 107 square foot wall sign.

- Sign will be located on a portion of the exterior wall that is not occupied by the tenant.
- Variance is not contrary to public interest.
- Variance will not have an adverse effect to surrounding property.

Yeas: 4 – Richnak, Stimac, Dziurman, Lenderman
Absent: 1 – Pylar

MOTION TO GRANT VARIANCE CARRIED

ITEM #5 – VARIANCE REQUESTED. JOHN ROGERS, WILLIAM BEAUMONT HOSPITAL, for relief of Chapter 85 to replace four (4) existing directional ground signs with four (4) new directional ground signs; replace two ground signs; and put up an additional wall sign where the sign ordinance limits the site to not more than two signs.

Mr. Stimac explained that the petitioner is requesting relief of Chapter 85 to replace four (4) existing directional ground signs which are between 10 and 27 square feet in area with four (4) new directional ground signs, each measuring 34 square feet in area. They are also asking to replace an existing 164 square foot ground sign with a new 95 square foot sign and to replace an existing 99 square foot ground sign with a new 150 square foot sign. Finally, they are proposing to install a new wall sign measuring 48 square feet in area. This property is zoned C-F (Community Facilities). Chapter 85.02.05 (C) (2) of the Sign Ordinance only allows two signs on this property one up to 100 square feet and a second up to 36 square feet. Based upon previous action of the Board there are currently more than two (2) signs on this property.

A discussion began regarding the existing signage on this site and the different purposes of the signs, e.g. directional, identification.

Mr. John Rogers was present and stated that the main entrance to the hospital has been modified and they want to update the directional signs. The new pedestrian bridge affects the view of the sign to the main entrance. The main entrance sign was originally installed on canopies, which have been removed. The original sign is going to be relocated on the main building as the main entrance has a new building addition. This area is in a state of flux and they want a new sign that states "main entrance".

Mr. Richnak said that he is sure Beaumont has a long range plan and asked if any of the future plans look to change the front face of what people see when traveling on Dequindre.

Mr. Rogers said that to the best of his knowledge there will not be any changes along Dequindre.

Mr. Lenderman asked where the signs are located on the Sterling Heights side of this site.

Mr. Rogers said that there is a sign located diagonally from Sign #21 and another sign located near the driveway that is about 120' north of the bridge that identifies the office building. There is a building sign on the north, south and east sides of the building.

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.

ITEM #5 – con't.

Mr. Stimac asked if the directional signs would be visible to the public driving down Dequindre. Mr. Rogers explained that most of the signs are visible only to the people that are already in the complex.

Mr. Richnak stated that this Board would not want signs that are a distraction to people traveling on Dequindre.

Mr. Rogers explained that the main ground sign, labeled as #33 in the documents submitted, is in a landscaped area, which is planted with flowers on a yearly basis. Mr. Richnak asked how long that sign had been in place. Mr. Rogers said that he did know, but felt that it has been there since the hospital was constructed. Mr. Rogers also stated that some of the signs which had been granted variances are being removed.

Mr. Dziurman asked what the reason was for making the signs larger.

Mr. Rogers stated that Ford & Earl designed the new signs and felt that the size of the letters on the previous signs was too small.

Mr. Richnak stated that he travels along Dequindre a lot and feels that the signs would be appropriately sized.

Mr. Lenderman asked what the hardship was to grant this variance. Mr. Dziurman stated that he thought this site was allowed more signage.

Mr. Stimac explained that this property is zoned C-F (Community Facilities) and this site has multiple uses. If there was only one sign it would probably create a hardship in trying to locate the specific services that are needed. Furthermore, this is quite a large site and it makes the property unique. There are a number of internal signs that help people find the area that they need, as well as directional signs.

Motion by Richnak
Supported by Stimac

MOVED, to grant John Rogers, William Beaumont Hospital, 44201 Dequindre, relief of Chapter 85 to replace four (4) existing directional ground signs with four (4) new directional ground signs 34 square foot each; replace two ground signs =, one 8=95 square foot and the other 150 square foot; and put up an additional 48 square foot wall sign where the sign ordinance limits the site to not more than two signs.

- Variance is not contrary to public interest.
- Variance will not have an adverse effect to surrounding property.
- The site is very large and provides numerous different services at different locations on the site.

ITEM #5 – con't.

- Variance will aid in identification of different areas on this site.
- Variance will aid citizens in locating what they need.

Yeas: 4 – Lenderman, Richnak, Stimac, Dziurman

Absent: 1 – Pylar

MOTION TO GRANT VARIANCE CARRIED

ITEM #6 (ITEM #3) - VARIANCE REQUESTED. MARK ZOLTOWSKI, ART ONE SIGNS, 5903-5953 JOHN R, EMERALD LAKES PLAZA, for relief of Chapter 85 to erect a 10' tall 32 square foot ground sign.

Petitioner is requesting relief of the Ordinance to erect a 10' tall 32 square foot ground sign. This property is zoned B-2. Chapter 85.02.05 (C) (4) of the Sign Code allows two ground signs. Currently there are two ground signs on the property; the first measures 420 square feet in area; the second measures 23 square feet in area. This request exceeds the number of ground signs allowed.

This item first appeared before this Board at the meeting of November 4, 2009 and was postponed to allow the petitioner and the property owner to determine if there are other considerations available to them that would eliminate the need for a variance; and, also to allow the Board members the opportunity to review the other signage on the site.

Motion by Richnak
Supported by Lenderman

MOVED, to deny the request of Mark Zoltowski, Art One Signs, 5903-5953 John R., Emerald Lakes Plaza, for relief of Chapter 85 to erect a 10' tall 32 square foot ground sign.

- Petitioner did not demonstrate a hardship.
- There is ample identification on property.
- Variance would have an adverse effect to surrounding property.

Yeas: 4 – Stimac, Dziurman, Lenderman, Richnak

Absent: 1 – Pylar

MOTION TO DENY REQUEST CARRIED

Mr. Stimac explained that the membership rules for this Board have been changed and this would be the last meeting for Mr. Richnak and Mr. Lenderman and/or Mr. Nelson. Mr. John Szerlag, the City Manager and three qualified citizens would take their places

starting in January 2010. Mr. Stimac also stated that although he would no longer be a voting member of the Board; he would still act as a liaison.

The Building Code Board of Appeals meeting adjourned at 9:15 A.M.

Ted Dziurman, Chairman


Pam Pasternak, Recording Secretary

OLD BUSINESS

- A. Polaris Update—B. Hyland gave an update on the Library's new software, Polaris.
- B. Library Advisory Meeting Date for January 2010

Resolution #LB-2009-12-04

Moved by Zembrzuski
Seconded by Wheeler

RESOLVED, That the January 2010 meeting of the Library Advisory Board be held on Thursday, January 21, 2010.

Yes: 4—Duggan, Gregory, Wheeler, Zembrzuski
No: 0

MOTION CARRIED

REPORTS & COMMUNICATIONS

- A. **Director's Report**—was received and filed. A copy will be attached to the minutes of this meeting. A. Zembrzuski asked why the Library does not take credit cards.
- B. **Suburban Library Cooperative Report**—given by B. Duggan, was received and filed.
- C. **Friends of the Troy Public Library Report**—a printed report was distributed.
- D. **Gifts**—none
- E. **Informational Items**: <http://sl.libcoop.net/troy/lib/eventcalendar.asp>
- F. **Visitors Comments**—were discussed

ADJOURNMENT

Resolution #LB-2009-12-05

Moved by Zembrzuski
Seconded by Wheeler

RESOLVED, To adjourn the meeting.

Yes: 4—Duggan, Gregory, Wheeler, Zembrzuski
No: 0

MOTION CARRIED

The Library Board meeting adjourned at 8:15 P.M.

The next meeting of the Library Advisory Board is Thursday, January 21, 2010, at 7 pm.

Lynne Gregory
Chairman

Phillip Kwik
Recording Secretary

Subj: **Re: library**
Date: 10/30/2009 11:14:05 P.M. Eastern Daylight Time
From: JS Witt
To: Aazemb

Hi Audre -- great to hear from you -- I recall the meeting when the library board said they did not want the boxes -- very strange how things like this get approved -- really hurts the library (I think there is a growing resentment against the city management). take care, Leslie

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

From: Aazemb@aol.com
To: JSWitt@aol.com
Sent: Fri, Oct 30, 2009 10:52 pm
Subject: Re: library

we are talking about closing a couple days if we have to, but nothing for sure yet.

Audre

Friday, November 20, 2009 AOL: Aazemb

The Chairman, Glenn Clark, called the meeting of the Board of Zoning Appeals to order at 7:30 P.M. on Tuesday, December 15, 2009 in Council Chambers of the Troy City Hall.

PRESENT: Michael Bartnik
Glenn Clark
Kenneth Courtney
Edward Kempen
Matthew Kovacs
David Lambert
Lon Ullmann

ALSO PRESENT: Mark Stimac, Director of Building & Zoning
Allan Motzny, Assistant City Attorney
Pam Pasternak, Recording Secretary

ITEM #1 – APPROVAL OF MINUTES – MEETING OF NOVEMBER 17, 2009

Motion by Lambert
Supported by Courtney

MOVED, to approve the minutes of the meeting of November 17, 2009 as written.

Yeas: All – 7

MOTION TO APPROVE MINUTES CARRIED

ITEM #2 – APPROVAL OF ITEM #3 AND ITEM #4

Motion by Courtney
Supported by Kovacs

Yeas: All – 7

RESOLVED, that Item #3 and Item #4 are hereby approved in accordance with the suggested resolutions printed in the Agenda Explanation.

ITEM #3 – VARIANCE REQUESTED. CONGREGATION SHIR-TIKVAH, 3900 NORTHFIELD PARKWAY, for relief to maintain landscaping in lieu of the 4'-6" high masonry-screening wall required along the east side of their off-street parking area where it abuts residential zoned property.

MOVED, to grant Congregation Shir-Tikvah, 3900 Northfield Parkway a three (3) year renewal of relief to maintain landscaping in lieu of the 4'-6" high masonry-screening wall required along the east side of their off-street parking area where it abuts residential zoned property.

ITEM #3 – con't.

- Variance is not contrary to public interest.
- There are no complaints or objections on file.
- Variance would not have an adverse effect to surrounding property.

ITEM #4 – VARIANCE REQUEST. CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS, 2784 E. SQUARE LAKE, for relief of the 4'-6" high masonry wall required along the east and west sides of off-street parking.

MOVED, to grant Church of Jesus Christ Latter Day Saints, 2784 E. Square Lake, a three (3) year renewal for relief of the 4'-6" high masonry wall required along the east and west sides of off-street parking.

- Conditions remain the same.
- There are no complaints or objections on file.

ITEM #5 – VARIANCE REQUESTED. WALLACE HALEY, OF HALEY LAW FIRM PLC, 1890 E. SQUARE LAKE (proposed address), for relief of the Zoning Ordinance to construct a 120' high cellular phone antenna tower within 49' of the west property line where the site abuts residentially zoned property. Paragraph C of Section 20.25.01 requires that the setback of the tower from abutting residentially zoned or used property be at least five times the height of the structure, which would mean that this tower would be required to be at least 600' setback from residentially zoned property.

The petitioner was not present.

Motion by Lambert
Supported by Kempen

MOVED, to move this item to the end of the agenda, Item #7 to allow the petitioner the opportunity to be present.

Yeas: All – 7

MOTION TO MOVE THIS ITEM TO ITEM #7 CARRIED

ITEM #6 – APPROVAL REQUESTED. LARY LLEWELLYN, 475 LOVELL, for approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property.

Mr. Stimac explained that the petitioner is requesting approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property. The utility 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 #6 – con't.

Mr. Llewellyn was present and stated that he parks this vehicle on the east side of his garage where it is screened by landscaping and shrubbery. Mr. Llewellyn said that he does not believe this vehicle detracts from the property surrounding his and is not aware of any objections from his neighbors. Mr. Llewellyn further stated that the reason he needs the vehicle at his home is because he is on call 24 hours a day 7 days a week and is required by Comcast to respond to an emergency call within thirty (30) minutes.

Mr. Clark asked Mr. Llewellyn to describe this vehicle.

Mr. Llewellyn stated that the body of the truck is the same as an F450 pickup truck and with the boom he believes it is approximately 9' tall.

Mr. Bartnik indicated that it would be helpful if the Board members had pictures of this vehicle.

Mr. Clark asked if Mr. Llewellyn was called out in the middle of the night.

Mr. Llewellyn said that he has been called out approximately three times. He is on call 24/7 for a week at a time.

Mr. Kovacs asked if Comcast was aware of the restrictions of the Troy Zoning Ordinance.

Mr. Llewellyn stated that he had contacted his supervisor and was told that it was up to him to appear before this Board to gain approval to keep this vehicle at home.

Mr. Kovacs asked if Comcast had made any other provisions for the parking of this vehicle.

Mr. Llewellyn said that he could park it in Sterling Heights at the Comcast facility located on Van Dyke.

Mr. Kovacs asked where most of Mr. Llewellyn's calls were.

Mr. Llewellyn stated that the bulk of his jobs are in Macomb County, but that he could be called to go anywhere.

Mr. Lambert addressed the requirements for approval of commercial vehicles as dictated by City Council and asked Mr. Llewellyn if had looked into the possibility of building a garage, or adding to the existing garage.

Mr. Llewellyn stated that right now it was not financially feasible to add another accessory building and also stated that power lines run through his property which would make the addition of a garage difficult.

ITEM #6 – con't.

Mr. Kovacs asked who owned this truck and Mr. Llewellyn stated that Comcast owns the truck but it is his option to bring the truck home.

Mr. Kovacs said that it doesn't make sense because of the fact that Mr. Llewellyn does not own this vehicle.

Mr. Stimac explained that the Zoning Ordinance does not dictate the ownership of the vehicle, but rather the owner of the property. Mr. Kovacs said that he feels this is a very unusual situation.

The Chairman opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There are four (4) written approvals on file. There are no objections on file.

Motion by Bartnik
Supported by Courtney

MOVED, to deny approval requested by Lary Llewellyn 475 Lovell for approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property.

- Comcast is asking permission to break the Ordinance and should be the petitioner on the request.

Mr. Bartnik stated that the reason he moved to deny this request is because he finds it offensive that Comcast requires the petitioner to bring this vehicle home rather than leave it at his work place.

Mr. Courtney stated that he believes that Comcast provides this vehicle to its employees so that they do not have to buy a second car. The bulk of the service coverage for the petitioner is in Macomb County.

Mr. Clark stated that he believes this vehicle is very well hidden. Mr. Clark also said that he has friends that have on-call jobs and he does see a problem with this vehicle. Mr. Clark also stated that he would like to see more pictures.

Mr. Bartnik said that Comcast is one of the largest corporations in the world and they should not be allowed to break the law. This is not the petitioner asking for approval it is Comcast.

Mr. Kovacs said that he agrees with what Mr. Bartnik is saying and is struggling with the vehicle in this area. Mr. Kovacs asked how far away the Comcast storage facility is.

ITEM #6 – con't.

Mr. Llewellyn stated that is approximately 7 or 8 miles and is located on Van Dyke near 15 mile.

Mr. Kovacs said that most people drive at least that far to get to work and does not believe that is a hardship. Mr. Kovacs also stated that he understands that Mr. Llewellyn is on call but thinks it is reasonable for Mr. Llewellyn to drive this distance to pick up his truck.

Mr. Llewellyn said that they are required to respond to an emergency situation within 30 minutes of the call and if it takes him longer to respond, that will be reflected at the time he receives his evaluations from Comcast.

Mr. Kovacs said that he understands where Mr. Bartnik is coming from. Comcast is the one asking the petitioner to break the law. Mr. Kovacs said that he would like to see this request postponed for thirty (30) days in order for the petitioner to either bring in a representative from Comcast or to bring in something in writing from Comcast.

Mr. Llewellyn said that he had spoken to his supervisor and was told that he was on his own regarding this appeal.

Mr. Courtney asked if Comcast requires their employees to bring their vehicles home.

Mr. Llewellyn said that he has the option to either bring it home or park it in the storage lot in Sterling Heights.

Mr. Ullmann stated that there is an alternative parking spot for this vehicle and believes this request is unreasonable. There are no Comcast people before this Board protecting their interest and believes this is Comcast's problem, not Mr. Llewellyn's.

Mr. Lambert asked how long Mr. Llewellyn has owned this home. Mr. Llewellyn stated that they have lived in Troy approximately four and one-half years. Mr. Lambert then asked if this vehicle has always been in this location and Mr. Llewellyn stated that it has.

Mr. Kempen stated that he believes Mr. Llewellyn has met the criteria listed as "C" and asked about alternative locations or adding a larger garage.

Mr. Llewellyn said that he had looked at building another garage but it is much too expensive.

Mrs. Llewellyn said that she was quite upset with this Board's reaction to this request as there are a number of very large recreational vehicles as well as other commercial vehicles parked in the area. Furthermore, there are a number of homes on this street that are not kept up.

ITEM #6 – con't.

Mr. Bartnik told Mrs. Llewellyn to call the Building Department to report these violations.

Vote on motion to deny this request.

Yeas: 2 – Ullmann, Bartnik

Nays: 5 – Kovacs, Lambert, Clark, Courtney, Kempen

MOTION TO DENY REQUEST FAILS

Motion by Bartnik

Supported by Kempen

MOVED, to grant Lary Llewellyn, 475 Lovell, approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property for a period of six (6) months.

- Petitioner has met the criteria listed as "B" and "C".

Mr. Bartnik went on to say that the reason he recommended six (6) months is because he feels it is unconscionable that Comcast would ask an employee to do this. Mr. Bartnik also stated that he feels somebody should respond from Comcast.

Mr. Courtney said that he would like to see this request postponed until January to allow Comcast to clarify its position.

Mr. Motzny stated that it is at the Board's discretion to postpone this request.

Motion by Courtney

Supported by Kovacs

MOVED, to postpone the request of Lary Llewellyn, 475 Lovell 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 January 19, 2009.

- To allow the petitioner to obtain a letter from Comcast indicating the use of this vehicle.
- To allow the petitioner to bring in an estimate of the cost of constructing a garage.

Yeas: All – 7

MOTION TO POSTPONE THIS REQUEST UNTIL THE MEETING OF JANUARY 19, 2009 CARRIED

ITEM #7 (ITEM #5) - VARIANCE REQUESTED. WALLACE HALEY, OF HALEY LAW FIRM PLC, 1890 E. SQUARE LAKE (proposed address), for relief of the Zoning Ordinance to construct a 120' high cellular phone antenna tower within 49' of the west property line where the site abuts residentially zoned property. Paragraph C of Section 20.25.01 requires that the setback of the tower from abutting residentially zoned or used property be at least five times the height of the structure, which would mean that this tower would be required to be at least 600' setback from residentially zoned property.

Mr. Stimac explained that the petitioner is requesting a variance to construct a new 120' high cellular phone antenna tower. Paragraph C of Section 20.25.01 requires that the setback of the tower from abutting residentially zoned or used property be at least five times the height of the structure, which would mean that this tower would be required to be at least 600' setback from residentially zoned property.

The petitioners are proposing to place this tower 49' from the west property line where the site abuts residentially zoned property. The adjacent property is currently developed and used as a religious facility.

This item first appeared before this Board at the meeting of November 17, 2009 and was postponed to allow the petitioner the opportunity to review the site for a possible alternate location farther east from the original proposal.

Mr. Stimac further stated that the petitioner had provided revised drawings indicating an alternative location behind the bowling alley which would result in a 208' setback from the west property line.

Mr. Haley was present and stated that they had met with the owner of the bowling alley and got permission to move this tower. They have moved it as far to the east as they could without blocking the existing driveway to the south. Mr. Haley also provided photo's indicating what this tower would like. Mr. Haley said that there are not any parcels in this area that would not require a variance. The setback is based on aesthetics and Mr. Haley believes this tower will fit in with the Master Plan. The setback to the Church building will be over 300' and the house on the church site will now have a setback of 500'. This is an unmanned, unlit facility and consistent with the type of use in this area. The tower will be the most visible at this time of year, but the "monopine" tower will fit in better with the trees in the area. There is no other location to place this tower and Mr. Haley believes this is the parcel that is least obtrusive.

Mr. Ullmann asked how this location was determined to be the best location available.

Mr. Haley stated that AT & T and other carriers look at an area and determine where there is a "hole" that would cause dropped calls, lack of service or blocked calls. This project was started approximately six or seven years ago.

Mr. Ullmann stated that he lives approximately one-half mile from this area and has not had any problems with dropped calls or coverage. Mr. Ullmann further stated that he

ITEM #7 – con't.

travels all over Michigan and does see towers placed every square mile. The service is acceptable in this area and Mr. Ullmann doesn't understand why towers are needed one mile apart.

Mr. Haley stated that urban areas have towers close together because there are a lot of users in the area. Growth is based on the types of use and not necessarily more users. People no longer use cell phones only in their cars but also within their homes. They may get very good coverage from one of the towers in the area. There are a number of other carriers that are interested in this site. There is a lot of traffic in this area and although you may be able to make a call early in the morning, that same call may fail later in the day.

Mr. Ullmann asked how many carriers were in the Bloomfield area. Mr. Haley mentioned a number of carriers and towers in and around Birmingham and Bloomfield.

Mr. Lambert asked what action was taken when they decided to put in a monopine tower versus a regular tower.

Mr. Haley stated that he had appeared before the Planning Commission and they stressed how important this site was and said that they were willing to work with the City and because of the conditions they wanted to do put the best possible tower in this location.

Mr. Lambert asked how a 120' tall tower would compare to the height of the trees in this area.

Mr. Haley said that the trees in this area are quite large and range from 35' in height to 75' in height.

Mr. Courtney asked if the height of the tower covers a larger area.

Mr. Haley said that that the height provides a certain amount of coverage. They want the tower higher than the trees so that there is no interference.

The Chairman opened the Public Hearing.

Mr. Stephon Bagne, an attorney speaking on behalf of Holy Trinity Romanian Orthodox Church stated that this Church was founded in 1970 and has 300 families that attend this parish. The Pastor lives on the property and his home is within the 600' setback required by the Ordinance. The Church is very concerned about the location of this tower and is actually considered re-locating both the Church and the Pastor's home based on health concerns. This Church could have had this tower on their property but because of these concerns they decided not to. There are a number of summer camps, summer school and a playground located at the back of the Church. The Ordinance

ITEM #7 – con't.

requires a 600' setback and there is no indication that this tower is needed. Mr. Bagne said that he travels all over the City and has T-Mobile as his cell phone provider and has never had a problem with dropped or blocked calls. Mr. Bagne also stated that he does not believe it is up to this Board to try and create an even playing field among cell phone competitors. Mr. Bagne's client is very concerned as children are very susceptible to the effects of these towers. The existence of this Church fits in with the Master Plan and the people that live in this City should not have to deal with the detrimental effects of this tower.

Mr. Dumitru Puiu, Council President of the Church was present and spoke about the negative effects of people driving and either talking on cell phones or texting. Mr. Puiu gave a few examples of accidents that were caused because of the use of cell phones. Mr. Puiu went on to explain that they have to raise \$3,000.00 a month to pay the mortgage and other expenses involved with the Church. Mr. Puiu said that they pray, socialize and have services in the evenings. The area behind the Church has a lot of birds and people come and take pictures of them.

Mr. Constantin Marandici, a member of the Church was present. Mr. Marandici stated that he has a master's degree in engineering and stated that the towers in Troy are very dangerous as they emit a low level of radiation. Mr. Marandici had reports substantiating this claim. Mr. Marandici further stated that this is a very serious problem and the Board should follow the 600' setback.

Mr. Kovacs asked if Mr. Marandici had a cell phone and he replied that he did. Mr. Kovacs then asked why Mr. Marandici would keep this cell phone when he has so many concerns about the effects on his health. Mr. Marandici said that he only uses this phone for emergencies.

Father Calin Barbolovici, the Parish Priest was present and stated that he and his family are subscribers to AT & T. Father Barbolovici said that he does not believe another tower is needed in this area because the coverage is so good, both inside and outside his home. Father Barbolovici is against this request.

No one else wished to be heard and the Public Hearing was closed.

Mr. Kovacs expressed concern regarding this request, because there have not been any complaints regarding coverage or dropped calls in this area and believes this tower is not needed.

Mr. Haley said that he did not have a record of dropped or blocked calls and he would be willing to obtain those records if the Board wanted more information.

Mr. Courtney stated that he makes calls all times of the day and has never had dropped calls. Mr. Courtney said that he would like to see more information supporting this

ITEM #7 – con't.

request. Mr. Courtney also asked if the Planning Commission or the petitioner decided that the monopine tower would be better in this location.

Mr. Haley stated that they went to the Planning Commission and discussed the idea of what they were going to do. They supplied pictures of different types of towers and the Planning Commission felt that because of the wooded nature of this site the monopine tower would be more aesthetically pleasing.

Mr. Bartnik asked if there was an impact to utilities from this tower. Mr. Haley said there wasn't any type of impact on utility towers.

Mr. Bartnik asked if one of the requirements for this tower was an environmental impact study. Mr. Haley stated that there is a consulting firm that does that and he is not sure if that has been done.

Mr. Kempen asked if there was any other type of technology available to provide greater service rather than a 120' tower.

Mr. Haley said that there are other options but they only provide minimum coverage. AT & T has looked at them but feels that this is the best solution.

Mr. Kempen asked about the zoning requirement regarding the setback of the tower.

Mr. Stimac explained that this Ordinance went to City Council in 1998 with the recommendation from staff and the Planning Commission that the setback be equal to the height of the tower. At that meeting City Council made a motion to amend that recommendation and stated that the setback should be equal to 5 times the height of the tower.

Mr. Clark said that he feels the petitioner should bring back more information.

Mr. Stimac stated that it is not the job of this Board to grant variances that have the effect of a change to the Ordinance. If the Board feels that the Ordinance should be changed then an application should be made to the Planning Commission, who will then review it and recommend it to City Council.

Mr. Courtney stated that he believes the distance was increased because people were afraid that the towers would fall over.

Mr. Kovacs asked what the setback was to commercial property. Mr. Stimac said that the restrictions apply to property that is residentially zoned or used as residential property.

ITEM #7 – con't.

Motion by Bartnik
Supported by Ullmann

MOVED, to deny the request of Wallace Haley, of Haley Law Firm, PLC, 1890 E. Square Lake for relief of the Zoning Ordinance to construct a 120' high cellular phone antenna tower within 208' of the west property line where the site abuts residentially zoned property. Paragraph C of Section 20.25.01 requires that the setback of the tower from abutting residentially zoned or used property be at least five times the height of the structure, which would be a 600' setback.

- Petitioner has not demonstrated the need for more coverage necessitating the tower.

Mr. Kempen said that the petitioner has indicated that there is enough coverage now but as the use increases there may not be enough coverage in the future.

Mr. Lambert stated that in an ideal world there would be plenty of coverage without any towers. Mr. Lambert said that he would like to see more concrete data before making a decision regarding this request and would like to see it postponed.

Mr. Ullmann stated that the petitioner has failed to demonstrate a hardship. Right now there is adequate coverage and does not see how the Board can grant a variance in case there is a problem in the future.

Mr. Courtney said that he would like to see more data regarding dropped and blocked calls including days and times. Mr. Courtney would like to see this item postponed.

Mr. Stimac reminded Board members that at the last meeting Mr. Bartnik had made a motion to approve this request and that motion was postponed until tonight's meeting. That is the current standing motion.

The Chairman ruled the motion to deny out of order as there was a standing motion for approval that was postponed from the last meeting.

Motion by Courtney
Supported by Kovacs

MOVED, to postpone the request of Wallace Haley, of Haley Law Firm, PLC, 1890 E. Square Lake for relief of the Zoning Ordinance to construct a 120' high cellular phone antenna tower within 500' of the west property line where the site abuts residentially zoned property. Paragraph C of Section 20.25.01 requires that the setback of the tower from abutting residentially zoned or used property be at least five times the height of the structure, which would be a 600' setback until the meeting of January 19, 2010.

ITEM #7 – con't.

- To allow the petitioner to provide more data regarding dropped and blocked calls, including days and times.

Yeas: All – 7

MOTION TO POSTPONE THIS REQUEST UNTIL THE MEETING OF JANUARY 19, 2010 CARRIED

Mr. Lambert asked if the City had a consultant that could provide any impartial review on the information regarding this request.

Mr. Stimac said that he was not aware of such a consultant, but if any information is obtained it will be distributed to Board members.

Mr. Clark asked if the Parish Council could also provide any additional information to the Board and was told that if any new information was provided it would be distributed to Board members.

The Board of Zoning Appeals meeting adjourned at 9:17 with the Chair wishing everyone the happiest of holidays.

Glenn Clark, Chairman



Pam Pasternak, Recording Secretary

A meeting of the **Troy Youth Council (TYC)** was held on December 16, 2009 at 7:00 PM at Troy Community Center, 3179 Livernois. Willa Adamo called the meeting to order at 7:05 p.m.

MEMBERS PRESENT: Willa Adamo
Supriya Jalukar
Kelly Niemiec
Sumana Palle
Vikram Prasad
Shaina Sekhri
Rajiv Vutukuru
David Wylie

MEMBERS ABSENT: Disha Bora, Ananya Mukundan, Sevita Rama, Rachita Singh, Emily Wang

VISITORS: None

STAFF PRESENT: Scott Mercer, Recreation Supervisor

1. Roll Call

2. Approval of Minutes

Resolution # TY-2009-12-14

Moved by Palle
Seconded by Jalukar

RESOLVED, That the minutes of November 18, 2009 are approved.

Yes: All – 8

No: 0

Absent: 5 – Bora, Mukundan, Rama, Singh, Wang

3. Attendance Report:

Report reviewed by council members, Adamo status for September 23 will be changed. No additional comments.

4. City Council Restructuring Options

Youth Council was updated on current status of the special millage election.

Youth council members discussed issue and a resolution was put forward:

Resolution # TY-2009-12-15

Moved by Palle
Seconded by Walle

RESOLVED, That the Troy Youth Council supports and will promote the passage of the special millage election scheduled for February 23, 2010.

Yes: All – 8

No: 0

Absent: 5 – Bora, Mukundan, Rama, Singh, Wang

5. Teens Taking Action

Youth Voices event scheduled for Friday, February 5, 2010.

6. Troy Daze

No changes for 2010.

7. Motion to Excuse Absent Members Who Have Provided Advance Notification

Resolution # TY-2009-12-16

Moved by Sekhri
Seconded by Prasad

RESOLVED that Bora, Mukundan, Singh, Wang are excused.

Yes: 8
No: 0
Absent: 5 - Bora, Mukundan, Rama, Singh, Wang

8. Public Comments – None

9. Youth Council Comments – None

10. Adjournment – Meeting adjourned at 7:35 p.m.

Willa Adamo, chair

Scott Mercer, Recreation Supervisor

Reminder Next Meeting: January 27 at 7:00 P.M.



CITY COUNCIL REPORT

December 29, 2009

TO: John Szerlag, City Manager

FROM: John M. Lamerato, Assistant City Manager/Finance & Administration
Susan A. Leirstein, Purchasing Director

SUBJECT: Final Reporting – BidNet On-Line Auction Services – November 2009

Background

- Resolution #2004-02-075 established the auction fee of 5% and provided approval to use BidCorp with the provision that other on-line auction service options would be considered. BidNet moved forward and implemented an on-line surplus auction service for the MITN System (Michigan Inter-governmental Trade Network), which can be accessed through the City of Troy home web page. MITN is the official e-procurement website used by the City for posting bids, tabulations, quotations, and award information. It was a Purchasing goal that one e-procurement site would be operational for all functions.

Financial Considerations

- In compliance with Resolution #2004-02-075, final reporting is being presented for ten (10) Dell computers, two (2) leather satchels, one (1) lot of miscellaneous garden tools, one (1) grain cradle, one (1) wooden table, one (1) cast iron bath tub, two (2) adult CPR mannequins, one (1) baby CPR mannequin, one (1) HP JetDirect printer, one (1) knitting machine, one (1) lot of sickles and sheep shears, one (1) bucksaw, one (1) couch, one (1) Franklin stove, one (1) lot of miscellaneous kitchen items, one (1) rag rug, one (1) encyclopedia book, one (1) Microfit pressure cuffs (scale, heart-rate, etc), one (1) ipod nano, one (1) 8 channel audio mixer, one (1) wooden printer stand, one (1) TecNec distribution amp, one (1) pipe cutter/viser, one (1) Royal typewriter with case, one (1) plastic planter, one (1) lot of Civil War Times – magazines, one (1) knife display case, one (1) textile art, one (1) lot of baskets and tins, one (1) lot of miscellaneous printing equipment, two (2) adding machines, one (1) decorative plate, one (1) Flexo-meter (fat caliper, grip, processor), one (1) Kenwood stove, one (1) Versace glasses, one (1) Bicentennial commemorative bell, one (1) Fairbanks scale, one (1) stationary bike, one (1) computer desk, and one (1) drafting light were auctioned on-line through BidNet, the City's e-procurement website, from October 21, 2009 and closed by, November 30, 2009.
- Final reporting is also being presented for one (1) Honda Civic, one (1) Chevrolet one ton pickup truck, one (1) Chevrolet Malibu, one (1) New Holland backhoe, and three (3) trailer mounted arrow boards that were auctioned on-line through BidNet, the City's e-procurement website, from October 28, 2009 and closed by, November 30, 2009.

December 29, 2009

To: John Szerlag, City Manager

Re: Final Reporting – BidNet On-Line Auction Services – November, 2009

Financial Considerations - continued

Final sale amounts and fees are listed below:

DESCRIPTION	PROCEEDS	SUB-TOTAL	NET INCOME
(10) Dell computers, scale, adding machines, Misc museum items, exercise bike, and etc	\$ 1,557.01		
(3) Arrow boards, (1) Honda Civic, (1) Chevy Malibu, (1) New Holland backhoe, and (1) Chevy pick up	29,849.00		
5% Buyers' premium – for Auction Fees	1,492.45		
SUB-TOTAL:		\$32,898.46	
	FEES:		
5% (Computers, scale, adding machines, bell, etc) Fee	\$ (\$76.72)		
5% on Vehicles (paid back thru buyer's premium)	(1,492.45)		
featured items for vehicles @ \$5.00 each	(10.00)		
SUB-TOTAL:		(\$1,579.17)	
Sales Tax +6% ((10) computers, scale, bell, etc):	\$ 93.46		
Sales Tax (None on Vehicles):	0.00		
SUB-TOTAL:		\$ 93.46	
			\$ 31,412.75

Legal Considerations

- Farmington Hills, Michigan was the lead agency for the bid process for an on-line auction website. Resolution #2004-02-075.

Policy Considerations

- Sale of surplus property is a statutory requirement of the Purchasing Department. (Chapter 7, Sec 8), no perceived Policy consideration is associated with this item.

Options

- To report final results of November 2009 auctions to City management.
- No action required



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Report for the City of Troy, MI

Detailed Report for Seller: Linda Bockstanz

Reported on 11/30/2009

From: 11/1/2009 To: 11/30/2009

Item ID	Date	Sale Amount	Tax Collected	Charge	Type of Fee	Auction Description	Seller
6206	11/2/2009	5.50	0.33	0.28	Sale	Leather Satchels/Bags	Bockstanz
6215	11/2/2009	2.25	0.14	0.11	Sale	Miscellaneous Tools - Garden	Bockstanz
6216	11/2/2009	6.30	0.38	0.32	Sale	Grain Cradle	Bockstanz
6229	11/2/2009	15.80	0.95	0.79	Sale	Table	Bockstanz
6234	11/2/2009	25.00	1.50	1.25	Sale	Cast Iron Bath Tub	Bockstanz
6266	11/2/2009	17.01	1.02	0.85	Sale	Adult CPR Mannequin	Bockstanz
5365	11/2/2009	61.00	3.66	3.05	Sale	Dell Computer B353	Bockstanz
5347	11/2/2009	41.00	2.46	2.05	Sale	Dell Computer B335	Bockstanz
5498	11/2/2009	4.25	0.26	0.21	Sale	HP JetDirect	Bockstanz
6209	11/2/2009	8.01	0.48	0.40	Sale	Knitting Machine	Bockstanz
6219	11/2/2009	23.45	1.41	1.17	Sale	Sickles and Sheep shears	Bockstanz
6224	11/2/2009	6.30	0.38	0.32	Sale	Bucksaw	Bockstanz
6225	11/2/2009	15.50	0.93	0.78	Sale	Couch	Bockstanz
6265	11/2/2009	5.00	0.30	0.25	Sale	Baby CPR Mannequin	Bockstanz
6213	11/2/2009	41.00	2.46	2.05	Sale	Franklin Stove	Bockstanz
6217	11/2/2009	1.00	0.06	0.05	Sale	Miscellaneous Kitchen lot	Bockstanz
6220	11/2/2009	4.00	0.24	0.20	Sale	Rag Rug	Bockstanz
6228	11/2/2009	4.25	0.26	0.21	Sale	Adding Machine with cover	Bockstanz
6231	11/2/2009	8.50	0.51	0.43	Sale	Edison's Handy Encyclopedia Book	Bockstanz
6268	11/2/2009	21.51	1.29	1.08	Sale	Adult CPR Mannequin 1	Bockstanz
6238	11/2/2009	25.00	1.50	1.25	Sale	Microfit Pressure Cuffs-Scale-Heart Rate	Bockstanz
5639	11/2/2009	15.00	0.90	0.75	Sale	Dell Computer B383	Bockstanz
5621	11/2/2009	62.76	3.77	3.14	Sale	i Pod Nano	Bockstanz
5944	11/2/2009	51.00	3.06	2.55	Sale	8 Channel Audio Mixer	Bockstanz
5958	11/2/2009	5.00	0.30	0.25	Sale	Wood Storage cart or Printer Stand	Bockstanz
5966	11/2/2009	10.00	0.60	0.50	Sale	Dell Optiplex Computer B402	Bockstanz
5972	11/2/2009	15.00	0.90	0.75	Sale	Dell Computer B406	Bockstanz
5974	11/2/2009	12.00	0.72	0.60	Sale	Dell Computer B407	Bockstanz
5980	11/2/2009	29.50	1.77	1.48	Sale	Dell Computer B413	Bockstanz
5975	11/2/2009	12.00	0.72	0.60	Sale	Dell Computer B408	Bockstanz
5978	11/2/2009	20.50	1.23	1.03	Sale	Dell Computer B411	Bockstanz
5955	11/2/2009	3.00	0.18	0.15	Sale	TecNec Distribution Amp	Bockstanz
6208	11/2/2009	29.00	1.74	1.45	Sale	Pipe Cutter/Visc	Bockstanz
6210	11/2/2009	5.50	0.33	0.28	Sale	Royal Typewriter with Case	Bockstanz

6211	11/2/2009	10.50	0.63	0.53	Sale	Plastic Planter	Bockstanz
6212	11/2/2009	37.00	2.22	1.85	Sale	Civil War Times - Magazines	Bockstanz
6222	11/2/2009	10.25	0.62	0.51	Sale	Miscellaneous Printing Equipment	Bockstanz
6223	11/2/2009	15.50	0.93	0.78	Sale	Knife Display Case	Bockstanz
6226	11/2/2009	4.00	0.24	0.20	Sale	Textile Art	Bockstanz
6227	11/2/2009	7.30	0.44	0.37	Sale	Adding Machine	Bockstanz
6230	11/2/2009	2.00	0.12	0.10	Sale	Baskets and Tins	Bockstanz
6232	11/2/2009	5.50	0.33	0.28	Sale	Decorative Plate	Bockstanz
6233	11/2/2009	2.00	0.12	0.10	Sale	Miscellaneous Lot of items	Bockstanz
6237	11/2/2009	50.00	3.00	2.50	Sale	Flexometer-Fat Caliper-Grip-Microfit Processor	Bockstanz
6235	11/2/2009	100.99	6.06	3.85	Sale	Kenwood Stove	Bockstanz
5979	11/2/2009	21.00	1.26	1.05	Sale	Dell Computer B412	Bockstanz
5490	11/2/2009	167.50	10.05	8.38	Sale	Versace Glasses	Bockstanz
6204	11/2/2009	145.77	8.75	7.29	Sale	Bicentennial Commemorative Bell	Bockstanz
6205	11/2/2009	86.30	5.18	4.32	Sale	Fairbanks Scale	Bockstanz
6236	11/2/2009	252.50	15.15	12.63	Sale	Stationary Bike	Bockstanz
6477	11/23/2009	10.00	0.60	0.50	Sale	Computer Desk	Bockstanz
6475	11/23/2009	17.01	1.02	0.85	Sale	Drafting Light	Bockstanz
6370	11/30/2009	4,450.00	222.50	222.50	Sale	2003 Honda Civic	Bockstanz

Total Sales Amount	Total Tax Collected	Total Amount Charged	Total Payments	Total Balance Due for the selected date range	Total Balance Due
\$6,007.01	\$315.96	\$299.22	0	\$299.22	\$299.22



MITN Auctions	National Auctions	Auctions Main Menu	HELP/FAQ	Contact Support	MITN Admin Menu
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[Report for the City of Troy, MI](#)

Detailed Report for Seller: Samuel Lamerato

Reported on 11/30/2009

11/01/2009 To: 11/30/2009

<u>Item ID</u>	<u>Date</u>	<u>Sale Amount</u>	<u>Tax Collected</u>	<u>Charge</u>	<u>Type of Fee</u>	<u>Auction Description</u>	<u>Seller</u>
6302	11/1/2009	0	0.00	5.00	Featured Item	2004 Dodge Stratus Veh. # 834	Lamerato
6309	11/1/2009	0	0.00	5.00	Featured Item	2005 Ford Crown Victoria - Veh. #994	Lamerato
6030	11/2/2009	3,098.00	154.90	154.90	Sale	1998 Chevrolet 1 Ton Crew Cab - Veh. #227	Lamerato
6032	11/2/2009	16,700.00	835.00	835.00	Sale	2000 New Holland Backhoe Model 675E - Equip. #342	Lamerato
5774	11/4/2009	600.00	30.00	30.00	Sale	1995 Trailer Mounted Arrow Board - Equip. #463	Lamerato
5775	11/4/2009	650.00	32.50	32.50	Sale	1995 Trailer Mounted Arrow Board Equip. #465	Lamerato
5776	11/4/2009	700.00	35.00	35.00	Sale	1996 Trailer Mounted Arrow Board Equip. #464	Lamerato
6027	11/4/2009	3,651.00	182.55	182.55	Sale	2000 Chevrolet Malibu - Veh. #175	Lamerato

<u>Total Sales Amount</u>	<u>Total Tax Collected</u>	<u>Total Amount Charged</u>	<u>Total Payments</u>	<u>Total Balance Due for the selected date range</u>	<u>Total Balance Due</u>
\$25,399.00	\$1,269.95	1,279.95	\$0.00	1,279.95	1,279.95

VEHICLE AUCTION REPORT

November 2009

<i>NUMBER</i>	<i>MAKE</i>	<i>MODEL</i>	<i>YEAR</i>	<i>AUCTION FEE</i>	<i>AUCTION PRICE</i>
175	CHEVROLET	MALIBU	00	\$182.55	\$3,651.00
227	CHEVROLET	CREW CAB PICKUP	98	\$154.90	\$3,098.00
342	NEW HOLLAND	675E BACKHOE	00	\$835.00	\$16,700.00
463	TRAFCON	ARROW BOARD/TRL	95	\$30.00	\$600.00
464	TRAFCON	ARROW BOARD/TRL	96	\$35.00	\$700.00
465	TRAFCON	ARROW BOARD/TRL	95	\$32.50	\$650.00
				Featured Item Fee (\$5.00 X 2)	\$10.00
	TOTALS			\$1,279.95	\$25,399.00

Note: Auction fee paid by buyer. Featured item fee paid by City.

Total income from sale of auction vehicles less featured item fee (\$10.00) \$25,389.00

Prepared by: Samuel P. Lamerato, Superintendent of Fleet

Monday, December 21, 2009

Page 1 of 1



TO: Members of Troy City Council
FROM: John Szerlag, City Manager
Lori Grigg Bluhm, City Attorney
Gary Mayer, Police Chief
DATE: December 28, 2009
SUBJECT: Mark Havas

Mr. Mark Havas has appeared at the last two City Council meetings, and has made allegations that the City has allegedly failed to fulfill its legal responsibilities by prosecuting his parents for an alleged possession of a stun gun. Although we have previously refrained from publicly detailing the investigative information in an effort to protect the privacy of the individuals involved, a brief response is required to refute the statements given by Mr. Havas in the public comment portion during the last two City Council meetings.

Mr. Havas sent a letter to the City of Troy (City Attorney with a copy to the Police Department) on April 25, 2006. In this letter, which has already been forwarded to you by Mr. Havas, Mr. Havas indicates that he has personally seen Taser in the possession of his parents. He further states that he is willing to “testify under oath” that his parents illegally possess Tasers.

The Troy Police Department initiated an investigation of April 28, 2006. Mr. Havas’ father voluntarily discussed this matter with the police officers investigating the case, and voluntarily turned over one stun gun, after being informed that although stun guns are legal in other states, such as the one where it was purchased, they are illegal in Michigan. At that time, the City did not issue any felony criminal charges against Mr. Havas’ father, taking into account all of the circumstances. The City also did not pursue obtaining a search warrant for the home or the business or the cars of Mr. Havas’ parents, since there were some concerns that the required probable cause could not be established.

Mark Havas’ letter was also sent to the Oakland County Prosecutor’s Office and also to the Oakland County Sheriff, the Michigan State Police, and the Michigan Attorney General. Mark Havas had previously been informed, due to other contacts with the City, that these other public entities have jurisdiction to pursue a criminal prosecution, as requested by Mr. Havas. These entities have similarly not provided Mr. Havas with his requested relief, after reviewing all of the circumstances of the case.

Mr. Havas, through his public comments, is now again urging a felony prosecution of his parents for an incident that occurred more than three years ago. The Oakland County Prosecutor’s Office has recently declined to issue a warrant, and the City Attorney’s Office does not have jurisdiction over felony prosecutions.