

# AGENDA

Regular Meeting of the

## CITY COUNCIL OF THE CITY OF TROY

JANUARY 10, 2011  
CONVENING AT 7:30 P.M.

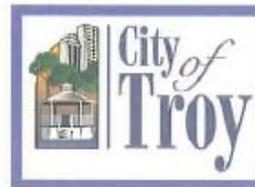
Submitted By  
The City Manager

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

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TO: The Honorable Mayor and City Council  
Troy, Michigan

FROM: 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





# CITY COUNCIL AGENDA

January 10, 2011 – 7:30 PM  
Council Chambers  
City Hall - 500 West Big Beaver  
Troy, Michigan 48084  
(248) 524-3317

**INVOCATION: Pastor Dan Lewis of Troy Christian Chapel** **1**

**PLEDGE OF ALLEGIANCE:** **1**

**A. CALL TO ORDER:** **1**

**B. ROLL CALL:** **1**

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

No Presentations 1

**D. CARRYOVER ITEMS:** **1**

No Carryover Items 1

**E. PUBLIC HEARINGS:** **1**

No Public Hearings 1

**F. PUBLIC COMMENT:** **1**

**G. RESPONSE / REPLY TO PUBLIC COMMENT** **2**

**H. POSTPONED ITEMS:** **2**

No Postponed Items 2

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- b) Downtown Development Authority/Draft – September 15, 2010..... 7
- c) Planning Commission Special-Study/Final – October 26, 2010..... 7
- d) Liquor Advisory Committee/Final – November 8, 2010 ..... 7
- e) Employees’ Retirement System Board of Trustees/Final – November 10, 2010 ..... 7
- f) Board of Zoning Appeals/Draft, November 16, 2010 ..... 7
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- c) City Council Expense Report – Month of January 2011 ..... 7

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**INVOCATION: Pastor Dan Lewis of Troy Christian Chapel**

**PLEDGE OF ALLEGIANCE:**

**A. CALL TO ORDER:**

**B. ROLL CALL:**

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

- b) Excuse Absent Council Members:

Suggested Resolution

Resolution #2011-01-

Moved by

Seconded by

RESOLVED, That Troy City Council hereby **EXCUSES** the absence of \_\_\_\_\_ at the Regular City Council Meeting of Monday, January 10, 2011 due to \_\_\_\_\_.

Yes:

No:

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

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No Presentations

**D. CARRYOVER ITEMS:**

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No Carryover Items

**E. PUBLIC HEARINGS:**

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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. RESPONSE / REPLY TO PUBLIC COMMENT**

**H. POSTPONED ITEMS:**

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**No Postponed Items**

**I. REGULAR BUSINESS:**

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**I-1 Board and Committee Appointments: No Appointment/s Scheduled**

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**I-2 Board and Committee Nominations: No Nomination/s Scheduled**

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**I-3 Request for Closed Session – No Closed Session Requested**

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**I-4 Bid Waiver: Integrated Security Management System Expansion Project**

Suggested Resolution

Resolution #2011-01-

Moved by

Seconded by

WHEREAS, SimplexGrinnell is an authorized, licensed installer in Michigan of the Andover Controls security system;

WHEREAS, It is desirable that the same security system installed at various municipal facilities throughout the City of Troy be expanded at the Troy Family Aquatic Center and the Fire-Police Training facility; and

WHEREAS, The Police Department has remote access to monitor video and alarms at all facilities from a central location with compatible equipment and software; and

WHEREAS, Due to the complexity of the system, it is desirable to allow the company who programmed and currently maintains the system to expand the application, thus avoiding corruption of the programming;

NOW, THEREFORE, BE IT RESOLVED, That Troy City Council hereby **WAIVES** formal bidding procedures and hereby **AUTHORIZES** the City of Troy to enter into a contract with SimplexGrinnell of Farmington Hills, MI, for labor and materials to expand the Integrated Security Management System for an estimated total cost of \$35,257.00, in accordance with their proposals dated 16-Nov-10 and 27-Dec-10, copies of which shall be **ATTACHED** to the original Minutes of this meeting.

Yes:

No:

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### **I-5 Troy Historical Society Request for “Seed Money”**

#### Suggested Resolution

Resolution #2011-01-

Moved by

Seconded by

#### **(a) Troy Historical Society Letter of Agreement**

CITY MANAGEMENT PROPOSED RESOLUTION:

RESOLVED, That the Troy City Council hereby **SUPPORTS** the concepts of a potential agreement between the City of Troy and the Troy Historical Society, a not-for-profit corporation, to assume operational management of the Troy Museum & Historic Village, and hereby **DIRECTS** City Administration to prepare a formal Letter of Agreement for presentation to City Council no later than February 28, 2011.

and

#### **(b) Troy Historical Society Seed Money**

CITY MANAGEMENT PROPOSED RESOLUTION:

RESOLVED, That the Troy City Council hereby **GRANTS** “seed money” not to exceed \$50,000 to the Troy Historical Society, a not-for-profit corporation, with the funds to be used to retain consultants and equipment to assist their efforts to improve the Museum’s programmatic and fiscal sustainability;

BE IT FURTHER RESOLVED, That the Troy Historical Society will **PROVIDE** necessary funds in excess of \$50,000.

Yes:

No:

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**J. CONSENT AGENDA:**

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

Resolution #2011-01-

Moved by

Seconded by

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

Yes:

No:

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

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

Resolution #2011-01-

RESOLVED, That Troy City Council hereby **APPROVES** the Minutes of the Regular City Council Meeting of December 13, 2010 as submitted.

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

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**J-4 Standard Purchasing Resolutions****a) Standard Purchasing Resolution 4: Cooperative Programs - Server Upgrade and SAN Expansion Project**Suggested Resolution

Resolution #2011-01-

WHEREAS, The Police and Fire Departments' utilization of digital technology in day-to-day operations continues to grow, and

WHEREAS, Six (6) servers are at or near their end of life and need to be replaced by utilizing server virtualization uploaded on two physical servers with the ability to run up to twenty "virtual" servers, which will reduce operating and hardware purchase costs over time;

NOW, THEREFORE, BE IT RESOLED, That the Troy City Council hereby **APPROVES** contracts to purchase hardware and software from approved cooperative programs at estimated costs of \$72,200.00 per Attachment A; and recurring costs estimated at \$3,925.00 per year.

**b) Standard Purchasing Resolution 1: Award to Low Bidder – Sidewalk Replacement and Installation Program**Suggested Resolution

Resolution #2011-01-

RESOLVED, That Troy City Council hereby **AWARDS** a contract to complete the Sidewalk Replacement and Installation Program for FY 2010/11 with options to renew for two additional one-year periods to the low total bidder, Rotondo Construction, Co of Farmington Hills, MI, at unit prices contained in the bid tabulation opened November 23, 2010, a copy of which shall be **ATTACHED** to the original Minutes of this meeting, the cost of which shall not exceed budgetary limitations; and

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

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**J-5 Michigan Association of Home Builders, et. al. v. City of Troy**Suggested Resolution

Resolution #2011-01-

RESOLVED, That the Troy City Council hereby **AUTHORIZES** and **DIRECTES** the City Attorney to represent the City of Troy in any and all claims and damages in the matter of *Michigan Association of Home Builders; Associated Builders and Contractors of Michigan; and Michigan Plumbing and Mechanical Contractors Association, Michigan Non-Profit Corporations v. City of Troy*; furthermore, the City Attorney is **AUTHORIZED** to pay necessary costs and expenses and to retain any necessary expert witnesses to adequately represent the City.

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**J-6 Removal of Overhead “Keep Right” Sign – Square Lake Road, East of Crooks Road**Suggested Resolution

Resolution #2011-01-

RESOLVED, That the Troy City Council hereby **APPROVES** the Road Commission for Oakland County agreement for the removal of the overhead “Keep Right” sign located on Square Lake Road, east of Crooks Road at no cost to the City of Troy, and **AUTHORIZES** the Mayor and City Clerk to **EXECUTE** the documents, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

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**J-7 Request for Public Hearing on January 31, 2011 for Community Development Block Grant (CDBG) Program Years 2008 and 2009 Reprogramming of Funds**Suggested Resolution

Resolution #2011-01-

RESOLVED, That the Troy City Council hereby **SCHEDULES** a Public Hearing on January 31, 2011 at 7:30 PM, or as soon thereafter as possible, for the purpose of hearing public comments

on reprogramming 2008 and 2009 Community Development Block Grant (CDBG) funds to the Section 36 Park Project.

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**J-8 David J. Smith v. Troy Police Officer Gregory Stopczynski**

Suggested Resolution

Resolution #2011-01-

RESOLVED, That the Troy City Council hereby **AUTHORIZES** and **DIRECTS** the City Attorney to represent Troy Police Officer Gregory Stopczynski and the City of Troy in any and all claims and damages in the matter of *David J. Smith v. Officer Gregory Stopczynski* (52-4<sup>th</sup> District court Case No. 2010-C03095-GC); furthermore, the City Attorney is authorized to pay necessary costs and expenses and to retain any necessary expert witnesses to adequately represent the City's interest.

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**J-9 Application for New SDM License for Picano Restaurant, Inc.**

**(c) New License**

Suggested Resolution

Resolution #2011-01-

RESOLVED, That the Troy City Council hereby **CONSIDERS** for **APPROVAL** Picano Restaurant, Inc. for a New SDM License to be held in conjunction with a 2010 Class C licensed business with Dance Permit located at 3775 Rochester Road, Troy, MI 48084 Oakland County {MLCC Req. #564371} "above all others"; and hereby **AUTHORIZES** the Chief of Police to **EXECUTE** the document, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

**(d) Agreement**

Suggested Resolution

Resolution #2011-01-

WHEREAS, The Troy City Council deems it necessary to enter into 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;

NOW, THEREFORE, BE IT RESOLVED, That the Troy City Council hereby **APPROVES** an agreement with Picano Restaurant, Inc. for a New SDM License to be held in conjunction with a 2010 Class C licensed business with Dance Permit located at 3775 Rochester Road, Troy, MI 48084, Oakland County {MLCC Req. #564371} and hereby **AUTHORIZES** the Mayor and City Clerk to **EXECUTE** the agreement, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

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

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**K-1 Public Hearing Announcements – None Submitted**

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

**L. COUNCIL REFERRALS:**

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

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No Council Referrals Advanced

**M. COUNCIL COMMENTS**

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No Council Comments Advanced

**N. REPORTS**

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

- a) Downtown Development Authority/Draft – August 18, 2010
- b) Downtown Development Authority/Draft – September 15, 2010
- c) Planning Commission Special-Study/Final – October 26, 2010
- d) Liquor Advisory Committee/Final – November 8, 2010
- e) Employees' Retirement System Board of Trustees/Final – November 10, 2010
- f) Board of Zoning Appeals/Draft, November 16, 2010
- g) Board of Zoning Appeals/Final, November 16, 2010
- h) Planning Commission Special-Study/Final – November 23, 2010
- i) Liquor Advisory Committee/Draft – December 13, 2010

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**N-2 Department Reports:**

- a) Council Member Beltramini Travel Expense Report – National League of Cities Congress of Cities in Denver, CO on November 30 through December 5, 2010
- b) 2010 Fourth Quarter Litigation Report
- c) City Council Expense Report – Month of January 2011

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**N-3 Letters of Appreciation:**

- a) Letter of Appreciation from Zora Hargrave to Carla Vaughan, Thank You for Allowing the Continuation of Senior Activities
- b) Letter of Appreciation from Patricia R. Rosen, Executive Director, Care House of Oakland County, to Police Chief Gary Mayer, Thank You to Terry Colussi, Pat Glasysz and Troy Command Officers Association for Donations for Children of CARE House of Oakland County
- c) Letter of Appreciation from Major Richard Amion, Miami-Dade Police Department, to Police Chief Gary Mayer, Recognizing Efforts of Lt. Bjork, P.O. Piltz, P.O. Garcher, P.O. Brazel, P.O. Huck, CS Jelley, CS Strasz, PSA Sherlinck in Recovery of a Juvenile

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

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**N-5** House Bill No. 6572 – Construction Zone Property Tax Relief Bill, aka “Adverse Construction Specific Tax Act”

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**N-6** Snow and Ice Control – January 6, 2011

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**N-7** RCOC Snow and Ice Control Contract Expense Report – January 1, 2011

**O. STUDY ITEMS**

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**O-1** Update on Billy Casper Golf

**P. CLOSED SESSION:**

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**P-1** No Closed Session Requested

**Q. ADJOURNMENT**

Respectfully submitted,



John Szerlag, City Manager

**FUTURE CITY COUNCIL PUBLIC HEARINGS:**

**Industrial Development District (IDD); Plant Rehabilitation District (PRD); Industrial Facilities Exemption Certificate (IFEC); and Plant Rehabilitation Exemption Certificate (PREC):**

Monday, January 24, 2011- Meritor Heavy Vehicle Systems, LLC (2135 W. Maple)

**SCHEDULED REGULAR CITY COUNCIL MEETINGS:**

- Monday, January 24, 2011 ..... Regular Meeting
- Monday, January 31, 2011 ..... Regular Meeting
- Monday, February 7, 2011 ..... Regular Meeting
- Monday, February 21, 2011 ..... Regular Meeting
- Monday, February 28, 2011 ..... Regular Meeting
- Monday, March 7, 2011 ..... Regular Meeting
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- Monday, March 28, 2011 ..... Regular Meeting
- Monday, April 4, 2011 ..... Regular Meeting
- Monday, April 18, 2011 ..... Regular Meeting
- Monday, April 25, 2011 ..... Regular Meeting

**SCHEDULED SPECIAL CITY COUNCIL MEETINGS:**

- Monday, January 17, 2011 @ 6:00 PM ..... Special Meeting
- Monday, January 24, 2011 after Regular Meeting ..... Special Meeting



## CITY COUNCIL AGENDA ITEM

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December 28, 2010

To: John Szerlag, City Manager

From: John M. Lamerato, Assistant City Manager/Finance & Administration  
 Susan A. Leirstein, Purchasing Director  
 Gary G. Mayer, Chief of Police  
 William Nelson, Fire Chief  
 Carol Anderson, Parks and Recreation Director

Subject: Bid Waiver: Integrated Security Management System Expansion Project

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### Background

- This memo is written to request approval to add six additional cameras to the Troy Family Aquatic Center. Approval is also requested to add five additional card readers, change one fixed camera to a pan, tilt, zoom camera, and add door monitoring capability to the fire tower door and two overhead bay doors at the Troy Fire-Police Training Facility.
- SimplexGrinnell Fire Protection and Security Services provided the security system during the Police and Fire Building Renovation and Addition project. SimplexGrinnell was the primary contractor and responsible for installation and programming of this complex and comprehensive system.
- In the past year and a half, the system has been expanded to provide video security and access control by installing cameras and/or card readers at the Community Center, the Public Library, the Nature Center, the Fire-Police Training Facility, and the Parks and Recreation building on the DPW grounds. About four years ago the DPW facility was fully integrated into the system with card reader access and video monitoring. Two years ago, card readers and panic alarms were installed in the Finance, Information Technology, and City Clerk Offices.
- The controlling software application is "Continuum" by Andover Controls. This application is programmed to control every piece of hardware in the security system. Due to the complexity of the system, it is desirable to allow the company who programmed and currently maintains the system to expand the application, thus avoiding corruption of the programming.
- By utilizing existing access controlling hardware and software, costs are minimized and standardization established for all facilities. Further, by utilizing the existing security system infrastructure and network, optimum system functionality is met.
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## CITY COUNCIL AGENDA ITEM

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December 28, 2010

To: John Szerlag, City Manager

Re: Waiver – Security System Expansion Project

- The system provides the ability to control and monitor all aspects of the security system locally at all facilities; but also provides remote access for the Police personnel to monitor video and alarms from a central location. This benefits the Police Department who may have to respond to an alarm or other type of incident at any City facility.
- This is an ongoing project proposed by the City's Workplace Security Committee to make the surrounding environment safe and secure for all who work in and patronize our facilities.

### Recommendation

- No benefit would be derived from soliciting formal bids. City management is requesting a waiver of the formal bid process and authorization to utilize the services of SimplexGrinnell of Farmington Hills to expand the security system video cameras at the Family Aquatic Center at an estimated cost of \$13,359.00 as detailed in the attached proposal dated 16-Nov-10. Also requested is authorization to expand the card access, video capabilities, and door monitoring at the Fire-Police Training Center at an estimated cost of \$21,898.00. This reflects a discount of 10% (\$2,433.00) for running concurrent projects as detailed in the proposal dated 27-Dec-10.

### Fund Availability

- Funds are available in the Aquatic Center, General Equipment capital account; the Fire Department, Administration, General Equipment capital account and the Police Department, Administration, Office Renovation capital account.



Fire & Security

SimplexGrinnell

A Division of TYCO International

QUOTATION

Date	Quotation No.
	16-Nov-10 520415-1116-10-02
Vendor Code No.	

Issuing Office: 24747 HALSTED ROAD, FARMINGTON HILLS, MI. 48335

**TO: City Of Troy Police Dept.**  
 500 West Big Beaver Road  
 Troy, MI. 48084  
 Attn: Wendell Moore

Job Name and Address
City Of Troy
Parks & Recreation
Aquatic Center - Security System
Proposal

Shipping Terms F.O.B. Shipping Point

Project/Reference No.	Page of
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ITEM	QUANTITY	MODEL NO.	DESCRIPTION	UNIT PRICE	EXTENSION
<b>*** CITY OF TROY - AQUATIC CENTER SECURITY PROPOSAL ***</b>					
<b>PROJECT DESCRIPTION:</b>					
Provide materials and labor services to install security cameras and wireless transmitters at the City of Troy Aquatic Center. Listed below is our break-out pricing based on site walk through, dated 11/09/2010.					
Our proposal includes the necessary services, materials, engineering, programming, start-up and debug for the security card access control additions required for the above referenced scope of work.					
<b>CCTV SURVEILLANCE SYSTEM:</b>					
* Provide and install (2) fixed cameras at the main building, these cameras will be aimed at the first aid office entrance on the pool side.					
* Provide and install (2) fixed cameras at the concession stand. The signals and power will be homerun to the main building via existing underground conduit.					
* Provide and install (2) fixed pole mounted wireless cameras at the pool area. The wireless receivers for these cameras will be mounted near the existing units.					
1	4	ICS151-CRV3A	Pelco Camclosure in ceiling clear dome camera, color	\$483.00	\$1,932.00
2	4	ISC150-P	Camclosure ceiling panel	\$30.00	\$120.00
3	2	DF5HD-PG-E1	Pelco Heavy duty Dome camera w/ enclosure	\$818.00	\$1,636.00
4	2	DF5LINERKIT	Pelco slotted dome liner kit	\$14.00	\$28.00
5	2	IWM-GY	Pelco wall mount bracket	\$72.00	\$144.00
6	2	WCS1-4	Pelco camera power supply	\$114.00	\$228.00
7	12	YV-83BB3BK	Coax jumper cables	\$5.00	\$60.00
8	2	M5-PTZ900	MICROTEK wireless transmitter & receiver	\$797.00	\$1,594.00
9	1	Lot	Electrical Installation	\$5,952.00	\$5,952.00
10	1	Lot	System Engineering & Drafting	\$332.00	\$332.00
11	1	Lot	System Programming	\$327.00	\$327.00
12	1	Lot	System Test, Check-out & Start-up	\$654.00	\$654.00
13	1	Lot	Project Management & Coordination	\$352.00	\$352.00
<b>SUB-TOTAL:</b>					<b>\$13,359.00</b>

SIMPLEXGRINNELL offers to furnish the above, subject to the terms and conditions appearing on the face and on the reverse side hereof, for the sum of

**THIS QUOTATION DOES NOT INCLUDE ANY TAXES, INSTALLATION, INSTALLATION MATERIALS OR ANY LABOR OR SERVICES UNLESS SPECIFIED ABOVE.**

Any alteration or change from the above will be performed following the acceptance by SIMPLEXGRINNELL of Purchaser's Written Order and will become an additional cost at GINNELL then current charges. This Quotation automatically expires 30 days from the date shown above. All orders are subject to acceptance by SIMPLEXGRINNELL.

SIMPLEXGRINNELL	TITLE	J.KEITH
By:		SALES
<b>ACCEPTANCE OF QUOTATION</b>	The prices, specifications, terms and conditions contained herein, including the reverse side hereof, are hereby accepted.	
Purchaser	Date	U:\TROY\P&R\AQUATIC CNTR.XLS
		P.O. No.
By:	Title	



Fire & Security

SimplexGrinnell

A Division of TYCO International

QUOTATION

Date	Quotation No.
	16-Nov-10 520415-1116-10-02
Vendor Code No.	

Issuing Office: 24747 HALSTED ROAD, FARMINGTON HILLS, MI. 48335

TO: **City Of Troy Police Dept.**  
 500 West Big Beaver Road  
 Troy, MI. 48084  
  
 Attn: Wendell Moore

Job Name and Address
City Of Troy
Parks & Recreation
Aquatic Center - Security System
Proposal

Shipping Terms F.O.B. Shipping Point

Project/Reference No.	Page of
	2   2

ITEM	QUANTITY	MODEL NO.	DESCRIPTION	UNIT PRICE	EXTENSION
<p><b>NOTES &amp; CLARIFICATION TO OUR BID:</b></p> <p>1) SimplexGrinnell Standard Terms and Conditons Apply.</p> <p>2) All work based on normal working hours Mon-Fri 7:30am - 4:30pm</p> <p>3) Warranty is for one year.</p> <p>4) Owner to furnish network connection.</p>					

SIMPLEXGRINNELL offers to furnish the above, subject to the terms and conditions appearing on the face and on the reverse side hereof, for the sum of \_\_\_\_\_

**THIS QUOTATION DOES NOT INCLUDE ANY TAXES, INSTALLATION, INSTALLATION MATERIALS OR ANY LABOR OR SERVICES UNLESS SPECIFIED ABOVE.**

Any alteration or change from the above will be performed following the acceptance by SIMPLEXGRINNELL of Purchaser's Written Order and will become an additional cost at GINNELL then current charges. This Quotation automatically expires 30 days from the date shown above. All orders are subject to acceptance by SIMPLEXGRINNELL.

SIMPLEXGRINNELL	TITLE	PREPARED BY:
By:		
<b>ACCEPTANCE OF QUOTATION</b>	The prices, specifications, terms and conditions contained herein, including the reverse side hereof, are hereby accepted.	
Purchaser	Date	FILE NAME
		P.O. No.
By:	Title	



Fire & Security

SimplexGrinnell

A Division of TYCO International

QUOTATION

Date	Quotation No.
	27-Dec-10 520415-1116-10-R3
Vendor Code No.	

Issuing Office: 24747 HALSTED ROAD, FARMINGTON HILLS, MI. 48335

**TO: City Of Troy Police Dept.**  
 500 West Big Beaver Road  
 Troy, MI. 48084  
 Attn: Wendell Moore

Job Name and Address
City Of Troy
Fire Training Facility
Security Door Additions
Proposal

Shipping Terms F.O.B. Shipping Point

Project/Reference No.	Page of
	1   3

ITEM	QUANTITY	MODEL NO.	DESCRIPTION	UNIT PRICE	EXTENSION
<b>*** CITY OF TROY FIRE DEPT. TRAINING FACILITY ***</b>					
<b>PROJECT DESCRIPTION:</b> Provide materials and labor services to install security card access and CCTV in the City of Troy Fire Dept. Training Facility. Listed below is our break-out pricing based on site walk through, dated 11/09/2010.					
Our proposal includes the necessary services, materials, engineering, programming, start-up and debug for the security card access control additions required for the above referenced scope of work.					
<b>OFFICE AREA CARD ACCESS:</b> Provide and install card access devices at the (5) door locations (Police storage, AV/ADC, Police Training, and Fire Training, Fire storage). Materials and services include:					
1	5	AC-1	Andover Security Reader Module	\$245.00	\$1,225.00
2	5	PR5355	HID Proximity Card Reader	\$290.00	\$1,450.00
3	7	1076	Sentrol Door Alarm Monitoring Contact	\$35.00	\$245.00
4	5	310-2 3/4	Electric Door Strike 24VDC	\$388.00	\$1,940.00
5	5	DS150i	DSI Request to Exit Motion Detector	\$142.00	\$710.00
6	1	Lot	Electrical Installation	\$8,255.00	\$8,255.00
7	1	Lot	Locksmith Installation	\$1,562.00	\$1,562.00
8	2	Hours	System Engineering & Drafting	\$166.00	\$332.00
9	5	Hours	System Programming	\$112.00	\$560.00
10	5	Hours	System Test, Check-out & Start-up	\$112.00	\$560.00
11	4	Hours	Project Management & Coordination	\$88.00	\$352.00
<b>Sub-total:</b>					<b>\$17,191.00</b>

SIMPLEXGRINNELL offers to furnish the above, subject to the terms and conditions appearing on the face and on the reverse side hereof, for the sum of

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SIMPLEXGRINNELL	TITLE	J.KEITH
By:		SALES

**ACCEPTANCE OF QUOTATION** The prices, specifications, terms and conditions contained herein, including the reverse side hereof, are hereby accepted. u:\troy\training facility\additional readers.xls

Purchaser	Date	P.O. No.
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By:	Title
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Fire & Security

SimplexGrinnell

A Division of TYCO International

QUOTATION

Date	Quotation No.
	27-Dec-10 520415-1116-10-R3
Vendor Code No.	

Issuing Office: 24747 HALSTED ROAD, FARMINGTON HILLS, MI. 48335

**TO: City Of Troy Police Dept.**  
 500 West Big Beaver Road  
 Troy, MI. 48084  
 Attn: Wendell Moore

Job Name and Address City Of Troy
Fire Training Facility
Security Door Additions
Proposal

Shipping Terms F.O.B. Shipping Point

Project/Reference No.	Page of
	2   3

ITEM	QUANTITY	MODEL NO.	DESCRIPTION	UNIT PRICE	EXTENSION
<b><u>TOWER &amp; OVERHEAD DOORS:</u></b>					
Provide and install alarm monitoring deviceS on the Tower and Overhead roll-up doors. This price includes EMT conduit run from the garage area to the door as well as bridle rings in the garage area back to the panel.					
14	1	1076	Door Alarm Monitoring Contact	\$35.00	\$35.00
15	2	2500	Overhead Door alarm Contacts	\$39.00	\$78.00
17	1	Lot	Electrical Installation	\$3,580.00	\$3,580.00
19	1	Hours	System Engineering & Drafting	\$166.00	\$166.00
20	1	Hours	System Programming	\$112.00	\$112.00
21	2	Hours	System Test, Check-out & Start-up	\$112.00	\$224.00
22	2	Hours	Project Management & Coordination	\$88.00	\$176.00
				<b>Sub-total:</b>	<b>\$4,371.00</b>
<b><u>GARAGE PTZ CAMERA:</u></b>					
PTZ Camera: Provide labor and materials to remove existing fixed camera in the garage area and replace with new PELCO mini wall mount PTZ camera. Install new control cable from camera location back to equipment rack.					
23	1	SD4-WO	Pelco Spectra MINI Smoke Dome PTZ camera NTSC	\$866.00	\$866.00
24	1	Lot	Electrical Installation	\$1,225.00	\$1,225.00
25	1	Hours	System Engineering & Drafting	\$166.00	\$166.00
26	1	Hours	System Programming	\$112.00	\$112.00
27	2	Hours	System Test, Check-out & Start-up	\$112.00	\$224.00
28	2	Hours	Project Management & Coordination	\$88.00	\$176.00
				<b>Sub-total:</b>	<b>\$2,769.00</b>

SIMPLEXGRINNELL offers to furnish the above, subject to the terms and conditions appearing on the face and on the reverse side hereof, for the sum of

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SIMPLEXGRINNELL	TITLE	PREPARED BY:
By:		
<b>ACCEPTANCE OF QUOTATION</b>	The prices, specifications, terms and conditions contained herein, including the reverse side hereof, are hereby accepted.	
Purchaser	Date	P.O. No.
By:	Title	FILE NAME



Fire & Security

SimplexGrinnell

A Division of TYCO International

QUOTATION

Date	Quotation No.
	27-Dec-10 520415-1116-10-R3
Vendor Code No.	

Issuing Office: 24747 HALSTED ROAD, FARMINGTON HILLS, MI. 48335

**TO: City Of Troy Police Dept.**  
 500 West Big Beaver Road  
 Troy, MI. 48084  
  
 Attn: Wendell Moore

Job Name and Address
City Of Troy
Fire Training Facility
Security Door Additions
Proposal

Shipping Terms F.O.B. Shipping Point

Project/Reference No.	Page of
	3   3

ITEM	QUANTITY	MODEL NO.	DESCRIPTION	UNIT PRICE	EXTENSION
<p><b>NOTES &amp; CLARIFICATION TO OUR BID:</b></p> <p>1) SimplexGrinnell Standard Terms and Conditions Apply.            2) All work based on normal working hours Mon-Fri 7:30am - 4:30pm            3) Warranty is for one year.            4) Owner to furnish network connection.</p> <p><b>*** PRICING RECAP ***</b></p> <p>OFFICE AREA CARD ACCESS \$17,191.00            TOWER &amp; OVERHEAD DOORS \$4,371.00            GARAGE PTZ CAMERA \$2,769.00</p> <p><b>Sub-total: \$24,331.00</b>            Concurrent Project Discount \$2,433.00  <b>Total: \$21,898.00</b></p>					

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SIMPLEXGRINNELL	TITLE	J.KEITH
By:		SALES

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Purchaser	Date	P.O. No.
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By:	Title
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## CITY COUNCIL AGENDA ITEM

January 4, 2011

**RECEIVED**

JAN 04 2011

To: The Honorable Mayor and City Council Members

From: John Szerlag, City Manager  
 John M. Lamerato, Assistant City Manager/Finance & Administration  
 Cathleen A. Russ, Library Director  
 Loraine M. Campbell, Troy Historical Museum Manager

CITY OF TROY  
 CITY MANAGER'S OFFICE

Subject: Troy Historical Society request for "seed money"

### Background

On Tuesday, January 4, 2011, City staff met with representatives from the Troy Historical Society to discuss the Society's request for seed money to support its efforts to assume operational management of the Troy Museum & Historic Village.

John Lavender and Ward Randol of THS explained the rationale for the funding request and how the funds will be used.

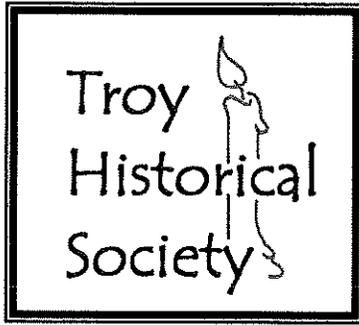
Representatives from the Troy Historical Society will be present at the city council meeting on Monday, January 10, 2011, to answer any questions members of council may have.

### Recommendation

City staff recommends that the Troy Historical Society be granted funds not to exceed \$50,000 to support its efforts to assume operational management of the Troy Museum & Historic Village.

### Fund Availability

If approved, these funds will be charged to the Museum budget and a budget amendment will be prepared at a later date.



**Troy Historical Society  
Troy Museum & Historic Village  
60 W. Wattles Road  
Troy Michigan, 48098**

**248-524-3570**

December 22, 2010

Mr. John Lamerato  
Asst. City Manager, Finance and Administration  
500 W. Big Beaver Road  
Troy MI, 48084

Dear Mr. Lamerato:

The Troy Historical Society requests “seed money” not to exceed \$50,000 to support its efforts to assume operational management of the Troy Museum & Historic Village. These funds will be used to retain consultants, as outlined in the attached spreadsheet, and to purchase equipment that will support the Museum’s transition from City support. Additional costs referenced in the spreadsheet will be paid by the Troy Historical Society.

Members of the THS Transition Team and Museum Manager Loraine Campbell have documented cost ranges for these services through conversations with other nonprofit financial executives, the Michigan Nonprofit Association and the consultants that they recommended. The THS will provide the City of Troy with the actual specifications, proposals and quotes to perform the outlined activities prior to the receipt of any seed money.

The Troy Historical Society appreciates its forty-year public-private partnership with the City of Troy and will work diligently, using this support, to usher the Museum to programmatic and fiscal sustainability.

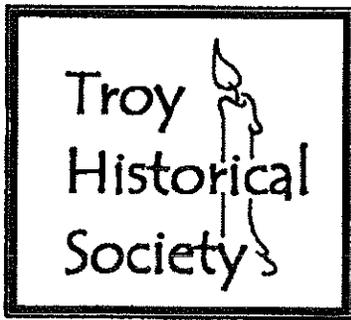
Sincerely,

Ward Randol  
THS/Museum Transition Team

**Troy Historical Society  
Allocation of "Seed Money"**

The Troy Historical Society seeks "seed money" to support critical steps for the Museum's operational transition. We have collected the following cost ranges through direct conversations with representatives from the Learning Circle for Nonprofit Financial Executives, the Michigan Nonprofit Assn. and the Cultural Alliance of Southeastern Michigan. The Transition Team has also spoken with consultants suggested by these groups. Cost ranges are provided as detailed RFPs have not been completed at this time. The Transition Team believes, however, that these are realistic costs for professional assistance that will enable the THS to move the Troy Museum & Historic Village to programmatic and fiscal sustainability.

<b>Service or Purchase:</b>	<b>Cost Range</b>	
	<b>Low</b>	<b>High</b>
Consultant services to investigate expanded services/products and regional markets, using focus groups, surveys and concept tests	\$30,000	\$45,000
Facilitator to develop coordinated strategic and business plans	\$3,000	\$5,000
Consultant to complete a regional Development and Community Relations Plan	\$5,000	\$6,000
Board of Directors orientation and training	\$1,000	\$1,500
Website development and optimization	\$6,000	\$10,000
Purchase equipment and supplies	\$5,000	\$6,000
<b>Totals:</b>	<b>\$50,000</b>	<b>\$73,500</b>



**Troy Historical Society  
Troy Museum & Historic Village  
60 W. Wattles Road  
Troy Michigan, 48098**

**248-524-3570**

December 8, 2010

Mr. John Lamerato  
Asst. City Manager, Finance and Administration  
500 W. Big Beaver Road  
Troy MI, 48084

Dear Mr. Lamerato:

The Troy Historical Society (THS) has been working, since Troy adopted the current three-year budget, to find a way to keep the Troy Museum & Historic Village (Museum) open to the public after the end of operating funds from Troy on June 30, 2011.

The THS now believes that it can operate and manage the Museum after that date, if authorized by Troy, at its current level of public hours (Tuesday, Wednesday and Thursday 10 am-3 pm) and staffing. However, THS will need help from consultants to (1) ensure that such operation is financially sustainable and (2) find ways to grow the Museum's revenue for the long term. THS will request seed money from Troy to pay consultants for this purpose, and to purchase equipment and materials required for the transition.

For the information of City Council pending the Society's request for seed money, we have enclosed:

1. Elements of a proposed agreement between the THS and Troy for the operation of the Museum effective July 1, 2011. These elements are based on other agreements developed for Michigan municipalities that transferred operational control of their museums to nonprofit organizations.
2. A one page chart, Impact and Revenue Strategies, that lists the current core activities of the Museum, how they support the Museum's mission and their revenue sources.
3. The costs, profitability, mission impact of each core activity in a table and graph format.

We will submit THS' request for seed money for specific consultants and equipment in advance of the January 10, 2011 City Council meeting.

Sincerely,

Ward Randol  
THS/Museum Transition Team

*Preserving the light since 1966*

**Elements of a Proposed Agreement  
Between the Troy Historical Society and the City of Troy  
Regarding the Troy Museum & Historic Village**

1. The Troy Historical Society (THS) is a Michigan nonprofit corporation exempt from tax under Sec. 501 (c)(3) of the Internal Revenue Code. These proposed agreement elements have been approved by the THS Board of Trustees, and, with support from City Council, will be incorporated into an Agreement for adoption by both the City of Troy (Troy) and the THS.
2. The City of Troy, a Michigan municipal corporation, owns the Troy Museum & Historic Village (Museum) located at 60 W. Wattles Road, Troy, Michigan, which is a locally designated Historic District that includes the following structures:
  - Troy Township Hall, built on site in 1927, currently houses Museum offices, THS Museum Store and records, Pioneer Room for classes and meetings, reference library, and collections storage areas;
  - Log cabin, built circa 1840 in Monroe County, Michigan;
  - Caswell House, which is included on the National Register of Historic Places, was built in 1832 in Troy, moved to the Museum and furnished as an 1865 Greek revival home;
  - Poppleton School, a one-room, red brick schoolhouse built in 1877 in Troy, and moved to the Museum;
  - A replica of Cutting's General Store, originally located at Troy Corners, two miles north of the Museum, resembles its appearance in 1918. The Museum Archive is located on the second floor.
  - The Village Print Shop, an on-site, rebuilt water testing station, appointed to 1910, containing two turn-of-the-century printing presses;

- **Wagon Shop, built at Troy Corners circa 1870, containing a functioning blacksmith's forge and woodworking shop;**
- **Troy Parsonage, built at Troy Corners circa 1880 and appointed to 1912, also has a collections workshop in the basement;**
- **Troy Historic Church (originally United Methodist Church of Troy), built at Troy Corners in 1837;**
- **Town Hall, built circa 1864 in Troy, and moved to the Museum, this one-room school now functions as an interactive learning area;**
- **Gazebo, replica of a nineteenth century structure, serves as a focal point for music and activities in the Village;**
- **Niles-Barnard House, built in 1837 at Troy Corners, now awaits interior restoration.**
- **The residence at 109 Lange St., purchased for future Museum expansion and presently used by City and Museum for storage.**

Troy also owns the Museum's collections, which include the following: historic furnishings, exhibited in the buildings listed above; documentary and photographic artifacts (archives); domestic and agricultural implements, textiles and clothing, vehicles and other objects indicative of the lifestyles, customs, dress and resources of the residents, businesses, and government of the area. Items not exhibited are stored in designated areas on site.

3. **Troy has operated the Museum since its founding in 1968. In the intervening years, the Museum has become a regional cultural destination, with 80% of its visitors coming from outside of Troy. After June 30, 2011, Troy will no longer be financially able to keep the Museum open to the public, although Troy still desires that it be kept open. Therefore, effective July 1, 2011, Troy will authorize THS to manage and operate the Museum. THS will agree to manage and operate the**

Museum faithfully and diligently, without any duty by Troy to compensate THS for such services, except as provided in the Agreement.

4. THS is an independent contractor, having full authority and responsibility to render these services. Since the Museum's founding, THS has supported the Museum with volunteer services and financial donations, to assist Troy in moving structures to the Museum and restoring them. Since 2005, THS has raised over \$750,000 and spent it on expanding and improving the Museum.
5. In managing and operating the Museum, beginning July 1, 2011, THS intends to continue to provide citizens of Troy along with the region's residents and visitors, a wide range of affordable, outstanding educational and enrichment opportunities and programs. THS intends to expand the Museum's mission, vision, collections scope, programs, institutional identity, name and brand to reflect a regional focus that will increase programmatic and financial sustainability.
6. THS shall not materially reduce Museum staffing and public hours of operation that became effective July 1, 2010:
  - a. Unless adequate funding to maintain such staffing and hours is unavailable; and
  - b. Without consultation with Troy.
7. Subject to the foregoing, THS will have sole discretion and authority in operating the Museum, including day to day operations and retaining staff and volunteers. THS will determine:
  - a. Days and hours of operation
  - b. Customer service performance standards
  - c. Admission rates
  - d. Collections, human resources, and other operational policies and procedures
  - e. Exhibits presented

- f. **Programs, products and interpretive services delivered**
  - g. **Care, preservation and use of Museum collections and historic buildings, in compliance with standards set by the American Association of Museums and the U.S. Department of Interior Standards for Historic Rehabilitation, consistent with current Museum policies.**
  - h. **Care, use and cleaning of Museum assets including, but not limited to, office furnishings and equipment.**
8. **In retaining a Museum Director, curator, archivist, interpreters or other professional staff, THS will endeavor to select individuals with history, museum studies, archival and/or other appropriate qualifications.**
9. **THS in its sole discretion may enter into partnerships, collaborations, or other relationships with entities other than Troy to enhance the Museum's mission-focused visitor experience, enhance operations, diversify sources of private or public funding, reduce costs, or realize other benefits or operational efficiencies.**
10. **THS will retain all revenues earned from the Museum's operations, including, but not limited to: admission fees; program revenues; facilities or property rentals for private functions or use; revenues provided, or funds received, from federal, state or county sources; and all other revenues, funds, grants, donations or pledges, in cash or in kind (such as donations of property or securities) from any private or public source. Further, any revenues related to artifact or collections-related activities shall accrue to the THS. THS will continue to maintain and operate a Museum store and keep THS files and financial records at the Museum. All funds received by THS from Museum operations will be used to further and promote the general welfare and interests of the Museum.**
11. **THS and Troy recognize that Museum archives and collections are not financial assets and will adhere to the American Association of Museums Code of Ethics (1991) regarding the acquisition,**

accessioning, deaccessioning, and disposal of collections materials. New accessions will be added as property of Troy, and any proceeds from the sale of deaccessioned materials will be used only for the acquisition of new artifacts, or archival materials, or for the care of existing collections. The Museum Director, in semi-annual reports to the Museum's governing board and Troy, will request Troy to confirm acceptance of any new acquisitions or approval of any deaccessions.

12. To insure the continued integrity of the Museum assets, buildings and collections, whether or not the Museum is open to the public, and in recognition of Troy's continued ownership of all Museum assets and collections, Troy will provide an annual operations appropriation to THS, which will be allocated for the following costs:

- a. Utilities to all buildings, including heat, electricity and water;
- b. Security, including telephone lines and equipment;
- c. Liability insurance;
- d. Building maintenance;
- e. Grounds maintenance, including mowing, snow removal, and fall clean-up;
- f. Maintenance of Museum collections electronic database (PastPerfect).

The remaining costs of managing and operating the Museum will be borne by THS.

13. Troy will provide a separate capital fund, through the annual budget process, to insure that the Museum grounds and all buildings, which are included in a locally designated Historic District, are maintained in compliance with Chapter 13, the local preservation ordinance, State of Michigan law and the U.S. Department of Interior Standards for Historic Rehabilitation. All appropriations to the fund will be used by the THS to make repairs and improvements, as approved by the Historic District Commission and in consultation with Troy. The fund will be

renewed each year to a minimum balance of \$50,000, with any fund balance remaining at year's end carried over to the next year.

14. THS will provide regular periodic reports to Troy. The reporting schedule and content will be detailed in the completed Agreement.
15. Troy and the THS will maintain appropriate liability insurance coverage, and will indemnify each other against liabilities, as specified in the Agreement.
16. THS will consult with members of the Historical Commission, which has been eliminated as a City-appointed commission, to establish an interim governing board composed of THS and former commission members. The terms of office and duties of this governing board will be formulated in the Agreement.
17. The changes in operating procedures, as contemplated by the Agreement, will result in the elimination of all Museum employee positions from Troy's payroll after June 30, 2011. While Troy will be responsible for determining the employment status, termination or transfer of its employees, the THS will have discretion on how Museum positions eliminated by Troy are to be restructured or replaced. THS will expend its best efforts to provide continued employment to current Museum employees at a comparable level within THS.
18. The initial term of the Agreement shall commence on July 1, 2011 and will run through June 30, 2016. The Agreement will renew for successive five (5) year terms, unless notice of termination is provided by Troy at least six (6) months prior to the date of renewal.
19. If THS determines that it is not economically feasible to continue its operation of the Museum pursuant to the Agreement, THS may terminate the Agreement and shall provide six (6) months notice of its intention to exercise early termination. In such event, Troy may elect to continue operation of the Museum, whereupon Troy expressly assumes the risk of, and accepts responsibility for, the operation of the Museum after the date of termination, pursuant to this

December 8, 2010

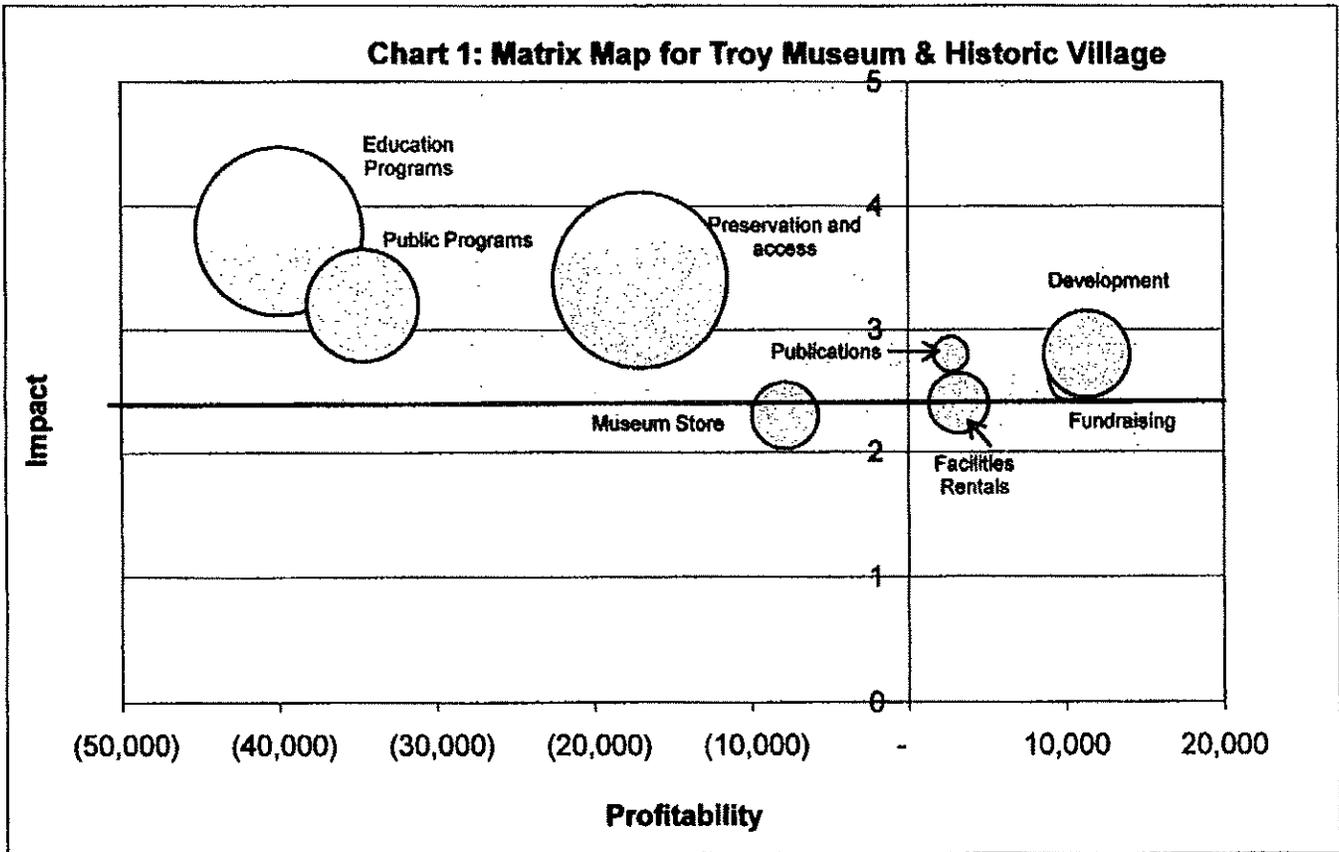
provision. If Troy elects to shut down the Museum to the public, Troy assumes the risk of, and accepts responsibility for, all costs and expenses which may occur as a result of that shutdown. Further, Troy will release from liability the THS, its officers, directors, agents, representatives, heirs and employees for the cost of such shutdown and the Agreement shall terminate.

**Table 1: Impact and Revenue Strategies for Troy Museum and Historic Village**

Core Activities	Impact Strategy	Revenue Strategy
Education Programs	Interactive, grade level appropriate education programs that meet Grade Level Content Expectations (GLCES), currently offered to grades K-5 and 8	Student and chaperone fees
Public Programs	Less structured education and enrichment programs for families, scouts, and adults. Programs are offered primarily on weekends, during the summer, and through evening lectures	Program fees and season tickets to "Teas"
Preservation of and access to Historic Village and Museum collections	The furnished buildings in the Village are collectively the permanent exhibit of the Museum. Self-guided tours and self-directed activities are provided to the public.	General Admission City appropriation
Facilities Rentals	Use of Old Troy Church and other buildings and the grounds for weddings, meetings, and receptions	Rental fees
Publications	Books related to Troy's history and heritage researched and developed by staff and volunteers	Donations to cover publications costs Direct sales and royalties
Museum Store	Mission-focused cards, books, candy, old-fashioned toys and related gift items sold to general public and in prepackaged gift bags for student visitors	Classroom orders, in-store and on-line sales
Fundraising Events	Car Show, Antiques Collectibles and Appraisal Fair and other small events	Sponsorships, car registration fees, and appraisal fees
Development= Memberships, annual appeal, donations and grants	THS memberships provide access to Museum as a benefit	Direct and indirect solicitation

**Table 2: Profitability and Impact Scoring, Troy Museum**

Business Line	Profit or Loss	Mission Impact	Cost
Education Programs	(39,983)	3.80	97,983
Public Programs	(34,690)	3.20	44,190
Preservation and Access	(17,064)	3.40	107,864
Facilities Rentals	3,194	2.40	12,806
Publications	2,705	2.80	4,295
Museum Store	(7,873)	2.30	15,873
Fundraising Events	10,471	2.60	8,329
Membership and Development	11,340	2.80	26,260
<b>Total</b>	<b>(71,900)</b>		<b>317,600</b>



**NOTE: The size of each bubble is proportional to cost**

Mayor Pro Tem Mary Kerwin gave the Invocation. The Pledge of Allegiance to the Flag was given by Cub Scout Pack 1712 from Wattles Elementary School.

## A. CALL TO ORDER:

A Regular Meeting of the Troy City Council was held Monday, December 13, 2010, 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  
 Mayor Pro Tem Mary Kerwin  
 Maureen McGinnis  
 Dane Slater

## C. CERTIFICATES OF RECOGNITION AND SPECIAL PRESENTATIONS:

### C-1 Certificates of Recognition and Special Presentations Scheduled

- a) On behalf of the City of Troy Employees' Casual for a Cause Program for the months of September and October 2010, Community Affairs Director Cindy Stewart presented a check in the amount of \$799.00 to Pilar Jenkins, Special Events Campaign Coordinator for the Leukemia/Lymphoma Society.
- b) Leslie D. Reinhart, City Controller of Sterling Heights / President of the Michigan Government Finance Officers Association (MFGOA) presented the *Government Finance Officers Association (GFOA) Award* for 2009 financial documents to the City of Troy.
- c) The *Independent Auditor's Report* for the Fiscal Year Ended June 30, 2010 was presented by Gerald J. Desloover of the Rehmann Robson Group.
- d) An *Audit Recap* was presented by John M. Lamerato, Assistant City Manager/Finance & Administration.

## D. CARRYOVER ITEMS:

### D-1 No Carryover Items

## E. PUBLIC HEARINGS:

### E-1 No Public Hearings

## F. PUBLIC COMMENT:

**Nancy Gross:** Commented on the conduct of members of *Troy Citizens United* at the last City Council meeting.

**Paul Beck:** Dissatisfied with an appointment made to a City board; protested the unavailability and costs associated with obtaining public financial reporting documents; voiced concerns regarding his ability to obtain additional financial information.

- Irv Wengrow:** Provided a written communication listing questions on various budgetary issues associated with the funding of the library directed specifically to Council Members Fleming and Howrylak.
- John Vert:** Supports the police department and the library; raised concerns about keeping the Museum open if there is no public support; raised similar questions as previous speaker in regard to funding options for the Library.
- John Hennessy:** Deferred comments until the January 10, 2011 City Council meeting.
- Thomas Burke:** Proposed budgetary options for saving tax dollars.
- Linda Kajma:** Commented on the recent remarks made by members of Troy Citizens United.

## G. RESPONSE / REPLY TO PUBLIC COMMENT

The meeting **RECESSED** at 9:06 PM.

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

## H. POSTPONED ITEMS:

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H-1 **No Postponed Items**

## I. REGULAR BUSINESS:

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I-1 **Board and Committee Appointments: None Scheduled**

a) **Mayoral Appointments: None Scheduled**

b) **City Council Appointments/Confirmation: None Scheduled**

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I-2 **Board and Committee Nominations: None Scheduled**

---

I-3 **Request for Closed Session – None Requested**

---

I-4 **James F. Cichy and Diane Rzepecki v. City of Troy**

Resolution #2010-12-282

Moved by Beltramini

Seconded by McGinnis

RESOLVED, That the City Attorney's Office is hereby **DIRECTED** to defend the City of Troy and the City of Troy Police Department in the *Cichy and Rzepecki v. City of Troy and City of Troy Police Department* lawsuit, and is **AUTHORIZED** to pay reasonable and necessary costs and fees in the defense of the action.

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

No: Howrylak

**MOTION CARRIED**

**I-5 Raquel Chidiac v. City of Troy et. al.**

Resolution #2010-12-283

Moved by Kerwin

Seconded by Fleming

NOW THEREFORE, BE IT RESOLVED, That the Troy City Council hereby **APPROVES** the settlement of the case *Raquel Chidiac v. City of Troy, et al* (Circuit Court Case No. 09-105346 NI) as recommended by City Administration and presented to the Troy City Council at the December 6, 2010 Closed Session, and **DIRECTS** the City Attorney to proceed.

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

No: None

**MOTION CARRIED**

---

**I-6 Clinton-Oakland & Evergreen Farmington Sewage Disposal Systems - City of Troy Inflow and Infiltration Reduction Project Contract**

Resolution #2010-12-284

Moved by Beltramini

Seconded by McGinnis

RESOLVED, That Troy City Council hereby **APPROVES** the Grant Agreement and Contract with the Oakland County Water Resources Commissioner for the inspection, maintenance and repair of Evergreen-Farmington Sewage Disposal System facilities within the City of Troy at an estimated project cost of \$505,000, with grant participation of \$247,000 and **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: Fleming, Howrylak, Kerwin, McGinnis, Slater, Schilling, Beltramini

No: None

**MOTION CARRIED**

---

**I-7 Agreement to Abide by Restrictive Covenants for Transit Center Property & Easement**

Resolution #2010-12-285

Moved by McGinnis

Seconded by Slater

RESOLVED, That the Troy City Council hereby **AGREES** to abide by the terms contained in the attached Declaration of Restrictive Covenant for the City's sewer easement for the Midtown Shopping Center and also the Transit Center parcel, located in the southwest corner of Coolidge and Maple, as required by the Michigan Department of Natural Resources and Environment as part of the final remedial action plan, which includes the prohibition of residential uses on the Transit Center property and the City's easement; the prohibition of the

---

use of groundwater from the Transit Center parcel and City’s sewer easement, and the City’s responsibility for proper disposition and management of any soil excavated by the City from the City’s easement or the Transit Center parcel and the replacement of any of the existing clay plugs, if subsequently removed or disturbed on the Transit Center parcel or the City’s sewer easement, as described in the attached document.

Yes: Howrylak, Kerwin, McGinnis, Slater, Schilling, Beltramini, Fleming  
No: None

**MOTION CARRIED**

**J. CONSENT AGENDA:**

---

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

Resolution #2010-12-286  
Moved by Beltramini  
Seconded by Howrylak

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

Yes: Kerwin, McGinnis, Slater, Schilling, Beltramini, Fleming, Howrylak  
No: None

**MOTION CARRIED**

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

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

Resolution #2010-12-286-J-2

RESOLVED, That Troy City Council hereby **APPROVES** the Minutes of the Regular City Council Meeting of December 6, 2010 as submitted.

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

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**J-4 Standard Purchasing Resolutions**

**Standard Purchasing Resolution 1: Bid Award - Roof Replacement at DPW Maintenance Garage Area #3**

Resolution #2010-12-286-J-4

RESOLVED, That Troy City Council hereby **AWARDS** a contract to provide the roof replacement of the DPW maintenance garage area #3 to the low bidder, Port Huron Roofing of Clyde Township, for an estimated total cost of \$95,700.00; and

---

BE IT FURTHER RESOLVED, That Troy City Council hereby **AUTHORIZES** staff to approve additional work if required, that could not be foreseen, at unit prices contained in the schedule of values not to exceed \$9,570.00; a copy of which shall be **ATTACHED** to the original Minutes of this meeting; and

BE IT FURTHER RESOLVED, That Troy City Council hereby **AWARDS** the contract **CONTINGENT** upon the contractor's submission of properly executed bid and proposal documents, including bonds, insurance certificates and all other specified requirements; and

BE IT FINALLY RESOLVED, That the Troy City Council hereby **REJECTS** proposal B (to paint the rusted metal), as weather conditions will reduce the quality of work, but allow staff to re-evaluate the roof top equipment including fascia and paint if necessary in the spring, utilizing standard purchasing procedures.

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

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

- a) Announcement of Public Hearing for Industrial Development District (IDD), Plant Rehabilitation District (PRD), and Industrial Facilities Exemption Certificate (IFEC) and a Plant Rehabilitation Exemption Certificate (PREC) for Meritor Heavy Vehicle Systems, LLC (2135 W. Maple)

---

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

## **L. COUNCIL REFERRALS:**

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

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### **L-1 No Council Referrals Advanced**

## **M. COUNCIL COMMENTS**

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### **M-1 Council Comments Advanced:**

Mayor Pro Tem Kerwin stated that at a recent Employees Retirement System Board of Trustees meeting it was reported that the City's investments have consistently out-performed the trend for the last five years. She understands that the rate of return on investments for 2010 was 19%.

Mayor Pro Tem Kerwin commended Assistant City Manager/Finance & Administration, John Lamerato and his staff for the outstanding work they have done over the years on the quality and transparency of the budget document.

Mayor Schilling found agenda item N-8 *Manager's Business Roundtable First Quarter Executive Summary* very interesting and educational.

Council Member McGinnis added that there is a great deal of valuable information within the *Manager's Business Roundtable First Quarter Executive Summary* document relative to economic development. She commended staff for undertaking this project and the progress that has taken place over the last few months.

## **N. REPORTS**

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### **N-1 Minutes – Boards and Committees:**

- a) Animal Control Appeals Board/Final – September 1, 2010
  - b) Animal Control Appeals Board/Draft – November 30, 2010  
Noted and Filed
- 

### **N-2 Department Reports:**

- a) Final Reporting – BidNet On-Line Auction Services – November 2010
  - b) Car Wash Pricing
  - c) Council Member Robin Beltramini's Report from the NLC Congress of Cities Conference  
Noted and Filed
- 

### **N-3 Letters of Appreciation:**

- a) Letter of Appreciation from Roseville Police Department to Chief Mayer from Detective Sergeant Keith Waller, Roseville Police Department, regarding the assistance of PSA Jay Hernandez
  - b) Letter of Appreciation from City Manager John Szerlag and Police Chief Gary Mayer to St. Andrews Society, regarding the receipt of the "Braveheart Award"  
Noted and Filed
- 

### **N-4 Proposed Proclamations/Resolutions from Other Organizations: None Proposed**

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### **N-5 Submittal of the 2010 CAFR**

Noted and Filed

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### **N-6 Communication from the Troy Historical Society Regarding the Troy Museum & Historic Village**

Noted and Filed

---

### **N-7 Initiation of Lawsuit to Recover Cost of Replacement Tree**

Noted and Filed

---

### **N-8 Manager's Business Roundtable First Quarter Executive Summary**

Noted and Filed

---

The meeting **RECESSED** at 9:36 PM.

The meeting **RECONVENED** at 9:47 PM.

## **O. STUDY ITEMS**

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### **O-1 Goals and Objectives**

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**P. CLOSED SESSION:**

**P-1 No Closed Session Requested**

**Q. ADJOURNMENT**

The meeting **ADJOURNED** at 11:08 PM.

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Louise E. Schilling, Mayor

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Tonni L. Bartholomew, MMC  
City Clerk



## CITY COUNCIL AGENDA ITEM

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December 21, 2010

To: John Szerlag, City Manager

From: John M. Lamerato, Assistant City Manager/Finance & Administration  
Susan A. Leirstein, Purchasing Director  
Gert Paraskevin, Information Technology Director  
Gary G. Mayer, Chief of Police

Subject: Standard Purchasing Resolution 4: Cooperative Programs - Server Upgrade and SAN Expansion Project

---

### Background

The Police and Fire Departments have six (6) servers that are at or near their end of life and need to be replaced. Some of these systems are critical to the operations of the Police and Fire departments; and in some cases, other areas of the city as well.

With the ongoing budget crisis, it's imperative to upgrade these systems in a way that will reduce operating and hardware purchase costs. By utilizing server virtualization, we can run up to twenty "virtual" servers on just two physical servers. This will reduce the need to buy server hardware and reduce costs to power and cool the server room. This solution is in line with IT standard practices.

Utilizing server virtualization requires us to attach the host server to our Storage Area Network (SAN) which has the maximum number of servers attached. This purchase will provide two new switches to allow additional servers and storage arrays to connect to the SAN along with redundancy to eliminate all single points of failure in the system. This will also provide a new shelf to hold the high speed drives for the new virtual servers. Another benefit of this project is the ability to connect the computer forensics lab to the SAN to provide additional storage and increased speed and productivity.

### Recommendation

City management recommends that the City Council authorize the purchase of hardware and software from approved cooperative contracts at an estimated cost of \$72,200.00 per Attachment A. Recurring costs for this project are estimated at \$3,925.00 per year.

### Fund Availability

Funding for this project is available in the Police Department Administration, Federal Drug Enforcement account, the Police Communications, and Computer Software accounts.



# CITY COUNCIL AGENDA ITEM

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## Attachment A

### Hardware

hp ProLiant Servers	\$ 20,000.00
SAN Hardware	\$ 35,000.00
Fiber Install	\$ 3,000.00

### Software

VMWare Essentials Plus	\$ 3,400.00
Microsoft 2008 Data Center	\$ 6,800.00
<u>Microsoft SQL 2008</u>	<u>\$ 4,000.00</u>
Estimated Total Cost	\$ 72,200.00

### Reoccurring Costs

VMware	\$ 750.00
Servers*	\$ 375.00
<u>SAN*</u>	<u>\$ 2800.00</u>
Estimated Total Per Year	\$ 3925.00

\* First 3 years included in price



Material Manufacturer: **Systemax**

Zone: **1**

# of Cable Runs								TOTAL COST	
1-24		25-48		49-144		145-336		Labor	Material
Labor	Material	Labor	Material	Labor	Material	Labor	Material		

Price for Each Item based on Quantity								Total Price
1-24		25-48		49-72		72 & Up		per Unit
Labor	Material	Labor	Material	Labor	Material	Labor	Material	

**Quantity Description HORIZONTAL WIRING**

**Quantity Description TERMINATING HARDWARE**

1	Lightguide Interconnection Unit - Wall Mountable 12 Fibers	51.13	104.64	48.86	104.64	47.73	104.64	45.45	104.64	51.13	104.64
12	SC Ceramic Tipped 62.5 um		8.71		8.71		8.71		8.71		104.52
12	Terminate & Test 62.5 micron fiber strand on SC Connector	30.49		29.14		28.46		27.10		365.88	
1	Modular to 110 Category 5E Patch Panel - 24 Port	178.20	157.24	170.28	157.24	166.32	157.24	158.40	157.24		157.24
2	Troubleshoot - Price per Hour	54.45		52.03		50.82		48.40		108.90	

**Quantity Description RISER / FIBER CABLE / FIBER SPLICING**

375	12 Strands Plenum Fiber / Tie Cable (OFNP) - MMF - 62.5/125 um - Above Sus. Ceiling			Labor \$\$ / LF	1.10	Material \$\$/ LF	1.21			412.50	453.75
325	1" Carlon Innerduct - Plenum - Installed above Suspended Ceilings			Labor \$\$ / LF	1.49	Material \$\$/ LF	1.96			484.25	637.00

**Quantity Description MISCELLANEOUS**

Sub-Total - Labor / Material

\$1,422.66 \$1,457.15

**Total \$ 2,879.81**



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# SALES QUOTATION

QUOTE NO.	ACCOUNT NO.	DATE
WFX8702	10219913	12/16/2010

RYAN WOLF  
B 500 W BIG BEAVER RD  
L  
L CITY OF TROY POLICE  
T TROY, MI 48084-5254  
O

CITY OF TROY POLICE  
S 500 W BIG BEAVER RD  
H  
I  
P RYAN WOLF  
T TROY, MI 48084-5285  
O Contact: RYAN WOLF

Customer Phone # 2486197697

Customer P.O. # NEW SAN/VM QUOTE

ACCOUNT MANAGER	SHIPPING METHOD	TERMS	EXEMPTION CERTIFICATE
CHRIS LUNDMAN 866-668-9493	FEDEX Ground	MasterCard/Visa Go	GOVT-EXEMPT

QTY	ITEM NUMBER	DESCRIPTION	UNIT PRICE	EXTENDED PRICE
2	1722239	HP 8GB SIMPLE SAN CONNECTION KIT Mfg#: CPS-AK241A Contract: NATIONAL IPA TECH SOLUTIONS 083052	8630.00	17260.00
2	1400031	HP STORAGEWORKS 8/20Q 4-PORT UPG LTU Mfg#: CPD-T5463A Contract: NATIONAL IPA TECH SOLUTIONS 083052	1572.00	3144.00
1	2027129	HP SB P2000 G3 FC/ISCSI DC LFF ARRAY Mfg#: CPD-BK748SB Contract: NATIONAL IPA TECH SOLUTIONS 083052	13400.00	13400.00
1	1755388	VMWARE VSPHERE 4 ESS PLUS BND 3H Mfg#: VMM-VS4-ESSL-PL-BUN-C Contract: NATIONAL IPA TECH SOLUTIONS 083052	3200.00	3200.00
1	1753284	VMWARE VSPHERE ESS PLUS BND 1Y GSNS Mfg#: VMM-VS4-ESSLPLBUNGSSSC Contract: NATIONAL IPA TECH SOLUTIONS 083052	746.00	746.00
		----- Recommended items for HP SB P2000 G3 FC/ISCSI DC LFF ARRAY  2090265 HPE 3YR 24X7X4 MSA 2000 G3 HPE-UV394E 1999.00 2109792 HPE 3YR 24CTR DMR MSA2K G3 HPE-UV395E 2330.00		

<b>TOTAL</b>	Continued
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CDW Government  
230 North Milwaukee Ave.  
Vernon Hills, IL 60061  
General Phone: 847-371-5000 Fax: 847-419-6200  
Account Manager's Direct Fax: 312-752-3561

Please remit payment to:  
CDW Government  
75 Remittance Drive  
Suite 1515  
Chicago, IL 60675-1515



Total	37,750.00
FMV Lease Option	1,109.85/Month
Total	37,750.00
\$BO Lease Option	1,209.13/Month

Monthly payment based on 36 month lease. Other terms and options are available. Contact you Account Manager for details. Payment quoted subject to change. \*\*

=====

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- \* Predictable, Low Monthly Payments. Pay over time. Lease payments are fixed and can be tailored to your budget levels or revenue streams.
- \* Technology Refresh. Keep current technology with minimal financial impact or risk. Add-on or upgrade during the lease term. And choose to return or purchase the equipment at end of lease.
- \* Bundle Costs. You can combine hardware, software, and services into a single transaction! Which means you can pay for your software licenses over time. We know your challenges and understand the need for flexibility.

General Terms and Conditions:

\*\*This quote is not legally binding and is for discussion purposes only. The rates are estimate only and are based on a collection of industry data from numerous sources. All rates and financial quotes are subject to final review, approval, and documentation by our leasing partners. Payments above exclude all applicable taxes. Financing is subject to credit approval and review of final equipment and services configuration. Fair Market Value leases are structured with the assumption that the equipment has a residual value at the end of the lease term.

Public Sector home > Servers > Configurable - HP ProLiant DL Series > Configurable - HP ProLiant DL380 G7 > HP ProLiant DL380 G7 Server



# Servers

HP ProLiant DL380 G7 Server

**System price: \$9,633.18**

**From: \$4,464.00**

- » Business lease cost /month \$29,911.02
- » Shipping and tax details

» **Product overview**

**Current selection:** MI - REMC (WSCA/NASPO)

**Change selection:**

Customize your configuration:

**Product**

HP ProLiant DL380 G7 High Performance Server

**Processor**

2 Six-Core Intel® Xeon® Processors X5650 (2.66GHz, 12M L3 Cache, 95 Watts, DDR3-1333, HT, Turbo 2/2/3/3)

**Memory for 1st processor**

HP 48GB PC3-10600R 6x8GB 2Rank Memory [500662-48G]

**Memory for 2nd processor**

HP 48GB PC3-10600R 6x8GB 2Rank Memory [500662-48G]

**Advanced memory settings**

No Item Selected

**Microsoft Windows Operating Systems**

No Item Selected

**Microsoft Applications**

No Item Selected

**Novell Operating Systems (SuSE Linux)**

No Item Selected

**RedHat Linux Operating Systems**

No Item Selected

**VMware Operating Systems**

No Item Selected

**Citrix**

No Item Selected

**Storage controller**

HP P410i/1GB Flash Backed Cache (SAS Array Controller)

**HP Smart Array Advance Pack**

No Item Selected

**1st hard drive**

HP 300GB 6G Hot Plug 3.5 SAS 15,000rpm Dual Port Hard Drive [516814-B21]

**2nd hard drive**

HP 300GB 6G Hot Plug 3.5 SAS 15,000rpm Dual Port Hard Drive [516814-B21]

**3rd hard drive**

No Item Selected

**4th hard drive**

No Item Selected

**5th hard drive**

No Item Selected

**6th hard drive**

No Item Selected

**RAID setting**

No Item Selected

**Logical drive setting**

No Item Selected

**Network card**

(2) Embedded HP NC382i Dual Port Multifunction Gigabit Server Adapters

**PCI express card**

HP NC364T PCI Express Quad Port Gigabit Server Adapter - Low Profile [435508-B21]

**2nd PCI express card**

No Item Selected

**Riser card**

HP PCI-E 3-slot Riser Card [500579-B21]

**Power supply**

2 HP 750W CS HE Hot-Plug Power Supplies

**Power cord**

No Item Selected

**Flash media kit**

No Item Selected

**Security accessories**

No Item Selected

**HP ProLiant Foundation Pack**

HP ProLiant Foundation Pack Single Release Factory Integrated Software [ 534516-B21] [Add \$0.73]

**HP Insight Software - installed**

- HP iLO Advanced 1 Server License with 1yr 24x7 Technical Support and Updates [ 512485-B21] [Add \$291.27]
- HP Insight Control Server Deployment including 1yr 24x7 Support Single Server License [ 452151-B21] [Add \$101.47]
- HP Insight Control including 1yr 24x7 Support ProLiant ML/DL/BL-bundle Single Server License [ 582765-B21] [Add \$327.77]
- HP Insight with Microsoft System Center Essentials 2010 including 1Yr 24x7 Technical Support and Updates [ 633576-B21] [Add \$180.00]
- HP Insight with Microsoft System Center Essentials 2010 - Including 3Yrs 24x7 Technical Support and Updates [ 633577-B21] [Add \$224.00]
- HP Insight with Microsoft System Center Essentials 2010 w/SQL Technologies- Including 1Yr 24x7 Technical Support and Updates [ 633578-B21] [Add \$1,106.00]
- HP Insight with Microsoft System Center Essentials 2010 w/SQL Technologies - Including 3Yrs 24x7 Technical Support and Updates [ 633579-B21] [Add \$1,377.00]
- HP Insight with Microsoft System Center Essentials 2010 Server Management License 1 pack- Including 1Yr 24x7 Technical Support and Updates [ 633592-B21] [Add \$180.00]
- HP Insight with Microsoft System Center Essentials 2010 Server Management License 1 pack- Including 3Yrs 24x7 Technical Support and Updates [ 633593-B21] [Add \$224.00]
- HP Insight with Microsoft System Center Essentials 2010 Server Management License 5 pack- Including 1Yr 24x7 Technical Support and Updates [ 633594-B21] [Add \$900.00]
- HP Insight with Microsoft System Center Essentials 2010 Server Management License 5 pack- Including 3Yrs 24x7 Technical Support and Updates [ 633595-B21] [Add \$1,121.00]
- HP Insight Control including 1yr 24x7 Support ProLiant ML/DL-bundle Electronic License [ n/a 0 G7 insight sof] [Add \$0.00]

**Server management**

Integrated Lights Out 3 (iLO 3) Management

**Warranty**

HP Standard Limited Warranty - 3 Years Parts and on-site Labor, Next Business Day

**Recommended supplies and accessories**

*Any hardware options below will not be factory installed*

**Service, support and upgrades**

HP Care Pack, 3 Years, 4 Hours, 13x5, Hardware, ProLiant DL380 [U4544E]

**Installation service**

No Item Selected

**Backup & recovery services**

No Item Selected

**Software services**

No Item Selected

**HP StorageWorks external tape backup options**

No Item Selected

**HP StorageWorks tape autoloaders**

No Item Selected

**HP StorageWorks disk enclosures (for additional storage capacity)**

No Item Selected

**HP Insight Software**

HP Insight Control for Linux including 1yr 24x7 Support  
ML/DL Bundle 1-Server License - Electronic [TC203AAE] [Add \$254.77]

**Additional Microsoft Client Access Licenses**

No Item Selected

**HP Rack UPS**

No Item Selected

**HP Rack UPS ERM**

No Item Selected

**HP RackMount Keyboard Monitor**

No Item Selected

**External storage controller**

No Item Selected

**System price: \$9,633.18**

**From: \$4,464.00**

- » Business lease cost /month\$29,911.02
- » Shipping and tax details

» [Product overview](#)

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**Susan A Leirstein**

---

**From:** Gert Paraskevin  
**Sent:** Wednesday, December 22, 2010 9:05 AM  
**To:** Susan A Leirstein  
**Subject:** FW: CDW-G Order Confirmation

Here is the order confirmation from when we ordered these products last.

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

From: [cdwgsales@web.cdwg.com](mailto:cdwgsales@web.cdwg.com) [<mailto:cdwgsales@web.cdwg.com>]  
Sent: Thursday, May 13, 2010 11:51 AM  
To: Gert Paraskevin  
Subject: CDW-G Order Confirmation

5/13/2010 10:50:30 AM

-----  
This document is best viewed in a fixed font like Courier  
-----

Dear Gert Paraskevin:

Thank you for choosing CDW-G. We have received your online order. Please take a moment to review it for accuracy and completeness.

Order Number: 1B22CWL

PO Number: 2009-90000005  
Customer Number: 6360514  
Purchaser: Gert Paraskevin  
Deliver To: Gert Paraskevin

Qty	Product	CDWG Part#	Unit Price	Ext. Price
2	Windows Server 2008 R2 DataCenter 1 Proc ..	1826389	\$1,620.00	\$3,240.00
336	Microsoft Windows Server Device CAL 2008 ..	1416974	\$19.65	\$6,602.40
1	Microsoft SQL Server 2008 Standard 1 Proc..	1541630	\$3,850.00	\$3,850.00

Sub-Total	\$13,692.40
Shipping	\$0.00
Sales Tax	\$0.00
Grand Total	\$13,692.40

If you have any questions or changes to this order, please call a CDW-G account manager at 800.808.4239, e-mail us at [cdwgsales@web.cdwg.com](mailto:cdwgsales@web.cdwg.com) or simply reply to this message.

Just double-checking...

Occasionally a CDW-G account manager will call to confirm or clarify orders placed online. Your contact information is listed as follows:

Gert Paraskevin  
(248) 524-3416

PERSONAL SERVICE ONLINE

-----  
Get the account information you need, when you need it.  
Check order status and more with your CDWG@work extranet.  
Learn more: <http://www.cdwg.com/personalservice>

KEEP IN TOUCH

-----  
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<http://www.cdwg.com/terms>



## CITY COUNCIL AGENDA ITEM

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December 8, 2010

To: John Szerlag, City Manager

From: Mark F. Miller, Acting Assistant City Manager / Economic Development Services  
Susan A. Leirstein, Purchasing Director  
Timothy L. Richnak, Public Works Director

Subject: Standard Purchasing Resolution 1: Award To Low Bidder – Sidewalk Replacement and Installation Program

---

### **Background**

On November 23, 2010, bids were received to complete the Sidewalk Replacement and Installation Program for fiscal year 2010/11. 299 vendors were notified of the bid opportunity via the MITN system with eight (8) bid responses received. Rotondo Construction Company of Farmington Hills, MI, was the low total bidder. Moving this work forward improves public safety and reduces the City's liability.

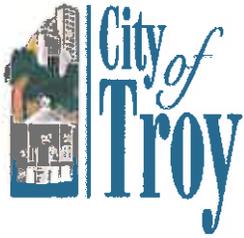
ITB-COT 10-29 to complete the Sidewalk Replacement and Installation Program was competitively bid as required by City Charter and Code. The award is contingent upon the recommended bidder's submission of proper contracts and bid documents, including bonds, insurance certificates and all other specified requirements.

### **Recommendation**

City management and the Public Works department recommend awarding a contract to complete the Sidewalk Replacement and Installation Program for FY2010/11 to the low total bidder, Rotondo Construction, Company of Farmington Hills, MI for an estimated total cost of \$470,407.40 at unit prices contained in the bid tabulation with additional work not to exceed budgetary limitations.

### **Fund Availability**

Funds are available in 2010/11 Capital Accounts for Sidewalk, under Public Works Construction. Each year, the amount of work completed on sidewalks is similar; and the dollar savings over the last contract bid in 2007 is approximately 8.5% or \$43,408.00.



**TO:** Members of Troy City Council  
**FROM:** Lori Grigg Bluhm, City Attorney *LSB*  
Susan M. Lancaster, Assistant City Attorney *JML*  
**DATE:** January 5, 2011  
**SUBJECT:** Michigan Association of Home Builders, et. al. v. City of Troy

---

Enclosed please find a copy of a lawsuit that was recently filed against the City of Troy by the Michigan Association of Home Builders, Associated Builders and Contractors of Michigan and Michigan Plumbing and Mechanical Contractors Association. The Plaintiffs filed a Complaint for Declaratory and Injunctive Relief in the Oakland County Circuit Court. On the date of filing, the Plaintiffs also filed a Motion for Preliminary Injunction and Order to Show Cause.

Plaintiffs allege that the City of Troy has violated Section 22 of Michigan's Stille-DeRossett Hale Single State Construction Code Act by collecting fees for building department services that are not reasonably related to the cost of providing building department services. They are alleging that the City of Troy has illegally entered into a contract with Safe Built of Michigan, Inc. for building services that provides for an 80%-20% division of permit fees between Safe Built of Michigan, Inc. and the City of Troy. It is Plaintiff's allegation that the 20%, which is deposited with the City, is "surplus" used for general revenue purposes and not for services reasonably related to the cost of building department services.

The Plaintiffs also allege a violation of the Headlee Amendment, arguing that the 20% received by the City is a disguised tax that was not approved by the voters. Plaintiffs are asking for a declaratory judgment, as well as an order for the City to deposit the 20% building permit revenue into a segregated account, which could then be returned to the applicants. Plaintiffs also request an order, requiring the City to reduce its building department fees.

The City of Troy was served with the Complaint and the Motion for Preliminary Injunction and Order for Show Cause on Wednesday, December 15, 2010. The Order for Show Cause required the parties to appear at Court on December 22, 2010. However, no action was taken at that time, and the matter was adjourned to Wednesday, January 19, 2011 at 1:30 p.m. The Court staff also encouraged the parties to do some preliminary discovery, in an effort to resolve this matter.

A resolution authorizing our office to defend the City is proposed for your consideration. If you have any questions, please let us know.

Approved, SCAO

Original - Court  
1st copy - Defendant

2nd copy - Plaintiff  
3rd copy - Return

<b>STATE OF MICHIGAN</b> JUDICIAL DISTRICT 6 <sup>th</sup> JUDICIAL CIRCUIT COUNTY PROBATE	<b>SUMMONS AND COMPLAINT</b>
---	------------------------------

OAKLAND COUNTY 10-115620-CZ



JUDGE SHALINA KUMAR  
MICHIGAN ASSO V TROY CITY

**Court address**  
1200 N. Telegraph Rd., Dept. 404, Pontiac, MI 48341-0404

Case no. 248-452-2159

Plaintiff's name(s), address(es) and telephone no(s).  
Michigan Association of Home Builders, et al.  
6427 Centurion Drive #150B  
Lansing, MI 48917  
517-322-0224

v

Defendant's name(s), address(es), and telephone no(s).  
City of Troy  
500 W. Big Beaver Rd.  
Troy, MI 48084  
248-524-3300

Plaintiff's attorney, bar no., address, and telephone no.  
Gregory L. McClelland (P28894)  
McClelland & Anderson, LLP  
1305 S. Washington Ave., Ste. 102  
Lansing, MI 48910 517-482-4890

**SUMMONS NOTICE TO THE DEFENDANT:** In the name of the people of the State of Michigan you are notified:

1. You are being sued.
2. **YOU HAVE 21 DAYS** after receiving this summons to file an answer with the court and serve a copy on the other party or to take other lawful action with the court (28 days if you were served by mail or you were served outside this state). (MCR 2.111(C))
3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.

Issued <b>DEC 15 2010</b>	This summons expires <b>MAR 16 2011</b>	Court clerk <b>RUTH JOHNSON</b>
------------------------------	--	------------------------------------

This summons is invalid unless served on or before its expiration date.

This document must be sealed by the seal of the court.

**COMPLAINT** Instruction: The following is information that is required to be in the caption of every complaint and is to be completed by the plaintiff. Actual allegations and the claim for relief must be stated on additional complaint pages and attached to this form.

**Family Division Cases**

- There is no other pending or resolved action within the jurisdiction of the family division of circuit court involving the family or family members of the parties.
- An action within the jurisdiction of the family division of the circuit court involving the family or family members of the parties has been previously filed in \_\_\_\_\_ Court.
- The action  remains  is no longer pending. The docket number and the judge assigned to the action are:

Docket no.	Judge	Bar no.
------------	-------	---------

**General Civil Cases**

- There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.
- A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in \_\_\_\_\_ Court.
- The action  remains  is no longer pending. The docket number and the judge assigned to the action are:

Docket no.	Judge	Bar no.
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**VENUE**

Plaintiff(s) residence (include city, township, or village) Lansing, Eaton County, MI	Defendant(s) residence (include city, township, or village) City of Troy, Oakland County, MI
Place where action arose or business conducted City of Troy, Oakland County, MI	

December 14, 2010  
Date

  
Signature of attorney/plaintiff

If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you to fully participate in court proceedings, please contact the court immediately to make arrangements.

STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

Michigan Association of  
Home Builders,  
Plaintiff,

v

City of Troy  
Defendant.

NO: 10-115620-CZ  
HON. SHALINA KUMAR

ORDER DENYING EX PARTE RELIEF

Plaintiff has submitted a request for the ex parte relief requesting a show cause hearing pursuant to MCR 3.207 and/ or MCR 3.310(B). The Court has reviewed the motion and attached exhibits, if any. The request is denied for the following reasons:

- The moving party failed to submit a motion or verified pleading. MCR 3.207(B)(1); MCR 3.310(B)(1)
- The request was not supported by affidavit or verified pleading. MCR 3.207(B)(1); MCR 3.310 (B)(1).
- The moving party failed to demonstrate by specific facts set forth in an affidavit or verified pleading that irreparable injury, loss, or damage will result from the delay required to effect notice or that notice itself will precipitate adverse action before an order can be issued. MCR 3.207(B); MCR 3.310 (B)(1)(a).
- The moving party's attorney failed to certify in writing the efforts, if any, that have been made to give notice and the reasons supporting the claim that notice should not be required. MCR 3.310 (B)(1)(b).
- The moving party failed to provide an order in compliance with MCR 3.310(B)(2)(b) and/or MCR 3.207(B)(6).
- The moving party failed to cite sufficient authority to support its position thereby abandoning its position. MCR 2.119(B)(2); *Mitcham v City of Detroit*, 355 Mich 182, 203 (1952); *Wilson v Taylor*, 457 Mich 232, 243 (1998).
- This matter is set for a show cause hearing on 12/22/2010 @ 3:00. Plaintiff must serve Defendant on or before 12/15/2010.
- Other:

DATED: DEC 15 2010

NOTICE  
THIS ORDER CONTAINS A DATE  
SET BY THE COURT. YOU WILL NOT  
RECEIVE FURTHER NOTICE OF THIS  
DATE.  
JUDICIAL CHAMBERS

**SHALINA KUMAR**

HON. SHALINA KUMAR  
CIRCUIT COURT JUDGE

**A TRUE COPY**  
RUTH JOHNSON  
Oakland County Clerk - Register of Deeds

By [Signature]  
Deputy



STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

MICHIGAN ASSOCIATION OF HOME BUILDERS; ASSOCIATED BUILDERS AND CONTRACTORS OF MICHIGAN; and MICHIGAN PLUMBING AND MECHANICAL CONTRACTORS ASSOCIATION; Michigan nonprofit corporations,

Case No. 10- -CZ

Hon.

Plaintiffs,

v

CITY OF TROY, a Michigan Home Rule City,

Defendant.

\_\_\_\_\_  
Gregory L. McClelland (P28894)  
Jared A. Roberts (P55182)  
McCLELLAND & ANDERSON, LLP  
Attorneys for Plaintiffs  
1305 S. Washington Ave., Ste. 102  
Lansing, MI 48910  
(517) 482-4890  
\_\_\_\_\_

RECEIVED FOR FILING  
CLERK OF COURT  
2010 DEC 15 PM 12:58  
DEPUTY CLERK

**MOTION FOR PRELIMINARY INJUNCTION  
AND ORDER TO SHOW CAUSE**

NOW COME Michigan Association of Home Builders (the "Home Builders"), Associated Builders and Contractors of Michigan (the "Associated Builders"), and Michigan Plumbing and Mechanical Contractors Association (the "Contractors Association") (collectively, the "Builders"), by their attorneys, McClelland & Anderson, LLP, and move for entry of a Preliminary Injunction and Order to Show Cause. The facts, arguments and

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

OAKLAND COUNTY  
10-115620-CZ  
JUDGE SHALINA KUMAR  
MICHIGAN ASSO v TROY CITY

MICHIGAN ASSOCIATION OF HOME BUILDERS; ASSOCIATED BUILDERS AND CONTRACTORS OF MICHIGAN; and MICHIGAN PLUMBING AND MECHANICAL CONTRACTORS ASSOCIATION, Michigan nonprofit corporations,

Case No. 10- -CZ

Hon.

Plaintiffs,

v

CITY OF TROY, a Michigan Home Rule City,

Defendant.

\_\_\_\_\_  
Gregory L. McClelland (P28894)  
Jared A. Roberts (P55182)  
McCLELLAND & ANDERSON, LLP  
Attorneys for Plaintiffs  
1305 S. Washington Ave., Ste. 102  
Lansing, MI 48910  
(517) 482-4890  
\_\_\_\_\_

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2010 DEC 15 PM 12:55  
DEPUTY CLERK

**VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

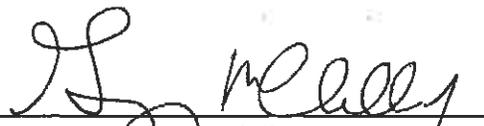
There is no other pending or resolved civil action arising out of the transaction or occurrence alleged in the Complaint. MCR 2.113(C)(2)(a).

NOW COME Plaintiffs, the Michigan Association of Home Builders; Associated Builders and Contractors of Michigan; and Michigan Plumbing and Mechanical Contractors Association by their attorneys, McClelland & Anderson, LLP, and for their Verified Complaint for Declaratory and Injunctive Relief, state as follows:

authorities in support of Plaintiff's Motion are set forth in the Brief in Support of Motion and the Verified Complaint, being served concurrently.

WHEREFORE, Plaintiffs request an order that requires the Defendant City of Troy to account for monthly surplus building department funds realized from July 1, 2010 to date, to transfer such funds to a segregated account consistent with the Construction Code Act, to deposit all future building department funds and surpluses into this segregated account, and to only use such segregated funds for purposes allowed under the Construction Code Act. MCL 125.1522(1).

McCLELLAND & ANDERSON, L.L.P.  
Attorneys for Plaintiffs

By:   
Gregory L. McClelland (P28894)  
Jared A. Roberts (P55182)

Business Address:  
1305 S. Washington Ave., Ste. 102  
Lansing, MI 48910  
Telephone: (517) 482-4890

Date: December 14, 2010

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## **PARTIES, JURISDICTION, AND VENUE**

1. Plaintiff, the Michigan Association of Home Builders (the "Home Builders"), is a Michigan nonprofit corporation, with its principal place of business in the City of Lansing, which conducts business in the City of Troy and statewide.

2. Plaintiff the Associated Builders and Contractors of Michigan (the "Associated Builders"), is a Michigan nonprofit corporation, with its principal place of business in the City of Lansing, which conducts business in the City of Troy and statewide.

3. Plaintiff the Michigan Plumbing and Mechanical Contractors Association (the "Contractors") is a Michigan nonprofit corporation, with its principal place of business in the City of Lansing, which conducts business in the City of Troy and statewide.

4. Plaintiffs Home Builders, the Associated Builders and the Contractors are collectively referred to as the "Builders" herein.

5. The Builders represent and count among their members numerous home builders, contractors, subcontractors, construction companies, construction laborers, suppliers, building tradespeople, and supporting businesses such as attorneys, accountants, architects, banks and insurance professionals, that conduct business in, obtain permits from, seek building plan review in, request inspections by, and seek building and construction-related authorizations (such as plan approval, interim and final inspections and occupancy permits) from Defendant and its Building Department.

6. Therefore, the Builders and their members are uniquely and directly injured by and have substantial and concrete interest in the conduct of Defendant that is

challenged herein, as the Builders and their members that do business with Defendant and its Building Department either absorb the cost of plan review, permitting, certification, and inspections or are forced to pass them along to the end consumer. Passing costs along puts the sale (or lease) of new construction at a competitive disadvantage with the sale or lease of existing structures.

7. The Builders' members also include taxpayers in this State, and residents of and taxpayers residing and doing business in the City of Troy.

8. The concrete and particularized injuries to the Builders and their members may be fully redressed through the declaratory and injunctive relief sought herein.

9. Defendant City of Troy is a municipal corporation organized under Michigan's Home Rule Cities Act, and it is located in Oakland County, Michigan.

10. This Court has subject matter jurisdiction as the Builders are seeking equitable relief, and as MCL 600.308a(1) confers circuit court subject matter jurisdiction over actions seeking to enforce Const 1963, Act IX, § 31 (the "Headlee Amendment").

11. Venue is proper in Oakland County as Defendant resides in Oakland County, and the challenged conduct giving rise to the claim occurred in Oakland County.

#### **GENERAL ALLEGATIONS**

12. Effective July 1, 2010, Defendant essentially privatized its Building Department by entering into a contract with Safe Built of Michigan, Inc. ("Safe Built") for Safe Built to perform, as an independent contractor, activities previously performed by Defendant's Building Department. This Contract is attached and incorporated at Exhibit A.

13. The Contract (with exhibits) was approved by the City pursuant to Resolution Number 2010-06-122. Exhibit A, Contract, p 22.

14. The Contract requires Safe Built to perform inspections, plan review, administer building codes and related ordinances, and generally perform the functions once performed by Defendant's Building Department, save for a discreet list of specific duties retained for the Defendant's Building Code Official. Exhibit B, Contract Exhibit entitled "Duties of City Building Code Official".

15. Under the Contract, Defendant compensates Safe Built by paying it 80% of the fees Defendant collects for Building Department services, and Defendant retains 20% of those fees. If the fees exceed \$1,000,000 during any fiscal year during the three-year term of the Contract, Defendant will retain 25% of all fees (and Safe Built will be paid 75% of those fees) during the subsequent contract year or years. Exhibit A; Contract, § 3.2, p 2.

16. More specifically, the Contract states:

Compensation. Safe Built shall receive eighty (80%) of building permit fees, plan review fees, certificates of occupancy fees and inspection fees that are collected by the City each month. The City shall retain the remaining twenty (20%) of the fees. If these fees total over \$1,000,000.00 for any fiscal year (July 1<sup>st</sup> to June 30<sup>th</sup>) then Safe Built's compensation shall be reduced to seventy-five (75%) of the total of building permit fees, plan review fees, certificate of occupancy fees and inspection fees that are collected by the City each month, beginning the July 1<sup>st</sup> of the fiscal year immediately following the fiscal year in which the \$1,000,000.00 total was achieved and continuing through to the termination of the Agreement. The City shall retain the remaining twenty-five (25%) of the fees.

Exhibit A, Contract, § 3.2, p 2.

17. In addition, pursuant to the Contract, the Defendant City generates an unknown additional amount of revenue (and correspondingly reduces the overhead involved with Building Department services) through leasing office space to Safe Built, Exhibit A, Contract, § 6, pp 6-8, leasing City-owned vehicles to Safe Built, *id.* § 7, pp 8-11, and leasing computers and office equipment to Safe Built. *Id.* § 8, pp 11-12.

18. A key feature of Safe Built's program (and Safe Built's marketing of it) is that local government clients, in this case Defendant, can pay Safe Built with a portion of Building Department fees and generate revenue through the 20% (or potentially 25%) of fees retained by the local government. Exhibit C, Safe Built website excerpt.

19. Defendant does not use the surplus funds generated under the Contract to finance Building Department operations. Instead, Defendant treats this surplus as general revenue and deposits it in Defendant's general fund. Correspondence from Defendant's City Attorney supporting this allegation is attached at Exhibit D (the "City Attorney Letter").

20. The fact that the Defendant City deposits surplus Building Department revenue into its general fund, and does not segregate it in a separate account as required by law is also reflected in the City's "Receipts by Payment Code" Reports for the months of July, August and September, 2010, which all bear the notation that Building Department funds are deposited in the City's "General" bank account. Exhibit E, City Payment Code Reports.

21. A comparison of Safe Built's July, August and September, 2010 monthly invoices, Exhibit F, against corresponding monthly City Accounts Receivable Reports, Exhibit G, reveals that significant monthly surpluses are retained by the Defendant City. Gross surplus

for these three months combined amounts to \$140,607.83 (\$47,293.93 for July; \$38,197.29 for August and \$55,116.61 for September, 2010).

22. The practice of retaining 20% (or potentially retaining 25%) of Building Department fees (along with leasing fees) as profit or general revenue violates Michigan law as described more fully below and herein and has injured the Builders and their constituent members by, *de facto* causing plan review, permit, inspection, and related fees to far exceed the reasonable cost to Defendant of providing Building Department services, and by having the effect of a tax increase that was not authorized by voters in violation of the Headlee Amendment.

23. Defendant's conduct, in turn, artificially increases the cost of doing business in the City of Troy for the Builders and their members who must either absorb this artificially inflated cost or reduce their competitive advantage by passing this inflated cost onto others.

## COUNT I

### VIOLATION OF STATE CONSTRUCTION CODE ACT

24. The Builders incorporate by reference paragraphs 1 through 23 of this Complaint as if fully set forth here.

25. Section 22 of Michigan's Stille-DeRossett-Hale Single State Construction Code Act (the "Construction Code Act") specifically mandates that Defendant establish "reasonable fees" for Building Department services (the "Reasonable Fee" Provision), which

"bear a reasonable relation to the cost" of providing those services (the "Reasonable Relation to Costs" Provision). MCL 125.1522(1).

26. The Construction Code Act also mandates that the Defendant "shall only use fees generated under this section" for Building Department services and/or a construction board of appeals, and further mandates that Defendant "shall not use the fees for any other purpose," (the "Restricted Use of Funds" Provisions). MCL 125.1522(1).

27. More specifically, the Construction Code Act states:

Sec. 22. (1) The legislative body of a governmental subdivision shall establish **reasonable fees to be charged by the governmental subdivision** for acts and services performed by the enforcing agency or construction board of appeals under this act, which fees shall be intended to **bear a reasonable relation to the cost**, including overhead, to the governmental subdivision of the acts and services, including, without limitation, those services and acts as, in case of an enforcing agency, issuance of building permits, examination of plans and specifications, inspection of construction undertaken pursuant to a building permit, and the issuance of certificates of use and occupancy, and; in case of a board of appeals, hearing appeals in accordance with this act. The enforcing agency shall collect the fees established under this subsection. The legislative body of a governmental subdivision **shall only use fees generated under this section** for the operation of the enforcing agency or the construction board of appeals, or both, and **shall not use the fees for any other purpose.**

MCL 125.1522(1) (emphasis added).

28. Consistent with Art. IX, Section 21 of Michigan's Constitution (authorizing the Legislature to provide for uniform accounting systems for local governments) and Michigan's Uniform Budgeting and Account Act, MCL 141.421, et seq. (the legislation implementing this constitutional requirement), Michigan's Department of Treasury interprets section 22 of the

Construction Code Act, MCL 125.1522(1) and its Reasonable Fee, Reasonable Relation to Costs, and its Restricted Use of Funds Provisions as requiring reasonable Building Department fees and as prohibiting Defendant from using surplus Building Department funds for general fund or general revenue purposes.

29. More specifically, when providing guidance to local governments for implementing the accounting policies mandated by the Construction Code Act, the Treasury department issued "Numbered Letter 2000-2" and "Numbered Letter 2000-6," attached and incorporated at Exhibits H and I respectively. These Numbered Letters provide that:

- a. Building Department fees must be "reasonable" and "bear a reasonable relationship" to the cost of operating the Building Department. Exhibit H, Numbered Letter 2000-2 (quoting the Construction Code Act).
- b. Reasonable Building Department fees may only be used for statutorily-authorized Building Department services, and because the Construction Code Act limits the purpose of the funds, "a separate special revenue fund must be established to account for the [building] department enforcement activities." *Id.*
- c. Indirect "overhead" costs may be charged to this discrete fund, but "the allocation of costs [as overhead] should not include those offices required by statute, such as the clerk and treasurer," as a

"local unit of government would incur those costs, regardless of the decision to [locally] enforce the state building code." *Id.*

- d. Establishing a separate fund for Building Department revenues is mandatory, unless the Building Department revenue is not intended to cover the full costs of the service and the local government has the ability to track the full costs and revenue of Building Department activities without creating a separate fund. Numbered Letter 2006-6; Exhibit I.
- e. Any new fund established to account for the Construction Code Act's Restricted Use of Funds Provisions "should not begin with a deficit." *Id.*
- f. Any surplus fees collected by the Building Department must be included in the balance of the requisite segregated fund. *Id.*

30. Defendant, by entering into and operating pursuant to the Contract, has violated the "Reasonable Fee" and "Reasonable Relation to Costs" Provisions of MCL 125.1522(1) in that Defendant is *de facto* collecting a 20% premium on Building Department fees and, in the future, has a likelihood of collecting a 25% premium on Building Department fees, and as the Defendant also generates leasing revenue from Safe Built.

31. Defendant has violated and is violating the "Restricted Use of Funds" Provisions of MCL 125.1522(1) to the extent that the 20% of surplus fees Defendant retains (along with leasing revenue) is being used for a purpose other than Building Department

services and a construction board of appeals, such as supplementation of the general fund, payment for other non-building code related activities, or payment of previous annual deficits incurred by the Building Department.

32. These violations of the Construction Code Act are the direct and proximate cause damage to the Builders and their members as stated herein.

WHEREFORE, the Builders respectfully request declaratory and injunctive relief in their favor and against Defendant as further described herein, along with costs, attorney fees, and any further relief this Honorable Court deems appropriate under the circumstances.

## COUNT II

### **VIOLATION OF MICHIGAN CONSTITUTION 1963 ARTICLE IX § 31 (the "HEADLEE AMENDMENT")**

33. The Builders incorporate by reference paragraphs 1 through 32 of this Complaint as if fully set forth here.

34. The Defendant City, in entering into the Contract with Safe Built, Exhibit A, caused a result whereby Building Department fees, as of July 1, 2010, *defacto* exceed the costs of providing Building Department services by approximately 20%, and there is a substantial likelihood that Building Department fees may exceed the cost of providing Building Department services by approximately 25% in the future.

35. Surplus Building Department fees are not used by Defendant for lawful Building Department purposes but instead are used to supplement the City's general fund or are used for general revenue purposes.

36. Surplus funds generated under the Contract do not serve a regulatory purpose, are not proportionate to the costs to the City of providing Building Department services, and are not voluntary from the standpoint of the Builders.

37. The City's entry into the Contract is tantamount to and legally indistinguishable from a present 20% increase (and likely future 25% increase) in co-called Building Department "fees," insofar as surplus "fees" are used for general fund or general revenue purposes. These fees should therefore be held to be a disguised tax, and in effect, a tax increase.

38. The Headlee Amendment prohibits the Defendant City from raising taxes or instituting new taxes not in place as of the Amendment's 1978 ratification without approval of the majority of the electorate.

39. The Contract and City Resolution No. 2010-06-122, Exhibit A, Contract, p. 22, and the disguised tax increase they represent, were not approved by a majority vote of the requisite electorate. As such, the City has violated the Headlee Amendment.

WHEREFORE, the Builders respectfully request declaratory and injunctive relief in their favor and against Defendant as further described herein, along with costs, attorney fees, and any further relief this Honorable Court deems appropriate under the circumstances.

### **COUNT III**

#### **DECLARATORY AND INJUNCTIVE RELIEF**

40. The Builders incorporate by reference paragraphs 1 through 39 of this Complaint as if fully set forth here.

41. The alleged violations of the Construction Code Act, the Headlee Amendment and other acts and omissions of Defendant raised herein present a case of actual controversy within this Honorable Court's jurisdiction, consistent with MCR 2.605(A).

42. This Honorable Court has the power to grant any necessary and proper relief, including injunctive relief, in connection with or based upon any declaratory relief that this Court may grant consistent with MCR 2.605(F) as a remedy for Defendant's violations of Michigan law as alleged herein.

WHEREFORE, the Builders request declaratory, injunctive, and other relief in their favor and against Defendant in the nature as follows:

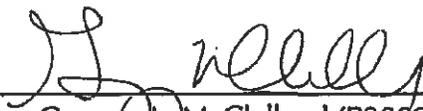
- a. Declare that the Defendant has violated and is violating the Construction Code Act "Reasonable Fee," "Reasonable Relation to Costs," "Restricted Use of Funds" Provisions set forth under MCL 125.1522(1), and Mich Const 1963, Art IX, § 31 (the "Violations").
- b. Declare that the Violations have harmed and will, if not redressed, continue to harm the Builders and their constituent members.
- c. Enter a preliminary and/or permanent injunction prohibiting Defendant from violating the Construction Code Act and prohibiting Defendant from charging any permit, inspection, plan review, or other Building Department fees that are not reasonable

and which do not bear a reasonable relation to the cost of the services provided.

- d. Enter a preliminary and/or permanent injunction prohibiting Defendant from violating the Construction Code Act and prohibiting Defendant from using any funds derived from or representing Building Department fees for any purpose other than providing Building Department services and a construction board of appeals as mandated by MCL 125.1522(1).
- e. Enter a preliminary and/or permanent injunction prohibiting Defendant from violating the Construction Code Act and prohibiting Defendant from using any funds derived from placing any fees generated through its Building Department into its general fund or any fund other than a discrete fund dedicated to purposes allowable under the Construction Code Act consistent with MCL 125.1522(1).
- f. Enter a preliminary and/or permanent injunction prohibiting Defendant from violating the Construction Code Act and requiring Defendant to return any surplus Building Department funds already deposited in Defendant's general accounts into a discrete fund dedicated to the purposes allowable under the Construction Code Act consistent with MCL 125.1522(1).

- g. Enter a permanent injunction prohibiting Defendant from violating the Construction Code Act and requiring Defendant to adjust its Building Department fees downward, so that they bear a reasonable relation to the cost of providing Building Department services consistent with MCL 125.1522(1).
- h. Enter a permanent injunction prohibiting Defendant from violating the Michigan Constitution and Headlee Amendment, Const 1963, Art IX, § 31, and requiring Defendant to adjust its Building Department fees downward, so that they serve a regulatory purpose and bear the requisite reasonable relation to the costs of providing Building Department services.
- i. Award the Builders costs, attorney fees, and any further relief this Court deems appropriate under the circumstances.

McCLELLAND & ANDERSON, L.L.P.  
Attorneys for Plaintiffs

By:   
Gregory L. McClelland (P28894)  
Jared A. Roberts (P55182)

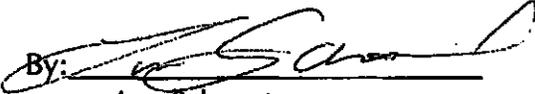
Business Address:  
1305 S. Washington Ave., Ste. 102  
Lansing, MI 48910  
Telephone: (517) 482-4890

Date: December 14, 2010

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VERIFICATION

MICHIGAN ASSOCIATION OF HOME BUILDERS

By: 

Lee Schwartz

Its: Executive Vice President of  
Government Relations  
(on behalf of all Plaintiffs)

STATE OF MICHIGAN     )  
  ) ss.  
COUNTY OF INGHAM    )

On this 14<sup>th</sup> day of December, 2010, in Ingham County, Michigan, before me, a notary public, personally appeared Lee Schwartz, who is personally known to me and who did state that he is the Executive Vice President of Government Relations for the Michigan Association of Home Builders, that he has read the foregoing Verified Complaint and its exhibits and is familiar with the contents thereof; and that the information contained therein is true to the best of his knowledge and belief; and that the documents attached as exhibits hereto are true and accurate copies of the documents described in and incorporated in this Verified Complaint.



Judie K. Bridleman, Notary Public  
Eaton County, Michigan  
Acting in Ingham County, Michigan  
My Commission Expires: 11/30/2013



## CITY COUNCIL AGENDA ITEM

**Date:** January 4, 2010

**To:** John Szerlag, City Manager

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

**Subject:** Agenda Item – Removal of Overhead “Keep Right” Sign  
Square Lake Road, East of Crooks Road

### Background

The Road Commission for Oakland County (RCOC) has been reviewing locations where overhead “Keep Right” signs have been installed to determine the necessity for maintaining them. Many of the installations were completed as a matter of standard practice and not based on engineering study or need. After reviewing the RCOC locations, they have determined that many will be scheduled for removal. Due to the age and cost to replace or maintain these installations, including energy costs and the liability associated with the possibility of having one of these fall on an unsuspecting motorist, the ROCC considers the other traffic devices such as ground mount signs and pavement markings sufficient for motorist guidance in lieu of the overhead sign.

The Michigan Manual of Uniform Traffic Control Devices (MMUTCD) does not require a “Keep Right” sign be installed as an overhead installation. Additionally, the MMUTCD, Section 2B.32, does not require that a ground mount “Keep Right” sign be installed. However, it is a standard practice to install a ground mount “Keep Right” sign at the beginning of all divided highways (i.e. boulevard). Currently, at locations where there is an overhead “Keep Right” sign, there is also a ground mount “Keep Right” sign in place. The RCOC will be removing overhead “Keep Right” signs on County Roads and has contacted the City about removing the overhead “Keep Right” sign on Square Lake Road, east of Crooks Road where the boulevard section starts for westbound traffic. The RCOC has been maintaining this sign for the City since its installation.

The RCOC requests a City Council resolution approving the attached agreement and a copy of the signed agreement for their files.

### Recommendation

It is recommended that City Council approve the attached RCOC agreement for the removal of the overhead “Keep Right” sign located on Square Lake Road, east of Crooks Road. Furthermore, that the Mayor and City Clerk be authorized to execute the attached agreement.

### Fund Availability

The RCOC will remove the overhead “Keep Right” sign as part of their removal efforts throughout the County at no cost to the City.

### Legal Considerations

The agreement as presented is consistent with previously approved RCOC agreements for traffic signal work and/or permanent signing agreements.



December 21, 2010

William J. Huotari, P.E.  
Deputy City Engineer  
City of Troy  
500 West Big Beaver Road  
Troy, MI 48084

**Re: Overhead "Keep Right" Sign Removal  
Square Lake Road, East of Crooks Road (Co. # Never Assigned)**

Dear Bill Huotari:

The Road Commission for Oakland County (RCOC) has been reviewing locations where overhead Keep Right signs have been installed to determine the necessity for maintaining them. Many of our installations were completed as a matter of standard practice and not based on an engineering study of need.

After reviewing the RCOC locations we have determined that many will be scheduled for removal. Due to the age and cost to replace or maintain these installations, including energy cost and the liability associated with the possibility of having one of these fall on an unsuspecting motorist, we consider the other traffic devices such as ground mount signs and pavement markings sufficient for motorist guidance in lieu of the overhead sign.

There is an overhead "Keep Right" sign installation we're maintaining for the City of Troy on Square Lake Road, east of Crooks Road. If the City reviews this installation and determines it's not necessary, RCOC will include it in our schedule to remove installations under our jurisdiction at no cost to the city.

Enclosed are three copies of the removal agreement. If the city would like us to proceed with the removal, please have all the copies signed by the appropriate official and return them to us for further processing. A fully executed copy of the agreement will be returned for your records.

If you have any question, please feel free to contact me at (248) 858-4830.

Sincerely,

Charles Keller, P.E.  
Traffic Engineer  
Traffic-Safety Department  
Enclosures (3)

CTK/pm

**Board of Road Commissioners**

**Gregory C. Jamien**  
Commissioner

**Richard G. Skarritt**  
Commissioner

**Eric S. Wilson**  
Commissioner

**Brent O. Bair**  
Managing Director

**Dennis G. Koler, P.E.**  
Deputy Managing Director  
County Highway Engineer

Traffic Safety Department

2420 Pontiac Lk.Rd.  
Waterford, MI  
48328

248-858-4802

FAX  
248-858-4814

TDD  
248-858-8005

[www.rcocweb.org](http://www.rcocweb.org)

**RECEIVED**

DEC 23 2010

**ENGINEERING**

**STATE OF MICHIGAN  
BOARD OF COUNTY ROAD COMMISSIONERS  
OAKLAND COUNTY  
AGREEMENT FOR TRAFFIC CONTROL DEVICE**

Type of Work: **Overhead Keep Right Sign Removal**

Location: **Square Lake Road, East of Crooks Road**

Signal No: **Never Assigned**  
Date Effective:

Under authority of state law and by virtue of resolution formally adopted by their respective governing bodies, the under-signed hereby agree to participate in the cost of installation, maintenance and operation of the above traffic control device on the basis of the following division of costs. (Title to equipment shall remain with the purchasing agency, unless purchased for roads not under the jurisdiction of the Board of County Road Commissioner.) The proportionate share of all costs are to be billed monthly. This agreement is terminable on thirty days written notice by any party.

**DIVISION OF COSTS**

AGENCY	REMOVAL Percent	Estimated Cost	MAINTENANCE Percent
City of Troy	0 %	\$ 0.00	N/A
Total	0 %	\$ 0.00	N/A

It is further agreed that the agency responsible for payment of energy billings and/or leased line interconnection billings included in maintenance costs, shall be the ROAD COMMISSION FOR OAKLAND COUNTY.

It is further agreed that the agency responsible for making original and replacement installations and performing maintenance shall be the ROAD COMMISSION FOR OAKLAND COUNTY.

"In the event the traffic control device referred to in this agreement is located on a road or street that is not under the jurisdiction of the Road Commission for Oakland County, the authority having the jurisdiction over the road or street hereby agrees to save harmless, indemnify, represent, and defend the Road Commission for Oakland County from any and all claims, demands, or suits arising out of or relating to the installation, maintenance and operation of the traffic control device which is the subject matter of this agreement."

"In the event the traffic control device referred to in this agreement is located on a road or street that is under the jurisdiction of the Road Commission for Oakland County and by virtue of this agreement will be maintained by an agency other than the Road Commission for Oakland County, then and in that event the said agency hereby acknowledges that it is undertaking the Road Commission for Oakland County's duty to maintain the said traffic control device and further agrees to provide insurance coverage protecting the Road Commission for Oakland County."

APPROVED:

**ROAD COMMISSION FOR OAKLAND COUNTY**

Date \_\_\_\_\_

By \_\_\_\_\_  
Gary Piotrowicz

DIRECTOR OF TRAFFIC-SAFETY  
Title of Authorized Official

APPROVED:

**CITY OF TROY**

Date \_\_\_\_\_

By \_\_\_\_\_

\_\_\_\_\_  
Title of Authorized Official

\*Certified copy of resolution must be submitted with this form for new installations.



## CITY COUNCIL AGENDA ITEM

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December 20, 2010

To: The Honorable Mayor and City Council Members

From: John Szerlag, City Manager  
Cindy Stewart, Community Affairs Director

Subject: Request for Public Hearing on January 31, 2011 for Community Development Block Grant (CDBG) Program Years 2008 and 2009 reprogramming of funds

---

### Background:

- The City of Troy is required by Oakland County Division of Community & Home Improvement to advertise and conduct a Public Hearing on the reprogramming of CDBG Program Year 2008 and 2009 funds.

### Financial Considerations:

- There are no financial considerations associated with this item.

### Legal Considerations:

- City Council has the authority to request the public hearing.

### Policy Considerations:

- The proposed public hearing is consistent with City Council Outcome Statement II, (Troy adds value to properties through maintenance or upgrades of infrastructure and quality of life venues.)

### Options:

- It is recommended that Council authorize a public hearing for January 31, 2011 at 7:30 PM or as soon thereafter as the agenda will permit, to consider re-programming CDBG Program Years 2008 and 2009 funds.



**TO:** Members of Troy City Council  
**FROM:** Lori Grigg Bluhm, City Attorney *LB*  
Susan M. Lancaster, Assistant City Attorney *smh*  
**DATE:** January 10, 2011  
**SUBJECT:** David J. Smith v. Troy Police Officer Gregory Stopczynski

---

Enclosed please find a copy of a lawsuit that was recently filed against Troy Police Officer Gregory Stopczynski by David J. Smith. Mr. Smith has filed this lawsuit without the assistance of an attorney. He has filed it in the 52-4 District Court, and has only named the individual officer.

As background information, Mr. Smith was stopped by Officer Stopczynski on October 5, 2009. After completing an investigation as to suspected drunk driving, the officer cited Mr. Smith for disobeying a stop sign and failing to yield. Mr. Smith unsuccessfully challenged these traffic tickets in a formal hearing, which was held on January 11, 2010. Judge Drury found Mr. Smith responsible for both of these traffic violations.

Mr. Smith has now filed this lawsuit, seeking damages under 42 U.S.C. Section 1983 for an alleged civil rights violation. According to his lawsuit, Mr. Smith challenges the stop of his vehicle, and argues that his "right to privacy and right to be secure in his person" were violated by the officer.

A resolution authorizing our office to defend Officer Stopczynski and/or the City (if the City is added to this lawsuit), is proposed for your consideration. If you have any questions, please let us know.

**STATE OF MICHIGAN  
IN THE DISTRICT COURT FOR THE 52-4<sup>th</sup> JUDICIAL DISTRICT**

DAVID J. SMITH,

Plaintiff,

Case No. \_\_\_\_\_

Honorable: \_\_\_\_\_

--- v. ---

OFFICER GREGORY STOPCZYNSKI;  
Defendant.

**CIVIL RIGHTS COMPLAINT AND DEMAND FOR TRIAL BY JURY**

1. This is a Civil Rights complaint for declaratory, monetary, and other appropriate relief brought by Plaintiff, David J. Smith, a United States citizen, for violations of his individual and associational rights under the Fourth Amendment to the United States Constitution, in violation of 42 U.S.C. 1983 and Article I, section 8 of the Michigan Constitution.
2. That the location that action arose was in Troy, MI.
3. That per Michigan Compiled Laws, venue is proper in the 52-4th District Court.

**COUNT I-- VIOLATION OF 42 U.S.C 1983 AND ARTICLE I, SECTION 8 OF THE MICHIGAN CONSTITUTION**

4. The Defendant, on 10/5/09, illegally violated the Plaintiff's right to privacy and right to be secure in his person when the Defendant ordered the Plaintiff out of his locked vehicle without probable cause or reasonable suspicion that the Plaintiff was intoxicated.
5. Since the date, the Plaintiff has suffered debilitating stress and anxiety every time he drives his vehicle in Troy, MI, for fear that an officer will stop him and violate his civil rights without any regard for the United States Constitution or the Michigan State Constitution.
6. That the amount in controversy is under \$25,000.

WHEREFORE, the Plaintiff, David J. Smith, hereby requests trial by jury and respectfully asks this Court to grant him such declaratory, monetary, and other relief as it deems just and proper

PLAINTIFF,

David J. Smith,  
2363 Garland,  
Sylvan Lake, MI 48320

Dated: October 5, 2010

DEC 15 2010 PM 02:43

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P 3:12  
COURT

**DEMAND FOR JURY**

The above named Plaintiff hereby makes formal demand for a trial by jury of the facts and issues in this cause of action.

Respectfully Submitted,

I declare under penalty of perjury that the above recitations are true.

David J. Smith 10/05/2010

David J. Smith,  
Plaintiff.

Dated: October 5, 2010

PROV 10/05/10  
703 201-5 P 3 12



## CITY COUNCIL AGENDA ITEM

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Date: December 28, 2010

To: John Szerlag, City Manager

From: Gary Mayer, Chief of Police *JM*  
 Captain Gerard Scherlinck, Professional Standards Division *GS #1606*  
 Lieutenant Robert Redmond *M*

Subject: Application for New SDM License for Picano's

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### Background

Picano Restaurant, Inc. requests a new SDM License to be held in conjunction with 2010 Class C licensed business with Dance Permit located at 3775 Rochester Road, Troy, MI 48084, Oakland County {MLCC Req. #564371}.

On December 13, 2010, attorney Jerry Watson and owner Domenico Picano were present to answer questions from the Liquor Advisory Committee. Picano Restaurant is requesting an SDM license for off-premise consumption of alcoholic beverage by their patrons. The SDM license will allow Picano's to sell beer and wine to their patrons for consumption at home. Although Picano's will be allowed to sell both beer and wine to patrons, this request is primarily to satisfy patrons who want to purchase and take home some unopened bottles of the wine they enjoyed while dining.

The Police Department did not find any disqualifying factors for this request. In addition, the Liquor Advisory Committee unanimously approved their request.

The request complies will all applicable Troy City Ordinances and Michigan Liquor Control Commission Rules.

### Recommendation

Recommend approval of the request from Picano Restaurant for a new SDM License.

Prepared by: Jeff Oberski

A regular meeting of the Liquor Advisory Committee was held on Monday, December 13, 2010 in the Lower Level Conference Room of Troy City Hall, 500 West Big Beaver Road. Chairman Max K. Ehlert called the meeting to order at 7:03 p.m.

**ROLL CALL:**

**PRESENT:** Max K. Ehlert, Chairman  
W. Stan Godlewski  
Patrick C. Hall  
Andrew Kaltsounis  
David S. Ogg  
Bohdan L. Ukraineec

**ABSENT:** Timothy P. Payne

**ALSO PRESENT:** Officer James Feld  
Susan Lancaster, Assistant City Attorney  
Lauren Harden, student representative  
Dane Lepola, student representative  
Pat Gladysz

**Resolution to Excuse Committee Member Payne**

Resolution #LC2010-12-035  
Moved by Hall  
Seconded by Kaltsounis

RESOLVED, That the absence of Committee member Payne at the Liquor Advisory Committee meeting of December 13, 2010 be **EXCUSED**.

Yes: 6  
No: 0  
Absent: Payne

---

**Resolution to Approve Minutes of November 8, 2010 Meeting**

Resolution #LC2010-12-036  
Moved by Hall  
Seconded by Ukraineec

RESOLVED, That the Minutes of the November 8, 2010 meeting of the Liquor Advisory Committee be **APPROVED**.

Yes: 6  
No: 0  
Absent: Payne

---

**Agenda Items**

1. **Picano Restaurant, Inc.** requests New SDM License to be held in conjunction with 2010 Class C Licensed Business with Dance Permit, located at 3775 Rochester, Troy, MI 48084, Oakland County. {MLCC Req. #564371}.

Present to answer questions from the Committee were attorney Jerry Watson and owner Domenico Picano.

Mr. Picano has owned the restaurant for 26 years and has had two decoy violations during that time. He employs a certified TIPS trainer and regular training is conducted. They are requesting an SDM license for off-premise consumption of alcoholic beverage by their patrons.

Resolution #LC2010-12-037

Moved by Godlewski

Seconded by Hall

RESOLVED, That the Liquor Advisory Committee recommends that the request of Picano Restaurant, Inc. for a New SDM License to be held in conjunction with 2010 Class C Licensed Business with Dance Permit, located at 3775 Rochester, Troy, MI 48084, Oakland County be **APPROVED**.

Yes: 6  
No: 0  
Absent: Payne

---

2. **The City of Troy Parks and Recreation** is requesting the Liquor Advisory Committee recommend a quota Class C liquor license for alcohol service for Community Center events be approved. The City intends to hold the license in escrow until a new vendor for catering services is selected. Upon execution of an agreement with the vendor, the City would transfer the license to the vendor. No alcohol will be served until the license is transferred to the vendor. If approved, the City will issue a request for

proposal that will ensure all bidders for catering services the availability of the license for the vendor. The selection of the vendor will be made based upon the vendor having no violations of the Michigan Liquor Control Commission or the Troy City ordinance. The serving of alcohol will be limited to attendees of Community Center events. Strict adherence to local and state laws and standards will be required.

Present to answer questions from the Committee were Carol Anderson, Parks & Recreation Director, and Scott Mercer, Community Center Manager.

Ms. Anderson explained to the Committee that the City is requesting the Class C license to be held in escrow until a new vendor for catering services is selected. When an agreement is reached with a vendor, the license would be transferred from the City of Troy to the vendor. At that time, the vendor would be required to appear before the Liquor Advisory Committee to request their approval of the license transfer. The Police Department will perform their usual criminal background check.

Ms. Anderson stated that other cities in Michigan have a similar arrangement and they have benefitted from the additional scheduled events at their community centers. This would be an alternative source of revenue for the City.

Members of the Committee posed questions to Ms. Anderson and Mr. Mercer. When it was explained that the approved vendor would be the only vendor allowed to offer both food and beverage services to potential customers, Mr. Ogg expressed concern that the City would potentially lose business if someone wanted to bring in their own caterer with liquor. Mr. Kaltsounis expressed concern that the City would be allowing liquor in a multi-use facility that offers swimming and dance classes for children. Ms. Anderson explained that the vendor would be responsible to monitor consumption and ensure that patrons of the event keep the alcohol in the banquet room. There are doors in the facility that can be closed to separate the banquet area from the recreation area. Community Center staff members are assigned to events and would potentially be available to monitor the hallways.

Assistant City Attorney Ms. Lancaster stated that the Agreement would be drafted to include language that the vendor would be responsible to monitor alcohol consumption and no service to minors. The vendor would assume the liability associated with availability of alcoholic beverages at functions.

Resolution #LC2010-12-038  
Moved by Ukrainec  
Seconded by Hall

RESOLVED, That the Liquor Advisory Committee recommends that the request of

the City of Troy Parks and Recreation for quota Class C liquor license for alcohol service for Community Center events be **APPROVED**.

Yes: Ehlert, Godlewski, Hall, Ukrainec  
No: Kaltsounis, Ogg  
Absent: Payne

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Officer Feld advised the Committee on the following:

***Sunday Morning Alcohol Sales***

Ms. Lancaster advised the Committee about the new law regarding Sunday alcohol sales. The MLCC will begin to issue permits on December 16, 2010 at a cost of \$160. Establishments do not have to appear before this Committee for approval.

***The Neiman Marcus Group, Inc.***

They are requesting a new Direct Connection-1 permit to allow them to sell liquor during their normal store hours.

***Smokers Express***

They are filing an appeal with the MLCC.

---

The meeting adjourned at 8:10 p.m.

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Max K. Ehlert, Chairman

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Patricia A. Gladysz, Secretary II

**AGREEMENT REGARDING LIQUOR LICENSE REQUEST**

Re: Applicant: Picano Restaurant, Inc.  
Address: 3775 Rochester Road  
City/State/Zip: Troy, MI 480 84

Date: 11.01.10  
Type of License/s: New SDM & SDD  
MLCC Request ID: 564371

This Agreement, made 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 the Applicant as indicated above, 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 requested Liquor License to be located as indicated above in Troy Michigan.
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: Joyce L. Watson By: Chadwick Picano PRES  
Deborah Scott

Subscribed and sworn to before me this 1st day of November 2010  
Notary Public, Oakland County, MI  
Acting in the County of Oakland  
My commission expires: 9-27-2012  
Deborah Scott

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



<b>FOR MLCC USE ONLY</b>	
Request ID #	<u>564371</u>
Business ID #	<u>4581</u>

**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:**

PICANO RESTAURANT, INC. REQUESTS NEW SDM LICENSE TO BE HELD IN CONJUNCTION WITH 2010 CLASS C LICENSED BUSINESS WITH DANCE PERMIT, LOCATED AT 3775 ROCHESTER, TROY, MI 48084, OAKLAND COUNTY.

**Section 1. APPLICANT INFORMATION**

APPLICANT #1:	APPLICANT #2:
---------------	---------------

DATE FINGERPRINTED**: <i>NO FINGERPRINTS REQUIRED</i>	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\*\*

<b>ARREST RECORD:</b> <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)	<b>ARREST RECORD:</b> <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**

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

- 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
- 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

dl



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

**POLICE INVESTIGATION REQUEST**

[Authorized by MCL 436.1201(4)]

October 13, 2010  
JULY 9, 2010

TROY POLICE DEPARTMENT  
CHIEF OF POLICE  
500 W BIG BEAVER ROAD  
TROY, MI 48084-5285

REQUEST ID #: 564371

**Applicant:**

PICANO RESTAURANT, INC. REQUESTS NEW SDM LICENSE TO BE HELD IN CONJUNCTION WITH 2010 CLASS C LICENSED BUSINESS WITH DANCE PERMIT, LOCATED AT 3775 ROCHESTER, TROY, MI 48084, OAKLAND COUNTY.

CONTACT: DOMINIC PICANO, SAME AS BUSINESS ADDRESS, B(248) 689-8050

**Please make an investigation of the application. If you do not believe that the applicants are qualified for licensing, give your reasons in detail. Complete the Police Inspection Report on Liquor License Request, LC-1800, or for Detroit police, the Detroit Police Investigation of License Request, LC-1802. If there is not enough room on the front of the form, you may use the back.**

Forward your report, along with fingerprint cards (if requested) and \$30.00 for each card to the Michigan Liquor Control Commission. **\*\*Please ensure that section D of the card has been completed prior to submission.\*\***

If you have any questions, please contact Unit 3 of the Retail Licensing Division at (517) 636-0204.

dl

**Downtown Development Authority Minutes – Draft****August 18, 2010**

A meeting of the Downtown Development Authority was held on Wednesday, August 18, 2010 in the Lower Level Conference room, City Hall, 500 W. Big Beaver, Troy, Michigan. Alan Kiriluk called the meeting to order at 7:30 a.m.

**Present:** Stuart Frankel  
David Hay  
Michele Hodges  
Larry Keisling  
William Kennis  
Alan Kiriluk  
P. Terry Knight  
Dan MacLeish (Departed 8:20am)  
Ernest Reschke  
Douglas Schroeder  
G. Thomas York

**Absent:** Louise Schilling  
Harvey Weiss

**Also Present:** John Szerlag  
John Lamerato  
Mark Miller  
Alan Motzny  
Brent Savidant  
Steve Vandette  
Zak Branigan

**Minutes**

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**Resolution: DD-10-03**

Moved by: MacLeish

Seconded by: York

RESOLVED, That the minutes of the April 16, 2010 regular meeting be approved.

Yeas: All (11)

Absent: Schilling, Weiss

## Old Business

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None.

## New Business

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### **A. Addendum No. 1 – Contract No. 08-4 Rochester/Big Beaver Intersection and park**

#### **Resolution: DD-10-04**

Moved by: Keisling

Seconded by: Reschke

RESOLVED, That addendum No. 1 to Contract No. 08-4, Rochester/Big Beaver intersection and Park Project, is hereby approved to Angelo lafrate Construction Co., 26300 Sherwood, Warren, MI 48091 in the amount of \$5,568.22 and final payment is hereby authorized.

Yeas: All (11)

Absent: Schilling, Weiss

### **B. Big Beaver Design Guidelines**

Zack Branigan of Carlisle/Wortman Associates, Inc. presented the final draft of the design guidelines that correspond with the Big Beaver Corridor Study.

## Public Comment

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None.

## Member Comment

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Topics for next meeting

1. Financial condition update
2. Report on what other DDA's are doing
3. Explore expanding and adding corridors
4. Map of public held land in district

**This meeting was adjourned at 8:38 a.m.**

**Next Meeting: September 15, 2010 at 7:30 a.m. in the Lower Level Conference Room, City Hall.**

A meeting of the Downtown Development Authority was held on Wednesday, September 15, 2010 in the Lower Level Conference room, City Hall, 500 W. Big Beaver, Troy, Michigan. Alan Kiriluk called the meeting to order at 7:30 a.m.

**Present:** David Hay  
Larry Keisling  
William Kennis  
Alan Kiriluk  
P. Terry Knight  
Dan MacLeish  
Ernest Reschke  
Douglas Schroeder (Arrived 7:34)  
G. Thomas York

**Absent:** Stuart Frankel  
Michele Hodges  
Louise Schilling  
Harvey Weiss

**Also Present:** John Szerlag  
John Lamerato  
Mark Miller  
Lori Bluhm  
Nino Licari  
Brent Savidant

## Minutes

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**Resolution: DD-10-05**

Moved by: MacLeish

Seconded by: Kennis

RESOLVED, That the minutes of the August 18, 2010 regular meeting be approved.

Yeas: All (8)

Absent: Frankel, Hodges, Schilling, Schroeder, Weiss

Old Business

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None.

New Business

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**A. Revenue Enhancements**

The board reviewed a report on what other type of revenue enhancements are being used by other DDA's. The board requested additional information on what other DDA's are doing, especially non-traditional DDA's and a listing of all DDA's in the state.

**B. Public facilities within the DDA**

The board was presented a map showing the location of all public facilities.

**C. Proposed Property Acquisition Policy**

**Resolution: DD-10-06**

Moved by: Kennis

Seconded by: Hay

RESOLVED, That the board adopt the Property Acquisition Policy with the intent to provide guidelines and criteria for the control of real properties within the TDDA district boundaries with the goal of increasing property values, creating jobs, encouraging real and personal capital investment and implementing the Land Use Objectives of the City of Troy.

Yeas: All (9)

Absent: Frankel, Hodges, Schilling, Weiss

**D. Economic Development Activity Report – August, 2010**

The economic development activity report for August, 2010 was presented to the board.

**Public Comment**

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None.

**Member Comment**

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Provide a Gateway park update.

**This meeting was adjourned at 8:13 a.m.**

**Next Meeting: October 20, 2010 at 7:30 a.m. in the Lower Level Conference Room, City Hall.**

The Special/Study Meeting of the Troy City Planning Commission was called to order by Chair Hutson at 7:30 p.m. on October 26, 2010 in the Council Board Room of the Troy City Hall.

1. ROLL CALL

Present:

Donald Edmunds  
 Michael W. Hutson  
 Mark Maxwell  
 Philip Sanzica  
 Robert M. Schultz  
 Thomas Strat  
 Lon M. Ullmann  
 Mark J. Vleck

Absent:

John J. Tagle

Also Present:

R. Brent Savidant, Acting Planning Director  
 Allan Motzny, Assistant City Attorney  
 Zachary Branigan, Carlisle/Wortman Associates, Inc.

2. APPROVAL OF AGENDA

**Resolution # PC-2010-10-071**

Moved by: Schultz  
 Seconded by: Edmunds

**RESOLVED**, To approve the Agenda as prepared.

Yes: All present (8)  
 Absent: Tagle

**MOTION CARRIED**

3. APPROVAL OF MINUTES

**Resolution # PC-2010-10-072**

Moved by: Sanzica  
 Seconded by: Schultz

**RESOLVED**, To approve the minutes of the October 12, 2010 Regular meeting as prepared.

Yes: All present (8)  
 Absent: Tagle

**MOTION CARRIED**

Mr. Ullmann stated the Master Plan identifies these components; therefore, they should be incorporated in the Zoning Ordinances especially as the Zoning Law is the enabling act for the protection of these features.

### **OTHER BUSINESS**

9. **PUBLIC COMMENTS** – Items on Current Agenda

There was no one present who wished to speak.

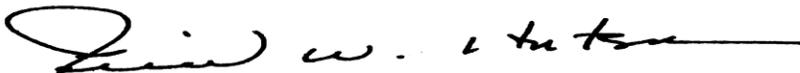
10. **PLANNING COMMISSION COMMENTS**

Mr. Ullmann commented on the newly constructed cell tower at the southwest corner of Square Lake and John R. Mr. Savidant stated he would take a photograph of the tower and email it and the approved site plan and meeting minutes to all Planning Commissioners for their consideration.

### **ADJOURN**

The Special/Study Meeting of the Planning Commission adjourned at 10:05 p.m.

Respectfully submitted,



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Michael W. Hutson, Chair

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R. Brent Savidant, Acting Planning Director

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Mr. Ullmann stated the Master Plan identifies these components; therefore, they should be incorporated in the Zoning Ordinances especially as the Zoning Law is the enabling act for the protection of these features.

### OTHER BUSINESS

9. PUBLIC COMMENTS – Items on Current Agenda

There was no one present who wished to speak.

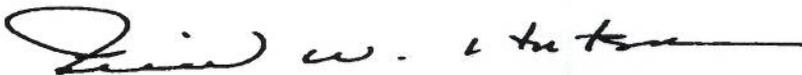
10. PLANNING COMMISSION COMMENTS

Mr. Ullmann commented on the newly constructed cell tower at the southwest corner of Square Lake and John R. Mr. Savidant stated he would take a photograph of the tower and email it and the approved site plan and meeting minutes to all Planning Commissioners for their consideration.

### ADJOURN

The Special/Study Meeting of the Planning Commission adjourned at 10:05 p.m.

Respectfully submitted,



Michael W. Hutson, Chair



R. Brent Savidant, Acting Planning Director

A regular meeting of the Liquor Advisory Committee was held on Monday, November 8, 2010 in the Emergency Operations Conference Room of the Troy Police Department, 500 West Big Beaver Road. Committee member Patrick Hall called the meeting to order at 6:56 p.m.

**ROLL CALL:**

**PRESENT:** W. Stan Godlewski  
Patrick C. Hall  
Andrew Kaltsounis  
David S. Ogg  
Timothy P. Payne  
Bohdan L. Ukraineec

**ABSENT:** Max K. Ehlert, Chairman

**ALSO PRESENT:** Officer James Feld  
Susan Lancaster, Assistant City Attorney  
Lauren Harden, student representative  
Dane Lepola, student representative  
Pat Gladysz

**Resolution to Excuse Committee Member Ehlert**

Resolution #LC2010-11-030

Moved by Kaltsounis

Seconded by Payne

RESOLVED, That the absence of Committee member Ehlert at the Liquor Advisory Committee meeting of November 8, 2010 be **EXCUSED**.

Yes: 6  
No: 0  
Absent: Ehlert

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**Resolution to Approve Minutes of October 4, 2010 Meeting**

Resolution #LC2010-11-031

Moved by Kaltsounis

Seconded by Payne

RESOLVED, That the Minutes of the October 4, 2010 meeting of the Liquor Advisory Committee be **APPROVED**.

Yes: 6  
No: 0  
Absent: Ehlert

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**Agenda Items**

1. **Target Corporation** (A Minnesota Corporation), requests new SDM License with On Premise Seating, to be located at 1301 Coolidge, Troy, MI 48084, Oakland County. {MLCC Req. #556906}.

Present to answer questions from the Committee was store manager Carrie Worthington.

Ms. Worthington addressed the Committee reporting that Target Corporation began this application process in 2006. The store has passed all inspections and is ready to begin beer and wine sales. These beverages will be stocked in their food pantry aisles, away from the entry/exit doors, and with surveillance camera coverage. Target Corporation feels that the sale of beer and wine in their stores will increase their sales revenue and thus employment opportunities.

Committee members questioned the “On Premise Seating” wording of the Agenda Item. It was explained that there is a snack court area in the store, but the SDM license does not allow alcohol to be served or consumed on the premises.

Resolution #LC2010-11-032  
Moved by Ukrainec  
Seconded by Ogg

RESOLVED, That the Liquor Advisory Committee recommends that the request of Target Corporation (A Minnesota Corporation) for a new SDM License with On Premise Seating, to be located at 1301 Coolidge, Troy, MI 48084, Oakland County be **APPROVED** provided there would be no consumption of alcohol in the on premise seating area.

Yes: 6  
No: 0  
Absent: Ehlert

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2. **Square Lake Diner, LLC** requests to transfer interest and location of MLCC Class C License No. 9432-2010 assigned to Rockers, Inc. located at 1461 N. Perry, Pontiac, Michigan to Square Lake Diner, LLC a Michigan limited liability company to be located at 6024 Rochester Road, Troy, Michigan, Oakland County {MLCC Req. #567112}, pending final inspections.

Present to answer questions from the Committee were Frank Palazzolo, Frank Memcaj, and Pjetar Uljaj.

Mr. Palazzolo, attorney for the owners, explained to the Committee that renovations are underway to this restaurant. The interior has been gutted, and new equipment and seating for 70 customers are being installed. The owners stated that they are striving to present a classic American diner serving three meals each day. They are transferring a liquor license from Pontiac.

Mr. Palazzolo also stated that a letter will be sent to the Michigan Liquor Control Commission withdrawing the dance, entertainment, and outdoor service items from their license.

Resolution #LC2010-11-033

Moved by

Seconded by

RESOLVED, That the Liquor Advisory Committee recommends that the request of Square Lake Diner, LLC to transfer interest and location of MLCC Class C License No. 9432-2010 assigned to Rockers, Inc. located at 1461 N. Perry, Pontiac, Michigan to Square Lake Diner, LLC a Michigan limited liability company to be located at 6024 Rochester Road, Troy, Michigan, Oakland County be **APPROVED** pending final inspections.

Yes: 6  
No: 0  
Absent: Ehlert

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3. **RCSH Operations, LLC** (A Louisiana Limited Liability Company) requests to Add Space to 2009 Class C & SDM Licensed Business with Dance Permit located at 755 West Big Beaver Suite #151, Troy, MI 48084, Oakland County. {MLCC Req. #530151}. *Ruth's Chris Steak House*.

Present to answer questions from the Committee was general manager Daniel Doerfling.

Mr. Doerfling explained to the Committee that they renovated the restaurant to give it a more useful and modern appearance. Even though square footage was added,

they currently have five fewer seats. The build-out has been completed and all inspections have been approved. When questioned about the dance floor, Mr. Doerfling stated that there has been no dance floor in the restaurant in the ten years of his employment.

Resolution #LC2010-11-034

Moved by

Seconded by

RESOLVED, That the Liquor Advisory Committee recommends that the request of RCSH Operations, LLC (A Louisiana Limited Liability Company) to Add Space to 2009 Class C & SDM Licensed Business with Dance Permit located at 755 West Big Beaver Suite #151, Troy, MI 48084, Oakland County be **APPROVED**.

Yes: 6  
No: 0  
Absent: Ehlert

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Officer Feld advised the Committee on the following:

***Rite Aid, 2971 West Maple Road***

On 10/27/10, the Directed Patrol Unit of the Troy Police Department conducted Liquor License Inspections of all the Licensed Businesses within the City of Troy, utilizing an underage decoy. This Rite Aid location received a violation for sale to an underage patron.

***MLCC Hearings***

**Troy Robin, Inc.**, 5460 Corporate (*Red Robin*), and **Woodward Detroit CVS, LLC**, 4963 John R. Road (*CVS Pharmacy #8242*) had a Hearing for a complaint that was filed against each licensee. The complaint alleges the licensee Allowed a Sale To Minor Decoy on July 19, 2010. The Hearing was conducted on November 1, 2010 at 9:30 AM at the Sterling Heights Civic Center, 40555 Utica Road, Council Chambers. Each of these businesses pled responsibility at the Hearing.

***NH Motel Enterprises (MET Hotel)***

The owners of the Hotel are being uncooperative during the MLCC investigation. Also, it appears that the ownership is has established some type of adult care facility in the hotel without obtaining the proper State licensing. This investigation is also ongoing.

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Ms. Lancaster, assistant City Attorney, provided the following explanation in response to a question about attendance of the Liquor Advisory Committee members at the monthly meetings.

Ms. Lancaster stated that a member must advise by telephone or email if they will not be in attendance at a scheduled meeting. The members present at a meeting always vote whether to excuse an absent member. If someone is excused from a particular meeting, nothing can be done about that absence in the future. If the membership chooses to not excuse an absent member, they can request that the attendance records be reviewed by City Council.

Also, in response to another question, Ms. Lancaster stated that a quorum is a simple majority. For the Liquor Advisory Committee, a quorum is four members.

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The meeting adjourned at 7:25 p.m.

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Patrick C. Hall, Committee Member

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Patricia A. Gladysz, Secretary II

A meeting of the Employees' Retirement System Board of Trustees was held on Wednesday, November 10, 2010, at Troy City Hall, 500 W. Big Beaver Road, Troy, MI 48084.

The meeting was called to order at 12:00 p.m.

**Trustees Present:**                      Mark Calice  
     Thomas J. Gordon, II  
     Mary Kerwin (arrived at 12:04)  
     John M. Lamerato  
     William R. Need (Ex-Officio)  
     Steve Pallotta  
     Thomas Rosewarne  
     A. John Szerlag (arrived at 12:02)

**Also Present:**                              Tim McLean

### Minutes

#### **Resolution # ER – 2010-11- 36**

Moved by Lamerato  
 Seconded by Gordon

RESOLVED, That the Minutes of the September 8, 2010 meeting be approved.

Yeas:                All – 5  
 Absent:            Kerwin, Szerlag

#### **Other Business – December 31, 2009 Actuarial Valuation**

##### **Resolution # ER – 2010-11- 37**

Moved by Lamerato  
 Seconded by Pallotta

RESOLVED, That the board receive and file the December 31, 2009 Actuarial Valuation.

Yeas:                All – 6  
 Absent:            Kerwin

#### **Other Business – 2009 Summary Annual Report to Members**

##### **Resolution # ER – 2010-11- 38**

Moved by Lamerato  
 Seconded by Gordon

RESOLVED, That the board receive, file and distribute the Summary Annual Report to members and retirees.

Yeas:                All – 7

**Other Business – September 30, 2010 Investment Performance**

Rebecca S. Sorensen, UBS reviewed with the board the September 30, 2010 Investment Performance and Mutual Fund recommendations.

**Other Business – Retirement Request**

**Resolution # ER – 2010-11- 39**

Moved by Lamerato  
Seconded by Kerwin

RESOLVED, That the retirement request of Linda Bockstanz, DC, 8/19/10, 10 years, 2 months be approved.

Yeas: All – 7

**Investments**

**Resolution # ER – 2010-11- 40**

Moved by Lamerato  
Seconded by Kerwin

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

**Buy:** 2,000 shares Direct TV;  
\$1,000,000 Thornburg International Value Fund;  
American Funds Capital World Fund with proceeds from Invesco Global Core Fund.

**Sell:** 2,000 shares LKQ;  
5,000 shares Deckers Outdoor @ \$69.00;  
Alliance Bernstein International Value Fund; and  
Invesco Global Core Fund

Yeas: All – 7

**Public Comment**

Martin Howrylak was in attendance, and commented that the board should review other retirement board investment models.

The next meeting is December 8, 2010 at 1:00 p.m. at Troy City Hall, Conference Room C, 500 W. Big Beaver Road, Troy, MI 48084.

The meeting adjourned at 1:23 p.m.

  
\_\_\_\_\_  
Mark Calice, Chairman

Tom Greenwood Vice

  
\_\_\_\_\_  
John M. Lamerato, Secretary

JML/bt\Retirement Board\2010\11.10.10 – Minutes\_Final

The Board of Zoning Appeals meeting was called to order by Chair Lambert at 7:30 p.m. on November 16, 2010, in the Council Chamber of the Troy City Hall.

1. ROLL CALL

Present:

Michael Bartnik  
Glenn Clark  
Kenneth Courtney  
Donald L. Edmunds  
William Fisher  
A. Allen Kneale  
David Lambert

Also Present:

Paul Evans, Zoning and Compliance Specialist  
Christopher Forsyth, Assistant City Attorney  
Kathy L. Czarnecki, Recording Secretary

Mr. Clark apologized for his absence at the October 19, 2010 Regular meeting. He said he was on call at work and had no prior knowledge that he would not be able to make the meeting.

**Resolution # BZA 2010-11-050**

Moved by Clark  
Seconded by Bartnik

**MOVED**, To reconsider Resolution #BZA 2010-10-049 relating to the unexcused absence of Member Clark at the October 19, 2010 Regular meeting and to let the record show the absence as excused.

Yes: All present (7)

**MOTION CARRIED**

**Resolution # BZA 2010-11-051**

Moved by Courtney  
Seconded by Fisher

**MOVED**, To excuse Member Clark from attendance at the October 19, 2010 meeting.

Discussion on the motion on the floor.

Several Board members commented on the viability and reasonableness of contacting City Hall in the event of an unscheduled absence.

Mr. Clark said he was on call at work and was called out of the area and very busy that evening. Mr. Clark believes the absence is not in conflict with any ordinance or Board ethics or procedures, and said he would appreciate an affirmative vote to excuse his absence.

Vote on the motion on the floor.

Yes: All present (7)

**MOTION CARRIED**

2. APPROVAL OF MINUTES

Mr. Bartnik suggested to strike from the minutes the responses from the Assistant City Attorney to questions posed by Mr. Edmunds, under Agenda item #7, Miscellaneous Business. He stated that because there was no motion technically on the table to constitute any action by the Board, the discussion is not germane or pertinent to any matter before the Board. Mr. Bartnik also stated that responses by the Assistant City Attorney were not official legal opinions requested by the majority of the Board, and if they were, most likely an executive session would have been called.

**Resolution # BZA 2010-11-**

Moved by Bartnik

Seconded by

**MOVED**, To amend the October 19, 2010 Regular meeting minutes with a correction that the discussion on pages 7 and 8, relating to questions posed by Mr. Edmunds, are stricken from the minutes, and that the minutes simply read: “Mr. Motzny addressed questions posed by Mr. Edmunds.”

Discussion.

There was general discussion regarding the Board’s history of obtaining legal opinions, whether having a pending motion was pertinent, that the Board was not taking any particular action relative to the comments, and the necessity of having the information in the minutes for the benefit of the public and City Council.

Mr. Forsyth said the purpose of minutes is to reflect the actions of a particular board and not necessarily reflect any detailed description of a discussion. Mr. Forsyth said he does not however see any problem with what was written into the October 19<sup>th</sup> minutes and sees no need to add any clarifying language. Mr. Forsyth said approval of the minutes, either way, is the Board’s discretion.

Mr. Kneale referenced page 4 with respect to a reply by the Assistant City Attorney to his question relating to whether the Board can consider impact of an aesthetic issue to the property as part of its determination. He expressed uncertainty that the reply, as written in the minutes, adequately summarizes the intent of the Assistant City Attorney’s reply.

Motion on the floor failed because of lack of support.

**Resolution # BZA 2010-11-052**

Moved by Edmunds  
Seconded by Courtney

**MOVED**, To approve the October 19, 2010 Regular meeting minutes as published.

Discussion on the motion on the floor.

Mr. Bartnik offered the following amendment to the motion on the floor.

**Resolution # BZA 2010-11-053**

Moved by Bartnik  
Seconded by Lambert

**MOVED**, To amend the motion by inserting the following additional language on page 8 immediately after the sections discussed earlier and after Paul Evans’ comments, to read: “Board Members discussed the above without any Resolution.”

Discussion on the motion on the floor.

Mr. Edmunds asked for an opinion from the Assistant City Attorney.

Mr. Forsyth replied that the Zoning Enabling Act states that minutes should be a record of proceedings and Robert’s Rules of Order states that minutes should reflect the actions that a Board takes. Mr. Forsyth stated approval of the minutes is the Board’s discretion as to what level of detail it would like the minutes to reflect, as long as the public has an idea of what was discussed at the meeting.

Vote on the motion to amend the original motion.

Yes: Bartnik, Courtney, Edmunds, Fisher, Kneale, Lambert  
No: Clark

**MOTION CARRIED**

Vote on original motion as amended.

**Resolution # BZA 2010-11-052 (as amended)**

Moved by Edmunds

Seconded by Courtney

**MOVED**, To approve the October 19, 2010 Regular meeting minutes as amended, by inserting the following additional language on page 8 immediately after the sections discussed earlier and after Paul Evans’ comments, to read: “Board Members discussed the above without any Resolution.”

Yes: All present (7)

**MOTION CARRIED**

3. POSTPONED ITEMS

A. **REVIEW AND APPROVAL REQUEST, ROBERT AND GENOVEVA RASCOL, 635 HARTLAND** – A request to allow the temporary outdoor parking of a commercial vehicle (stake truck) in a one family residential district.

**ORDINANCE SECTION: 43.74.00**

Mr. Evans gave a brief report on the request to park a commercial vehicle at 635 Hartland. He addressed location, adjacent zoning, types of commercial vehicles allowed in residential districts and Board of Zoning Appeals history with this matter at this location. Mr. Evans stated the item was postponed from the October Regular meeting at the request of the petitioner to have an opportunity of a full board present this month.

There was discussion on the following:

- Potential to build garage (based on City Assessor’s figures).
  - Detached garage - 1356 square feet.
  - Attached garage - 645 square feet.
- Sidewalks not constructed along road.
- Street width of the pavement (based on GIS estimation).
  - 22 feet (approximately).
- Distance between homes of applicant and neighbors (based on GIS estimation).
  - 21 feet (approximately) to the west.
  - 30 feet (approximately) to the east.
- Orientation of applicant-provided photograph containing a deck.

Robert Rascol of 635 Hartland was present. Mr. Rascol stated the request continues to meet both criteria standards “b” and “c” for parking commercial vehicles in residential districts. He identified the photograph with the deck is taken from his neighbor’s deck. Mr. Rascol estimated the distance from the neighbor’s deck to the side of the vehicle closest to the deck is approximately 8 feet, the width of the pine tree.

Mr. Rascol said he would have no problem parking the truck anywhere on his property. He noted the truck appears to be less visible where he currently parks it. Mr. Rascol said he operates a trim trimming business out of his house, and the truck is parked on the property mostly during evening hours and weekends. Mr. Rascol said he has received no complaints from neighbors. He said the house in the photograph with the deck has a side window, from which his parked truck is visible.

Mr. Rascol said he has not specifically looked for alternative locations to park his truck.

Mr. Courtney encouraged the applicant to ask his neighbor where he would like the truck parked, should the Board grant approval this evening.

#### PUBLIC HEARING OPENED

No one was present to speak. Chair Lambert noted there is one communication in support of the variance request on file.

#### PUBLIC HEARING CLOSED

Mr. Edmunds said the proximity of the applicant’s home to the neighbor on the west, where the truck is parked, is extremely close. Mr. Edmunds noted that the written communication in support of the request is not the applicant’s direct neighbor.

#### **Resolution # BZA 2010-11-054**

Moved by Courtney

Seconded by Clark

**MOVED**, To grant the request for a two-year period.

- The location on the site does not appear to be a problem with the adjacent residential property.
- The request does not negatively impact pedestrian or vehicular movement along the frontage.
- The petitioner has investigated a garage on this site and it cannot reasonably be constructed to accommodate the commercial vehicle.
- The request meets criteria standards “b” and “c” of the Zoning Ordinance.

Discussion on the motion on the floor.

Mr. Bartnik said he is opposed to granting the request. He believes the evidence does not support criteria standard “c” in that parking a commercial vehicle on the premises will negatively impact the adjacent residential properties and negatively impact pedestrian and vehicular movement along the street. He addressed previous approvals of parked commercial vehicles by the Board.

Mr. Courtney thinks satisfying criteria standard “c” is self-evident since there are no objections to the request. He said the commercial vehicle has been there for some time now with no complaints, is not easily visible from the street, and has not negatively impacted vehicular movement.

Mr. Edmunds said he is not comfortable in continuing the applicant’s request. He addressed the history of the applicant’s file, the applicant’s lack to explore alternative sites to park the commercial vehicle, and the responsibility of the Board to hold the Zoning Ordinance to a high standard.

Mr. Bartnik addressed the potential negative impact to vehicular and pedestrian traffic with a commercial vehicle entering and exiting a relatively narrow street. He believes that is a violation of the Zoning Ordinance and the spirit of the Ordinance.

Mr. Clark stated he is in favor of the request. Mr. Clark said he has driven the street many times. It is his assessment the street is not narrow and traffic flows at a fast pace. Mr. Clark said the parked truck is not visible from the street. He addressed the economic downturn with respect to operating a business and previous approvals of parked commercial vehicles by the Board.

Vote on the motion on the floor.

Yes: Clark, Courtney, Fisher, Lambert  
No: Bartnik, Edmunds, Kneale

**MOTION CARRIED**

Chair Lambert suggested the applicant consider other alternatives for parking the commercial vehicle in the future, given he barely received approval this evening.

4. HEARING OF CASES

- A. **VARIANCE REQUEST, ROBERT WALDRON OF PRO ENTERPRISES INC., PRO CAR WASH WEST, 3785 ROCHESTER ROAD** – In order to modify the front of and construct an addition to the rear of the existing car wash, the following variances are requested: 1) A 1 foot variance to the required 40 foot front yard setback, 2) an 8 foot variance to the required 75 foot rear yard setback, 3) a variance from the requirement that two trees be provided along the front of the property, and 4) a 1,539 square foot variance to the requirement that 10% of the site area be landscaped (10% of the site area is 2,927 square feet).

**ORDINANCE SECTIONS: 30.20.07, 30.20.07 (note G), 39.70.02 and 39.70.04**

Mr. Evans gave a brief report on the proposed variances for Pro Car Wash West, 3785 Rochester Road, with respect to the Rochester Road right of way, setback requirements and landscape requirements.

Mr. Evans said there is an active Special Use and Preliminary Site Plan application before the Planning Commission. As a result of the Rochester Road widening, the petitioner is proposing to enlarge the existing car wash facility and is required to obtain Special Use approval.

Mr. Forsyth provided general background information on the Rochester Road widening project. He addressed the condemnation proceeding, the taking of approximately 35 feet of right of way, and its affect on the Pro Car Wash facility to which the petitioner is seeking the proposed variances.

Mr. Evans confirmed the proposed landscaping is just under 50% of the required landscaping.

The petitioner, Robert Waldron of Pro Car Wash West, 3785 Rochester Road, was present. Mr. Waldron said the Rochester Road widening is the principal reason he is in front of the Board requesting the four variances. He addressed the hardship imposed on the car wash facility with respect to the elimination of the acceleration lane, building layout for line production, conveyors and drying area, and limited property for landscaping. Mr. Waldron said they have always been short on landscaping.

Mr. Edmunds said there is a very attractive mature spruce tree as you enter the car wash facility. He addressed the similarity of the proposed variance request to the variance granted for the car wash facility on the east side of Rochester Road.

#### PUBLIC HEARING OPENED

No one was present to speak. Chair Lambert noted there is no written correspondence on file.

#### PUBLIC HEARING CLOSED

#### **Resolution # BZA 2010-11-055**

Moved by Bartnik

Seconded by Edmunds

**MOVED**, To grant the variances as requested.

#### *Preliminary Findings:*

- That the variances would not be contrary to the public interest.
- That the variances do not permit the establishment of a prohibited use within a zoning district.
- That the variances do not cause any adverse effect to properties in the immediate vicinity or immediate zoning district.
- That the variances relate only to the property described in the application.

*Special Findings:*

The petitioner has the following practical difficulties as disclosed in the record and the complete documentation provided, and is part of the record:

- No reasonable use can be made of the property as desired by the existing business without unnecessarily burdensome conformance.
- Practical difficulties result from the unusual characteristics as described in the petition and by the petitioner in his presentation this evening, relating to the size, location, narrowness of the lot and configuration.

Discussion on the motion on the floor.

Chair Lambert said he is very sympathetic with the issues before the petitioner, and the City of Troy is happy the applicant is staying and operating his business in the City.

Vote on the motion on the floor.

Yes: All present (7)

**MOTION CARRIED**

5. COMMUNICATIONS

Chair Lambert acknowledged receipt of a communication received from Paul Evans on the revised Board of Zoning Appeals Application.

6. PUBLIC COMMENT

There was no one present who wished to speak.

7. MISCELLANEOUS BUSINESS

There was discussion on the following items:

- Downloading agenda packet from City website and external website.
- Budget monies available for training.
- Status of Zoning Ordinance re-write.

8. ADJOURNMENT

The Board of Zoning Appeals meeting adjourned at 8:42 p.m.

Respectfully submitted,

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David Lambert, Chair

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Kathy L. Czarnecki, Recording Secretary

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The Board of Zoning Appeals meeting was called to order by Chair Lambert at 7:30 p.m. on November 16, 2010, in the Council Chamber of the Troy City Hall.

1. ROLL CALL

Present:

Michael Bartnik  
Glenn Clark  
Kenneth Courtney  
Donald L. Edmunds  
William Fisher  
A. Allen Kneale  
David Lambert

Also Present:

Paul Evans, Zoning and Compliance Specialist  
Christopher Forsyth, Assistant City Attorney  
Kathy L. Czarnecki, Recording Secretary

Mr. Clark apologized for his absence at the October 19, 2010 Regular meeting. He said he was on call at work and had no prior knowledge that he would not be able to make the meeting.

**Resolution # BZA 2010-11-050**

Moved by Clark  
Seconded by Bartnik

**MOVED**, To reconsider Resolution #BZA 2010-10-049 relating to the unexcused absence of Member Clark at the October 19, 2010 Regular meeting and to let the record show the absence as excused.

Yes: All present (7)

**MOTION CARRIED**

**Resolution # BZA 2010-11-051**

Moved by Courtney  
Seconded by Fisher

**MOVED**, To excuse Member Clark from attendance at the October 19, 2010 meeting.

Discussion on the motion on the floor.

Several Board members commented on the viability and reasonableness of contacting City Hall in the event of an unscheduled absence.

Mr. Clark said he was on call at work and was called out of the area and very busy that evening. Mr. Clark believes the absence is not in conflict with any ordinance or Board ethics or procedures, and said he would appreciate an affirmative vote to excuse his absence.

Vote on the motion on the floor.

Yes: All present (7)

**MOTION CARRIED**

2. APPROVAL OF MINUTES

Mr. Bartnik suggested to strike from the minutes the responses from the Assistant City Attorney to questions posed by Mr. Edmunds, under Agenda item #7, Miscellaneous Business. He stated that because there was no motion technically on the table to constitute any action by the Board, the discussion is not germane or pertinent to any matter before the Board. Mr. Bartnik also stated that responses by the Assistant City Attorney were not official legal opinions requested by the majority of the Board, and if they were, most likely an executive session would have been called.

**Resolution # BZA 2010-11-**

Moved by Bartnik

Seconded by

**MOVED**, To amend the October 19, 2010 Regular meeting minutes with a correction that the discussion on pages 7 and 8, relating to questions posed by Mr. Edmunds, are stricken from the minutes, and that the minutes simply read: “Mr. Motzny addressed questions posed by Mr. Edmunds.”

Discussion.

There was general discussion regarding the Board’s history of obtaining legal opinions, whether having a pending motion was pertinent, that the Board was not taking any particular action relative to the comments, and the necessity of having the information in the minutes for the benefit of the public and City Council.

Mr. Forsyth said the purpose of minutes is to reflect the actions of a particular board and not necessarily reflect any detailed description of a discussion. Mr. Forsyth said he does not however see any problem with what was written into the October 19<sup>th</sup> minutes and sees no need to add any clarifying language. Mr. Forsyth said approval of the minutes, either way, is the Board’s discretion.

Mr. Kneale referenced page 4 with respect to a reply by the Assistant City Attorney to his question relating to whether the Board can consider impact of an aesthetic issue to the property as part of its determination. He expressed uncertainty that the reply, as written in the minutes, adequately summarizes the intent of the Assistant City Attorney’s reply.

Motion on the floor failed because of lack of support.

**Resolution # BZA 2010-11-052**

Moved by Edmunds  
Seconded by Courtney

**MOVED**, To approve the October 19, 2010 Regular meeting minutes as published.

Discussion on the motion on the floor.

Mr. Bartnik offered the following amendment to the motion on the floor.

**Resolution # BZA 2010-11-053**

Moved by Bartnik  
Seconded by Lambert

**MOVED**, To amend the motion by inserting the following additional language on page 8 immediately after the sections discussed earlier and after Paul Evans’ comments, to read: “Board Members discussed the above without any Resolution.”

Discussion on the motion on the floor.

Mr. Edmunds asked for an opinion from the Assistant City Attorney.

Mr. Forsyth replied that the Zoning Enabling Act states that minutes should be a record of proceedings and Robert’s Rules of Order states that minutes should reflect the actions that a Board takes. Mr. Forsyth stated approval of the minutes is the Board’s discretion as to what level of detail it would like the minutes to reflect, as long as the public has an idea of what was discussed at the meeting.

Vote on the motion to amend the original motion.

Yes: Bartnik, Courtney, Edmunds, Fisher, Kneale, Lambert  
No: Clark

**MOTION CARRIED**

Vote on original motion as amended.

**Resolution # BZA 2010-11-052 (as amended)**

Moved by Edmunds

Seconded by Courtney

**MOVED**, To approve the October 19, 2010 Regular meeting minutes as amended, by inserting the following additional language on page 8 immediately after the sections discussed earlier and after Paul Evans’ comments, to read: “Board Members discussed the above without any Resolution.”

Yes: All present (7)

**MOTION CARRIED**

3. POSTPONED ITEMS

A. **REVIEW AND APPROVAL REQUEST, ROBERT AND GENOVEVA RASCOL, 635 HARTLAND** – A request to allow the temporary outdoor parking of a commercial vehicle (stake truck) in a one family residential district.

**ORDINANCE SECTION: 43.74.00**

Mr. Evans gave a brief report on the request to park a commercial vehicle at 635 Hartland. He addressed location, adjacent zoning, types of commercial vehicles allowed in residential districts and Board of Zoning Appeals history with this matter at this location. Mr. Evans stated the item was postponed from the October Regular meeting at the request of the petitioner to have an opportunity of a full board present this month.

There was discussion on the following:

- Potential to build garage (based on City Assessor’s figures).
  - Detached garage - 1356 square feet.
  - Attached garage - 645 square feet.
- Sidewalks not constructed along road.
- Street width of the pavement (based on GIS estimation).
  - 22 feet (approximately).
- Distance between homes of applicant and neighbors (based on GIS estimation).
  - 21 feet (approximately) to the west.
  - 30 feet (approximately) to the east.
- Orientation of applicant-provided photograph containing a deck.

Robert Rascol of 635 Hartland was present. Mr. Rascol stated the request continues to meet both criteria standards “b” and “c” for parking commercial vehicles in residential districts. He identified the photograph with the deck is taken from his neighbor’s deck. Mr. Rascol estimated the distance from the neighbor’s deck to the side of the vehicle closest to the deck is approximately 8 feet, the width of the pine tree.

Mr. Rascol said he would have no problem parking the truck anywhere on his property. He noted the truck appears to be less visible where he currently parks it. Mr. Rascol said he operates a trim trimming business out of his house, and the truck is parked on the property mostly during evening hours and weekends. Mr. Rascol said he has received no complaints from neighbors. He said the house in the photograph with the deck has a side window, from which his parked truck is visible.

Mr. Rascol said he has not specifically looked for alternative locations to park his truck.

Mr. Courtney encouraged the applicant to ask his neighbor where he would like the truck parked, should the Board grant approval this evening.

#### PUBLIC HEARING OPENED

No one was present to speak. Chair Lambert noted there is one communication in support of the variance request on file.

#### PUBLIC HEARING CLOSED

Mr. Edmunds said the proximity of the applicant’s home to the neighbor on the west, where the truck is parked, is extremely close. Mr. Edmunds noted that the written communication in support of the request is not the applicant’s direct neighbor.

#### **Resolution # BZA 2010-11-054**

Moved by Courtney

Seconded by Clark

**MOVED**, To grant the request for a two-year period.

- The location on the site does not appear to be a problem with the adjacent residential property.
- The request does not negatively impact pedestrian or vehicular movement along the frontage.
- The petitioner has investigated a garage on this site and it cannot reasonably be constructed to accommodate the commercial vehicle.
- The request meets criteria standards “b” and “c” of the Zoning Ordinance.

Discussion on the motion on the floor.

Mr. Bartnik said he is opposed to granting the request. He believes the evidence does not support criteria standard “c” in that parking a commercial vehicle on the premises will negatively impact the adjacent residential properties and negatively impact pedestrian and vehicular movement along the street. He addressed previous approvals of parked commercial vehicles by the Board.

Mr. Courtney thinks satisfying criteria standard “c” is self-evident since there are no objections to the request. He said the commercial vehicle has been there for some time now with no complaints, is not easily visible from the street, and has not negatively impacted vehicular movement.

Mr. Edmunds said he is not comfortable in continuing the applicant’s request. He addressed the history of the applicant’s file, the applicant’s lack to explore alternative sites to park the commercial vehicle, and the responsibility of the Board to hold the Zoning Ordinance to a high standard.

Mr. Bartnik addressed the potential negative impact to vehicular and pedestrian traffic with a commercial vehicle entering and exiting a relatively narrow street. He believes that is a violation of the Zoning Ordinance and the spirit of the Ordinance.

Mr. Clark stated he is in favor of the request. Mr. Clark said he has driven the street many times. It is his assessment the street is not narrow and traffic flows at a fast pace. Mr. Clark said the parked truck is not visible from the street. He addressed the economic downturn with respect to operating a business and previous approvals of parked commercial vehicles by the Board.

Vote on the motion on the floor.

Yes: Clark, Courtney, Fisher, Lambert  
No: Bartnik, Edmunds, Kneale

**MOTION CARRIED**

Chair Lambert suggested the applicant consider other alternatives for parking the commercial vehicle in the future, given he barely received approval this evening.

4. HEARING OF CASES

- A. **VARIANCE REQUEST, ROBERT WALDRON OF PRO ENTERPRISES INC., PRO CAR WASH WEST, 3785 ROCHESTER ROAD** – In order to modify the front of and construct an addition to the rear of the existing car wash, the following variances are requested: 1) A 1 foot variance to the required 40 foot front yard setback, 2) an 8 foot variance to the required 75 foot rear yard setback, 3) a variance from the requirement that two trees be provided along the front of the property, and 4) a 1,539 square foot variance to the requirement that 10% of the site area be landscaped (10% of the site area is 2,927 square feet).

**ORDINANCE SECTIONS: 30.20.07, 30.20.07 (note G), 39.70.02 and 39.70.04**

Mr. Evans gave a brief report on the proposed variances for Pro Car Wash West, 3785 Rochester Road, with respect to the Rochester Road right of way, setback requirements and landscape requirements.

Mr. Evans said there is an active Special Use and Preliminary Site Plan application before the Planning Commission. As a result of the Rochester Road widening, the petitioner is proposing to enlarge the existing car wash facility and is required to obtain Special Use approval.

Mr. Forsyth provided general background information on the Rochester Road widening project. He addressed the condemnation proceeding, the taking of approximately 35 feet of right of way, and its affect on the Pro Car Wash facility to which the petitioner is seeking the proposed variances.

Mr. Evans confirmed the proposed landscaping is just under 50% of the required landscaping.

The petitioner, Robert Waldron of Pro Car Wash West, 3785 Rochester Road, was present. Mr. Waldron said the Rochester Road widening is the principal reason he is in front of the Board requesting the four variances. He addressed the hardship imposed on the car wash facility with respect to the elimination of the acceleration lane, building layout for line production, conveyors and drying area, and limited property for landscaping. Mr. Waldron said they have always been short on landscaping.

Mr. Edmunds said there is a very attractive mature spruce tree as you enter the car wash facility. He addressed the similarity of the proposed variance request to the variance granted for the car wash facility on the east side of Rochester Road.

#### PUBLIC HEARING OPENED

No one was present to speak. Chair Lambert noted there is no written correspondence on file.

#### PUBLIC HEARING CLOSED

#### **Resolution # BZA 2010-11-055**

Moved by Bartnik

Seconded by Edmunds

**MOVED**, To grant the variances as requested.

#### *Preliminary Findings:*

- That the variances would not be contrary to the public interest.
- That the variances do not permit the establishment of a prohibited use within a zoning district.
- That the variances do not cause any adverse effect to properties in the immediate vicinity or immediate zoning district.
- That the variances relate only to the property described in the application.

*Special Findings:*

The petitioner has the following practical difficulties as disclosed in the record and the complete documentation provided, and is part of the record:

- No reasonable use can be made of the property as desired by the existing business without unnecessarily burdensome conformance.
- Practical difficulties result from the unusual characteristics as described in the petition and by the petitioner in his presentation this evening, relating to the size, location, narrowness of the lot and configuration.

Discussion on the motion on the floor.

Chair Lambert said he is very sympathetic with the issues before the petitioner, and the City of Troy is happy the applicant is staying and operating his business in the City.

Vote on the motion on the floor.

Yes: All present (7)

**MOTION CARRIED**

5. COMMUNICATIONS

Chair Lambert acknowledged receipt of a communication received from Paul Evans on the revised Board of Zoning Appeals Application.

6. PUBLIC COMMENT

There was no one present who wished to speak.

7. MISCELLANEOUS BUSINESS

There was discussion on the following items:

- Downloading agenda packet from City website and external website.
- Budget monies available for training.
- Status of Zoning Ordinance re-write.

8. ADJOURNMENT

The Board of Zoning Appeals meeting adjourned at 8:42 p.m.

Respectfully submitted,



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David Lambert, Chair



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Kathy L. Czarnecki, Recording Secretary

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The Special/Study Meeting of the Troy City Planning Commission was called to order by Chair Hutson at 7:30 p.m. on November 23, 2010 in the Council Board Room of the Troy City Hall.

1. ROLL CALL

Present:

Donald Edmunds  
 Michael W. Hutson  
 Mark Maxwell  
 Philip Sanzica  
 Robert M. Schultz  
 Thomas Strat  
 John J. Tagle  
 Lon M. Ullmann

Absent:

Mark J. Vleck

Also Present:

R. Brent Savidant, Acting Planning Director  
 Allan Motzny, Assistant City Attorney  
 Zachary Branigan, Carlisle/Wortman Associates, Inc.

2. APPROVAL OF AGENDA

**Resolution # PC-2010-11-075**

Moved by: Schultz  
 Seconded by: Maxwell

**RESOLVED**, To approve the Agenda as prepared.

Yes: Edmunds, Hutson, Maxwell, Sanzica, Schultz, Tagle, Ullmann  
 Abstain: Strat  
 Absent: Vleck

**MOTION CARRIED**

3. APPROVAL OF MINUTES

**Resolution # PC-2010-11-076**

Moved by: Tagle  
 Seconded by: Schultz

**RESOLVED**, To approve the minutes of the November 9, 2010 Regular meeting as prepared.

Yes: Edmunds, Hutson, Sanzica, Schultz, Strat, Tagle, Ullman  
 Abstain: Maxwell  
 Absent: Vleck

**MOTION CARRIED**

4. PUBLIC COMMENT

There was no one present who wished to speak.

5. BOARD OF ZONING APPEALS (BZA) REPORT

Mr. Edmunds presented the BZA Report.

6. DOWNTOWN DEVELOPMENT AUTHORITY (DDA) REPORT

Mr. Savidant indicated there was no November DDA meeting.

7. PLANNING AND ZONING REPORT

Mr. Savidant presented the Planning and Zoning Report.

Mr. Savidant indicated that a Public Hearing Draft of the new Zoning Ordinance would be available for Planning Commission review in December.

Mr. Savidant indicated that an error was made when creating the mailing list for the November 9, 2010 public hearing for the Special Use Application for LA Fitness. Consequently, not all property owners within 300 feet received notice of the public hearing. Therefore the item will need to be reconsidered by the Planning Commission on December 14, 2010.

**SPECIAL USE REQUEST**

8. SPECIAL USE APPROVAL AND PRELIMINARY SITE PLAN REVIEW (File Number SU 315-B) – Proposed Pro Car Wash West, West side of Rochester and South of Wattles (3785 Rochester), Section 22, Currently Zoned H-S (Highway Service) District

Mr. Branigan summarized the report. Further, he indicated that applicant the received the required variances at the November 16, 2010 Board of Zoning Appeals meeting.

Mr. Savidant reminded the Planning Commission that a Public Hearing was held on this item on October 12, 2010.

**Resolution # PC-2010-11-077**

Moved by: Schultz  
Seconded by: Edmunds

**RESOLVED**, That Special Use Approval and Preliminary Site Plan Approval for the Pro Car Wash West facility, located on the west side of Rochester and south of Wattles (3785 Rochester), Section 22, within the H-S zoning district, be granted.

Yes: All present (8)  
Absent: Vleck

**MOTION CARRIED****STUDY ITEM**

9. COMPREHENSIVE ZONING ORDINANCE REWRITE (ZOTA 236) – Discussion with Representatives from Carlisle/Wortman Associates, Inc. - Article 4 District Regulations, Article 8 Specific Use Standards and Article 2 Definitions

Mr. Branigan presented the following draft Articles:

- Article 2 Definitions
- Article 4 District Regulations
- Article 6 Specific Use Standards

There was general discussion on all items.

It was agreed that Group Day Care Homes would be discussed in more detail at a future Planning Commission meeting in December 2010.

**OTHER BUSINESS**

10. PUBLIC COMMENTS – Items on Current Agenda
11. PLANNING COMMISSION COMMENTS

There were no Planning Commission comments.

**ADJOURN**

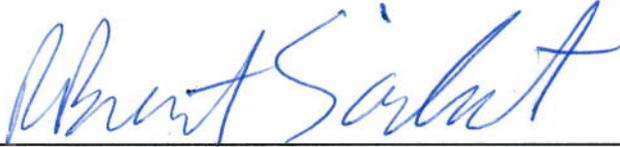
The Special/Study Meeting of the Planning Commission adjourned at 8:25 p.m.

Respectfully submitted,



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Michael W. Hutson, Chair



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R. Brent Savidant, Acting Planning Director

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A regular meeting of the Liquor Advisory Committee was held on Monday, December 13, 2010 in the Lower Level Conference Room of Troy City Hall, 500 West Big Beaver Road. Chairman Max K. Ehlert called the meeting to order at 7:03 p.m.

**ROLL CALL:**

**PRESENT:** Max K. Ehlert, Chairman  
W. Stan Godlewski  
Patrick C. Hall  
Andrew Kaltsounis  
David S. Ogg  
Bohdan L. Ukraineec

**ABSENT:** Timothy P. Payne

**ALSO PRESENT:** Officer James Feld  
Susan Lancaster, Assistant City Attorney  
Lauren Harden, student representative  
Dane Lepola, student representative  
Pat Gladysz

**Resolution to Excuse Committee Member Payne**

Resolution #LC2010-12-035  
Moved by Hall  
Seconded by Kaltsounis

RESOLVED, That the absence of Committee member Payne at the Liquor Advisory Committee meeting of December 13, 2010 be **EXCUSED**.

Yes: 6  
No: 0  
Absent: Payne

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**Resolution to Approve Minutes of November 8, 2010 Meeting**

Resolution #LC2010-12-036  
Moved by Hall  
Seconded by Ukraineec

RESOLVED, That the Minutes of the November 8, 2010 meeting of the Liquor Advisory Committee be **APPROVED**.

Yes: 6  
No: 0  
Absent: Payne

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**Agenda Items**

1. **Picano Restaurant, Inc.** requests New SDM License to be held in conjunction with 2010 Class C Licensed Business with Dance Permit, located at 3775 Rochester, Troy, MI 48084, Oakland County. {MLCC Req. #564371}.

Present to answer questions from the Committee were attorney Jerry Watson and owner Domenico Picano.

Mr. Picano has owned the restaurant for 26 years and has had two decoy violations during that time. He employs a certified TIPS trainer and regular training is conducted. They are requesting an SDM license for off-premise consumption of alcoholic beverage by their patrons.

Resolution #LC2010-12-037  
Moved by Godlewski  
Seconded by Hall

RESOLVED, That the Liquor Advisory Committee recommends that the request of Picano Restaurant, Inc. for a New SDM License to be held in conjunction with 2010 Class C Licensed Business with Dance Permit, located at 3775 Rochester, Troy, MI 48084, Oakland County be **APPROVED**.

Yes: 6  
No: 0  
Absent: Payne

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2. **The City of Troy Parks and Recreation** is requesting the Liquor Advisory Committee recommend a quota Class C liquor license for alcohol service for Community Center events be approved. The City intends to hold the license in escrow until a new vendor for catering services is selected. Upon execution of an agreement with the vendor, the City would transfer the license to the vendor. No alcohol will be served until the license is transferred to the vendor. If approved, the City will issue a request for

proposal that will ensure all bidders for catering services the availability of the license for the vendor. The selection of the vendor will be made based upon the vendor having no violations of the Michigan Liquor Control Commission or the Troy City ordinance. The serving of alcohol will be limited to attendees of Community Center events. Strict adherence to local and state laws and standards will be required.

Present to answer questions from the Committee were Carol Anderson, Parks & Recreation Director, and Scott Mercer, Community Center Manager.

Ms. Anderson explained to the Committee that the City is requesting the Class C license to be held in escrow until a new vendor for catering services is selected. When an agreement is reached with a vendor, the license would be transferred from the City of Troy to the vendor. At that time, the vendor would be required to appear before the Liquor Advisory Committee to request their approval of the license transfer. The Police Department will perform their usual criminal background check.

Ms. Anderson stated that other cities in Michigan have a similar arrangement and they have benefitted from the additional scheduled events at their community centers. This would be an alternative source of revenue for the City.

Members of the Committee posed questions to Ms. Anderson and Mr. Mercer. When it was explained that the approved vendor would be the only vendor allowed to offer both food and beverage services to potential customers, Mr. Ogg expressed concern that the City would potentially lose business if someone wanted to bring in their own caterer with liquor. Mr. Kaltsounis expressed concern that the City would be allowing liquor in a multi-use facility that offers swimming and dance classes for children. Ms. Anderson explained that the vendor would be responsible to monitor consumption and ensure that patrons of the event keep the alcohol in the banquet room. There are doors in the facility that can be closed to separate the banquet area from the recreation area. Community Center staff members are assigned to events and would potentially be available to monitor the hallways.

Assistant City Attorney Ms. Lancaster stated that the Agreement would be drafted to include language that the vendor would be responsible to monitor alcohol consumption and no service to minors. The vendor would assume the liability associated with availability of alcoholic beverages at functions.

Resolution #LC2010-12-038

Moved by Ukraineec

Seconded by Hall

RESOLVED, That the Liquor Advisory Committee recommends that the request of

the City of Troy Parks and Recreation for quota Class C liquor license for alcohol service for Community Center events be **APPROVED**.

Yes: Ehlert, Godlewski, Hall, Ukrainec  
No: Kaltsounis, Ogg  
Absent: Payne

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Officer Feld advised the Committee on the following:

***Sunday Morning Alcohol Sales***

Ms. Lancaster advised the Committee about the new law regarding Sunday alcohol sales. The MLCC will begin to issue permits on December 16, 2010 at a cost of \$160. Establishments do not have to appear before this Committee for approval.

***The Neiman Marcus Group, Inc.***

They are requesting a new Direct Connection-1 permit to allow them to sell liquor during their normal store hours.

***Smokers Express***

They are filing an appeal with the MLCC.

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The meeting adjourned at 8:10 p.m.

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Max K. Ehlert, Chairman

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Patricia A. Gladysz, Secretary II

CITY OF TROY  
TRAVEL EXPENSE REPORT

Name: Robin Beltramini Position: Council Member

Other Employees Included in Request: —

Trip Destination: Denver CO Date From: Nov. 30, 2010 To: Dec 5, 2010

Purpose of Trip: National League of Cities Congress of Cities

Items	Sun	Mon	Tues	Wed	Thurs	Fri	Sat	TOTAL
Dates:	12/5		11/30	12/1	12/2	12/3	12/4	
Miles (Personal Car)	43		43					
Enter Current Mileage Rate: \$ 0.50 /mile	\$ 21.50		\$ 21.50					\$ 43.00
City Car Expense (Details on Bottom)								
Air/Bus/Train			295. <sup>40</sup>					295.40
Registration			505. <sup>00</sup>					505.00
Room (Attach all Receipts)			240. <sup>04</sup>	120. <sup>01</sup>	120. <sup>01</sup>	120. <sup>01</sup>	120. <sup>01</sup>	720.08
Meals (Include tips and taxes. Note meals included with registration)								
Breakfast:	11. <sup>94</sup>							11.94
Lunch:				11. <sup>85</sup>				11.85
Dinner:					14. <sup>12</sup>			14.12
Other <u>Super Shuttle</u> Detail, Explain Below			34. <sup>00</sup>					34.00
Additional Other Detail, Explain Below								
TOTAL EXPENSE	\$ 33.44		1,095. <sup>44</sup>	131.86	134.13	120. <sup>01</sup>	120. <sup>01</sup>	\$ 1,635.39

Total Mileage	
Gasoline/Oil Purchased (Attach Receipts)	
Maintenance Work (Attach Receipts)	
Parking/Storage	
Other ( )	
Total	

Cash Advanced and Prepaid Expenses	
P-Card Purchases	415.40
Balance Due Employee	\$ 1,219.99
(or) Balance Due City	

Robin E. Beltramini 12/21/10  
Requested By Date

[Signature] 1/4/11  
Department Head Date

[Signature] \_\_\_\_\_  
Approved - Human Resources Director Date

[Signature] 12/23/10  
Approved - Financial Services Director Date

Notes and Explanations:  
City pd \$120 towards the registration up front.  
City pd airfare up front.

Charge to: Council Education & Training

Account # 102 7960

**TO:** Members of the Troy City Council

**FROM:** Lori Grigg Bluhm, City Attorney *LGB*  
 Allan T. Motzny, Assistant City Attorney *ATM*  
 Susan M. Lancaster, Assistant City Attorney *SL*  
 Christopher J. Forsyth, Assistant City Attorney *CJF*

**DATE:** January 3, 2011

**SUBJECT:** 2010 Fourth Quarter Litigation Report



The following is the quarterly report of pending litigation and other matters of interest. **Developments during the FOURTH quarter of 2010 are in bold.**

A. ANATOMY OF THE CASE

Once a lawsuit has been filed against the City or City employees, the City Attorney's office prepares a memo regarding the allegations in the complaint. At that time, our office requests authority from Council to represent the City and/or the employees. Our office then engages in the discovery process, which generally lasts for several months, and involves interrogatories, requests for documents, and depositions. After discovery, almost all cases are required to go through case evaluation (also called mediation). In this process, three attorneys evaluate the potential damages, and render an award. This award can be accepted by both parties, and will conclude the case. However, if either party rejects a case evaluation award, there are potential sanctions if the trial result is not as favorable as the mediation award. In many cases, a motion for summary disposition will be filed at the conclusion of discovery. In all motions for summary disposition, the Plaintiff's version of the facts are accepted as true, and if the Plaintiff still has failed to set forth a viable claim against the City, then dismissal will be granted. It generally takes at least a year before a case will be presented to a jury. It also takes approximately two years before a case will be finalized in the Michigan Court of Appeals and/or the Michigan Supreme Court.

B. ZONING CASES

These are **cases** where the property owner has sued for a use other than that for which the land is currently zoned and/or the City is suing a property owner to require compliance with the existing zoning provisions.

**No pending cases during this quarter.**

C. EMINENT DOMAIN CASES

These are cases in which the City wishes to acquire property for a public improvement and the property owner wishes to contest either the necessity or the

compensation offered. In cases where only the compensation is challenged, the City obtains possession of the property almost immediately, which allows for major projects to be completed.

### ROCHESTER ROAD IMPROVEMENT PROJECT

1. *City of Troy v RCU Independence Inc and Sentry Inc.* The City filed this condemnation action to acquire property located at 3688 Rochester Road in connection with the Rochester Road Improvement Project. The case was assigned to Judge Bowman of the Oakland County Circuit Court. Defendants filed a Motion to Dismiss for Lack of Subject Matter Jurisdiction. In this Motion, they argued that the City did not engage in sufficient negotiations after making the written good faith offer for the property. The City argued that it was in compliance with all the statutory requirements. After oral argument, the Court dismissed the case, relying on the alleged lack of jurisdiction. The City filed an Appeal with the Michigan Court of Appeals, which is pending. (first case) In the meantime, the City filed a second condemnation complaint after additional discussions with the attorney representing the property owner. On July 29, 2009, the Court entered an Order for Payment of Estimated Compensation and Surrender of Possession. This occurred only after the City agreed to assume the expenses for moving the car wash on the property. The second case is now in the discovery phase of the litigation on the issue of just compensation. The City is still pursuing the appeal of the dismissal of the initial case to resolve the different statutory interpretations of the parties, since this issue is likely to arise in future condemnation matters. Discovery Continues. Case Evaluation has been scheduled for February 3, 2010. The Court re-scheduled case evaluation in the second case for May 5, 2010. In addition, the Defendant filed a Motion seeking a preliminary payment to cover its costs for moving the car wash buildings and equipment. Pursuant to a negotiated order entered on January 27, 2010, the City has placed an estimated amount in an escrow account, and will use this account to reimburse Defendant for its necessary relocation costs. As to the first case in the Michigan Court of Appeals, all appellate briefs have been timely filed, and the parties are waiting for the Court to schedule oral argument. The parties are waiting for the Michigan Court of Appeals to set a date for oral argument in the first case. A consent judgment, entered on June 23, 2010, has concluded the second case. Oral argument on the first case is scheduled for October 5, 2010, before the Court of Appeals in Detroit. **On October 28, 2010, the Michigan Court of Appeals entered its Order dismissing the appeal as moot.**
2. *City of Troy v Sentry Inc. and RCU Independence.* The City filed this condemnation action to acquire property located at 3785 Rochester Road in connection with the Rochester Road Improvement Project. The case was assigned to Judge Grant of the Oakland County Circuit Court. Defendants filed a Motion to Dismiss for Lack of Subject Matter Jurisdiction on the basis of alleged insufficient negotiations after the written good faith offer was made. The City argued it was in compliance with all statutory requirements. After oral argument,

the Court dismissed the case, relying on the alleged lack of jurisdiction. The City filed a Motion for Reconsideration, which is still pending with the Court. In the meantime, the City filed a second condemnation complaint after additional discussions with the attorney representing the property owner. The parties stipulated to an Order for Payment of Estimated Compensation and Surrender of Possession that was entered on July 29, 2009, after the City agreed to assume expenses for moving the car wash on the property. The only issue remaining is the final amount of just compensation. Discovery continues as it relates to that issue. The Defendant filed a Motion seeking a preliminary payment to cover its costs for moving the car wash buildings and equipment. Pursuant to a negotiated order entered on January 27, 2010, the City has placed an estimated amount in an escrow account, and will use this account to reimburse Defendant for its necessary relocation costs. Discovery continues. Trial is currently scheduled for December 6, 2010. This case is now in the trial preparation stage. **The Court granted a motion filed by Defendants to adjourn the trial and adjourned the trial date to April 25, 2011. Case evaluation is scheduled for January 5, 2011.**

3. *City of Troy v. Ida Rudack Trust, et. al.* The City filed this condemnation action in connection with the Rochester Road Improvement project. This property is at 3615 Rochester Road, and the City has now acquired title to the property that was required for the road construction project. The case will continue to allow a jury to determine the value of the property that was acquired by the City. The case is now in the discovery phase. Case evaluation is March 3, 2010. The jury trial is scheduled for May 17, 2010. The case evaluation was postponed until May 5, 2010. Jury trial is scheduled for August 16, 2010. Both parties rejected the case evaluation award. The Defendant subsequently filed a Motion for Summary Disposition, arguing that the City has actually effected a total take, instead of a partial take, based on the setback ordinances. The City has filed its response to this motion, and will appear at the oral argument, which is scheduled for July 14, 2010. The Court entertained oral arguments, and will issue a written opinion. Jury trial is currently scheduled for October 18, 2010. **A consent judgment was entered on November 16, 2010, and the case is now closed.**
4. *City of Troy v Safeway Acquisition Co.* After obtaining a possession and use agreement, the City was unable to voluntarily purchase the necessary property required for the Rochester Road Improvement Project from the gas station at 3990 Rochester Road. The City therefore filed this condemnation action on January 19, 2010. The City has acquired title to the subject property and the only remaining issue is the amount of just compensation to be paid. The case is now in the discovery phase. Discovery is continuing. Case evaluation is scheduled for September 2010. Trial is scheduled for January 4, 2011. Discovery continues. **The Court granted a motion filed by Defendants to adjourn the trial and delay case evaluation. Case evaluation is now scheduled to take place in April 2011. The trial is now scheduled for June 20, 2011.**

#### D. CIVIL RIGHTS CASES

These are cases that are generally filed in the federal courts, under 42 U.S.C. Section 1983. In these cases, the Plaintiffs argue that the City and/or police officers of the City of Troy somehow violated their civil rights.

1. *Gerald Molnar v. Janice Pokley, the City of Troy et al.*- Plaintiff filed this lawsuit against the City and Troy Detective Janice Pokley, after a jury found him not guilty of the charge of Criminal Sexual Conduct in the Second Degree. Plaintiff alleges that the City and Detective Pokley violated his constitutional rights to be from an unreasonable seizure, due process, and equal protection. These constitutional violations allegedly occurred during the criminal sexual conduct investigation of Plaintiff. Plaintiff also claims that the Troy defendants conspired with other named defendants to violate his constitutional rights, and intentionally inflicted emotional distress on Plaintiff. Plaintiff is requesting an unspecified amount of compensatory, exemplar, and punitive damages. On February 27, 2007, Troy filed a motion to dismiss, or in the alternative summary judgment. Plaintiff filed his response to our motion to dismiss on May 21, 2007. On August 28, 2008, the Court listened to the oral arguments on our motion to dismiss. On September 4, 2008, the Court issued an opinion and order granting our motion to dismiss Detective Pokely and the City. On September 10, 2008, Plaintiff filed a notice of appeal, and is seeking a reversal of this dismissal with the United States Court of Appeals for the Sixth Circuit (includes Michigan, Tennessee, Kentucky, and Ohio). After hosting a telephonic pre-trial conference, the Court will provide the briefing schedule for the parties. Plaintiff filed his appellate brief on June 18, 2009. Troy's response brief is due July 17<sup>th</sup>. The City's brief was timely filed. Oral argument was held December 3, 2009. On December 29, 2009 the Court of Appeals issued an unpublished opinion affirming the District Court's dismissal of Plaintiff's complaint. Plaintiff subsequently filed an application for hearing en banc with the Sixth Circuit Court on January 12, 2010, seeking to overturn the favorable Court of Appeals decision. The City filed its brief in response to this application. On March 17, 2010, without oral argument, the Sixth Circuit issued an order that denied Plaintiff's application. Although there is no appeal of right to the United States Supreme Court, the Plaintiff could file a writ of certiorari, asking the Supreme Court to overturn the dismissals of this case. This action must be taken on or before June 15, 2010. On June 15, 2010, Plaintiff filed a writ of certiorari with the Supreme Court. On August 17, 2010, Troy's response to Plaintiff's petition for a writ of certiorari was filed with the U.S. Supreme Court. **On October 4, 2010 the Supreme Court denied Plaintiff's petition for a writ of certiorari. The case is now closed.**
2. *Hal Stickney v David Nordstrom, City of Troy et al.* Plaintiff, who is proceeding without an attorney, has filed this action against the City of Troy and retired Troy Police Officer David Nordstrom, retired Sgt. Barry Whiteside and Captain Keith

Frye, as well as several Oakland County defendants and former business associates. This case stems from the investigation and prosecution of Plaintiff on an aggravated stalking charge, where Plaintiff was ultimately acquitted. Plaintiff alleges that the City and the Troy police officers violated his constitutional rights to be free from unreasonable seizure and a violation of his constitutional due process rights. Plaintiff also claims that the Troy defendants conspired with the other named defendants to violate his constitutional rights, and intentionally inflicted emotional distress on Plaintiff. Plaintiff is requesting damages in the amount of seven million dollars. As the initial responsive pleading, the City filed a motion for dismissal. The Court scheduled the hearing on this motion for August 5, 2010. In the interim, Plaintiff filed a motion requesting a 120 day stay of proceedings. In his motion, he claims that a stay is needed to give him time to retain an attorney. Plaintiff's motion for a stay was granted. The case is stayed until November 1, 2010. **The stay was lifted on November 1, 2010. Plaintiff was given until December 30, 2010 to respond to our motion for summary judgment. Plaintiff has not yet filed a response.**

3. **David J. Smith v. Gregory Stopczynski** – Plaintiff filed this lawsuit in the 52-4<sup>th</sup> District Court against Troy Police Officer Gregory Stopczynski, who stopped Mr. Smith on October 5, 2009. Stopczynski completed an investigation to determine whether Plaintiff was a drunk driver. Although Plaintiff was not charged with drunk driving, he was issued a citation for disobeying a stop sign and failing to yield. Mr. Smith unsuccessfully challenged the traffic tickets in a formal hearing, which was held on January 11, 2010. Judge Drury found Mr. Smith responsible for both traffic violations. Mr. Smith has now filed this lawsuit, seeking damages under 42 U.S.C. Section 1983 for an alleged civil rights violation.

#### E. PERSONAL INJURY AND DAMAGE CASES

These are cases in which the Plaintiff claims that the City or City employees were negligent in some manner that caused injuries and/or property damage. The City enjoys governmental immunity from ordinary negligence, unless the case falls within one of four exceptions to governmental immunity: a) defective highway exception, which includes sidewalks and road way claims; b) public building exception, which imposes liability only when injuries are caused by a defect in a public building; c) motor vehicle exception, which imposes liability when an employee is negligent when operating their vehicle; d) proprietary exception, where liability is imposed when an activity is conducted primarily to create a profit, and the activity somehow causes injury or damage to another; e) trespass nuisance exception, which imposes liability for the flooding cases.

1. **Nancy Huntley, Legal Guardian of Carolyn Huntley, a Protected Person v. City of Troy**- This lawsuit was filed in the Oakland County Circuit Court. Plaintiff alleges that on June 29, 2007, Carolyn Huntley was walking on the sidewalk located in

front of 511 Cardinal, Troy, Michigan when she tripped and fell on an elevated concrete slab. Plaintiff alleges that Troy was negligent in failing to maintain the sidewalk; to provide adequate inspections; to give notice of a dangerous condition; and to use reasonable care in the design of the sidewalk. The City filed an Answer and Affirmative Defenses and also filed a Motion for Summary Disposition, arguing that Plaintiff failed to provide notice, as required by MCL 691.1404. Plaintiff's response to this motion is due on October 7, 2009, and Judge Rudy Nichols has scheduled oral argument for October 28, 2009. The parties are waiting on the Court's decision on the motion. On March 9, 2010, the Court issued its written opinion, granting in part and denying in part our motion for summary disposition. As a result, the public nuisance and nuisance per se claims are now dismissed. The parties are conducting discovery on the alleged defective highway claim. Jury trial is scheduled for December 6, 2010. The parties are now preparing for trial in this matter. **The Court subsequently mandated case evaluation (date to be scheduled) and adjourned the jury trial to March 28, 2011.**

2. Raquel Chidiac v Edwin Julian and City of Troy – This lawsuit was filed by Plaintiff Raquel Chidiac, who suffered injuries after colliding with a Troy Police Officer at Big Beaver and John R roads. Plaintiff alleges that on October 3, 2009 at around 7:00 p.m. she was traveling eastbound on Big Beaver Road when her vehicle was struck by a Troy Police vehicle. She is alleging the City is liable pursuant to the motor vehicle exception to governmental immunity, and also under the Michigan Owner Liability Act, MCL 257.401. She is alleging that she suffered serious and permanent injuries, and is seeking damages in excess of \$25,000. We filed an answer on December 8, 2009. The City filed a motion for summary disposition requesting dismissal of the individual Troy police officer. The Court has scheduled the hearing on this motion for April 28, 2010. On April 29, 2010, Circuit Court Judge Goldsmith entered an opinion and order denying the City's motion for summary disposition without prejudice, which would allow us to re-file the motion at the close of discovery. The case is now in the discovery phase. The Court mandated case evaluation and facilitation process did not resolve this case, which is now scheduled for jury trial on December 6, 2010. **After the December 13, 2010 City Council meeting, where a settlement was approved, the Court entered an order dismissing the case. The case is now closed.**

#### F. MISCELLANEOUS CASES

1. Frank Lawrence v City of Troy – Mr. Lawrence is the brother of Thomas Lawrence who was issued two civil infraction traffic citations on October 4, 2008 for “no proof of insurance” and “failure to change address on driver's license”. Frank Lawrence filed a FOIA request with Troy Police Department asking for a number of items, including but not limited to: all video recordings, radio transmissions, records and the officer's disciplinary file (if any), and the police policy on issuing “quota' tickets. Under Michigan Court Rule 2.303 (A)(3) discovery is not permitted in civil infraction actions.

Additionally, FOIA does not require the release of information which would constitute an unwarranted invasion of personal privacy or law enforcement information such as, but not limited to, disciplinary files of police officers, personal telephone numbers, and operational manuals. Mr. Lawrence's FOIA was denied for these reasons. Instead of filing an appeal of the FOIA denial to the City Manager, Mr. Lawrence appealed the denial to the Oakland County Circuit Court. Mr. Lawrence filed a Motion for Summary Disposition and the City responded. Without requiring oral arguments, Judge Steven Andrews denied Mr. Lawrence's Motion for Summary Disposition in an Opinion and Order dated December 1, 2008. Judge Andrews also granted Summary Disposition in the City's favor. Mr. Lawrence filed a Claim of Appeal with the Michigan Court of Appeals on December 22, 2008. The Court of Appeals in an unpublished opinion partially reversed the trial court, and remanded the matter for further proceedings including a determination by the trial court of whether or not specific documents are exempt from disclosure. The parties are waiting for the Court to schedule a court date. The Court held an evidentiary hearing on June 17, 2010, and has indicated that a written opinion will be issued. The Court granted in part, denied in part Plaintiff's request for information. Plaintiff also filed a Motion for Reconsideration, which the Court denied. The Court is expected to enter a final order on this case.

2. *Sean Steven Seyler v. City of Troy and Troy Police Department.* Mr. Seyler filed this Freedom of Information Act case against the City, seeking the police report and his lab test results, which were also simultaneously requested as criminal discovery within 48 hours of Mr. Seyler's drunk driving arrest. The City has filed a Motion for Summary Disposition, arguing that the documents requested were either already provided as criminal discovery or are otherwise exempt from disclosure. The Court will issue a scheduling order setting the date for oral argument. The Court entertained oral arguments on March 24, 2010, and granted our motion for dismissal. The Plaintiff filed an application for leave to appeal with the Michigan Court of Appeals on April 14, 2010. The parties are waiting for the Michigan Court of Appeals to schedule the date for oral argument.
3. *William and Elaine Middlekauff v. City of Troy.* The Middlekauffs filed this lawsuit in the 52-4 District Court, alleging that a City employee told them that the City would reimburse them to have a private contractor remove City trees from their property at 2449 Oak Ridge Drive in Troy, which fell in the intense wind storm of June 8, 2008. The Middlekauffs demand \$6,103, claiming breach of contract, promissory estoppel (reliance on a promise) and fraud and misrepresentation. The City filed a motion for summary disposition, which was heard on March 4, 2010. The Court held the matter in abeyance for 60 days, and allowed Plaintiffs to obtain discovery to counter our motion for summary disposition. On May 20, 2010, Judge Bolle granted our motion in part and denied the motion in part. The claim that was not dismissed, promissory estoppel, will be decided by a jury in a trial that will be scheduled by the Court. Jury trial is now scheduled for November 5, 2010 on the remaining count of promissory estoppel. **A jury returned a verdict of no cause of action, and the case has now been closed.**

4. *Jeffrey Abbaya v City of Troy*. This claim and delivery action was filed in the 52-4 Judicial District Court on August 24, 2010 and assigned to Judge William E. Bolle. The Plaintiff is seeking return of a pistol that was confiscated from him when he was arrested for operating while intoxicated. The City has filed an answer and is awaiting a court date for a pretrial or trial. **A trial was scheduled for December 30, 2010. Just prior to trial, Plaintiff offered to dismiss the case without prejudice. Both Plaintiff and the City stipulated to the dismissal, and the case has now been dismissed.**
5. *James F. Cichy and Diane Rzepecki v City of Troy*. This claim and delivery action was filed in the Oakland County Circuit Court on December 2, 2010 and assigned to Judge Edward Sosnick. The Plaintiffs are seeking the return of a pistol, 2 shotguns, 3 rifles and ammunition that were confiscated from Plaintiff James F. Cichy when the police responded to the Plaintiffs home, at the request of Plaintiff Diane Rzepecki. The City has filed an answer and is awaiting a court date for a pretrial or trial.
6. *City of Troy v. Edward Kempen*. City Council authorized this declaratory judgment action, seeking clarity on the petition, filed by Defendant, to amend Troy's code of ordinances to require the continued operation of the Troy Public Library. The complaint was filed with the Court on December 3, 2010, and on December 14, 2010 Oakland County Circuit Court Judge Langford Morris entered an Ex parte Order suspending the City's Charter requirement that an initiatory petition must be acted upon within 30 days of being presented to Council. The Court also set a hearing for January 19, 2010. Defendant was served with the complaint on December 22, 2010. Defendant subsequently filed a motion, asking that the case be dismissed.
7. *Michigan Association of Home Builders; Associated Builders and Contractors of Michigan; and Michigan Plumbing and Mechanical Contractors Association v. City of Troy* – The Plaintiffs filed a complaint for Declaratory and Injunctive Relief in the Oakland County Circuit. On the date of filing the Plaintiffs also filed a Motion for Preliminary Injunction and Order to Show Cause. The Plaintiffs allege that the City of Troy has violated Section 22 of Michigan's Stille-DeRossett Hale Single State Construction Code Act by collecting fees for building department services that are not reasonably related to the cost of providing building department services. They are alleging that the City of Troy has illegally entered into a contract with Safe Built of Michigan, Inc. for building services that provides that 20% of each building permit fee be returned to the City to cover services that are not "reasonably related to the cost of building department services," as required by state statute. The Plaintiffs also assert a violation of the Headlee Amendment, arguing that the 20% returned to the City is a disguised tax that was not approved by voters. The Plaintiffs are asking for a declaratory judgment, as well as a return of any "surplus" building department service funds collected to date. Plaintiffs also request an order requiring the City to reduce its building department fees. The City of Troy

was served with the Complaint and the Motion for Preliminary Injunction and Order for Show Cause on Wednesday, December 15, 2010. The parties were required to appear at Court on Wednesday, December 22, 2010, but the Court did not take any action at that time. Instead, the Court adjourned the matter to January 19, 2010. In the interim, the parties may engage in preliminary discovery in an attempt to resolve this matter.

#### G. CRIMINAL APPEALS

These are cases involving an appeal from a decision of the 52-4 District Court in an ordinance prosecution case.

1. **People of the City of Troy v Manpreet Gill.** Defendant was arrested for operating while intoxicated on September 2, 2010. Defendant filed a motion seeking suppression of the Preliminary Breath Test result ("PBT"), and dismissal of the charges. Specifically, Defendant argued that she was "coerced into taking the PBT," and without the PBT result, there was no probable cause to support her arrest. After filing a motion requesting a dismissal, the District Court held an evidentiary hearing on November 18, 2010. After the hearing, the Court (Judge Drury) suppressed the PBT result, but denied Defendant's motion for a dismissal, finding probable cause even without the PBT result. On December 8, 2010, Defendant filed an application for leave to appeal Judge Drury's decision with the Oakland County Circuit Court. We timely filed a response, and there is a hearing scheduled for January 5, 2010 before Oakland County Circuit Court Judge Chabot.

#### ADMINISTRATIVE PROCEEDINGS

1. **In the matter of the Petitions on National Pollution Discharge Elimination Systems (NPDES Phase II General Permits).** The City has joined several other municipalities in challenging several of the mandates in the NPDES Phase II General Permit, which was recently issued by the MDEQ. The new NPDES permit requires some storm water management techniques that exceed the federal mandates, and/or are not justified, based on the high cost of the mandate, in relation to the nominal environmental benefits. A status conference for the parties is set for October 1, 2008. The municipalities are currently exploring the coordination of efforts with other parties. Community representatives are meeting with representatives from the MDEQ to discuss possible resolutions of this matter without the necessity of a full blown administrative hearing. The parties are continuing to negotiate with the MDEQ. The City of Riverview filed a class action complaint in the Ingham County Circuit Court, challenging the permit requirements as unfunded mandates. The petitioners to the NPDES permit administrative proceeding are named as participants in the proposed class action lawsuit. As a result, the class action determination may have an impact on the administrative proceeding. The motion for class certification is scheduled for October 15, 2009. Class certification was

granted. Hearings regarding the procedure for the new class action are set for January 2010. The Court granted class action status, and the administrative proceedings are now being delayed. Status reports have been filed and reviewed, and we continue to monitor any new developments. **On October 14, 2010, the Michigan Court of Appeals reversed the order granting a stay of the contested cases. On November 19, 2010, the Ingham County Circuit Court (the class action lawsuit) entered an order granting in part the dismissal of some of the claims. The remaining claims, including a Headlee claim, will be decided by the Court. Subsequently, the Assistant Attorney General, on behalf of the Michigan Department of Natural Resources and Environment (MDNRE) attempted to withdraw all of the remaining NPDES permits, which would mean that the whole process would need to be started from scratch. Since this action would likely result in a significant delay and a duplication of all efforts to date, several municipalities filed objections to this unilateral action. The MDNRE was given until December 22, 2010 to file a formal motion seeking a dismissal of the remaining NPDES permits.**

If you have any questions concerning these cases, please let us know.

**CITY COUNCIL EXPENSE REPORT**  
**Month of January, 2011**

<u>Council Person</u>	<u>Expense Date</u>	<u>Purpose</u>	<u>Amount</u>	<u>Totals</u>
Beltramini, Robin	12/31/2010	Quarterly Fax & DSL Line January, February, March 2011	\$ 123.72	
				\$ 123.72
Maureen McGinnis	12/31/2010	Quarterly DSL Line January, February, March 2011	\$ 137.85	
				\$ 137.85
Wade Fleming	12/31/2010	Quarterly Fax & DSL Line January, February, March 2011	\$ 215.70	
				\$ 215.70
Howrylak, Martin F.			\$ -	
				0.00
Kerwin, Mary	12/31/2010	Quarterly Fax & DSL Line January, February, March 2011	\$ 212.85	
				\$ 212.85
Schilling, Louise E.	12/31/2010	Quarterly Fax & DSL Line January, February, March 2011	\$ 117.90	
				\$ 117.90
Dane Slater			\$ -	
				\$ -
<b>Total for Month</b>				<b>\$ 808.02</b>

NOTE: This report is presented in compliance with Rules of Procedure for the City Council,  
Item 18. Miscellaneous Expenses

Date Prepared: 12/20/2010  
Final Preparation By: J. Nash

December 22, 2010

Carla,

Merry Christmas and Happy New Year.

You have been the greatest senior director I can imagine. Thank you so much for your support from both the Troy pinochle group and the Troy Senior Computer Learning Center. Thank you for allowing us to continue our programs even though Troy Parks and Recreation is closed. When I announced that we were playing cards throughout the holidays, every Monday and Wednesday, they cheered. We enjoy each others' company and we really need to get out of the house. Many of the pinochle players live alone and look forward to just getting out for a few hours. One player is the care giver for his wife and the only time he gets away is to come to play cards on Monday when the cleaning lady comes. They have had the same cleaning lady for years and he trusts her more than the assisted living facility where he was recommended to leave his wife. It was not a matter of money, it was a matter of tender loving care.

I ramble on. Thanks again. We do appreciate it.

Zora Hargrave

N-3a



CARE HOUSE of Oakland County  
Child Abuse and Neglect Council of Oakland County

Crain's Detroit Best Managed  
Non Profit 1999

44765 Woodward Ave.  
Pontiac, Michigan  
48341

Office: (248) 332-7173  
CARE House: (248) 333-0999  
Fax: (248) 333-1539  
www.carehouse.org

BOARD OF TRUSTEES

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President

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- Terry Murphy
- Chief David Niedermeier
- Katie Parks
- Lisa A. Payne
- Laura Ragold
- Suzanne Russell
- Javier Saucedo
- Tiffany Walker

Patricia Rosen  
Executive Director

December 15, 2010

Troy Police Department  
Chief Gary Mayer  
500 West Big Beaver Rd  
Troy, MI 48084

Dear Chief Mayer:

Thank you for your generous donation of 24 packs filled with essentials for children to CARE House of Oakland County. How wonderful that you thought of us.

Our mission is to be a leading resource in the prevention of child abuse and neglect, and the protection of children through advocacy, education, intervention, research and treatment in collaboration with the community. Thank you for your part in making that mission possible.

Thank you for caring about the children who need us all.

Sincerely,

Patricia R. Rosen  
Executive Director

TERRY + PAT -

THANKS FOR ALL YOUR WORK ON THIS NOBLE EFFORT. WERE IT NOT FOR YOUR WORK, THE TCOA'S FINANCIAL ASSISTANCE AND THE DONATIONS OF MANY P.D EMPLOYEES THESE PACKS WOULD NOT BE THERE FOR THESE CHILDREN IN NEED. Gary

TERRY COLUSSI  
PAT GLADYSZ

Troy Command Ofc. Association





Miami-Dade Police Department

Town of Miami Lakes  
15700 NW 67 Avenue Ste. 201  
Miami Lakes, Florida 33014

miamidade.gov

**DIRECTOR**

Media Relations Bureau  
Police Legal Bureau

Special Services Division  
Homeland Security Bureau  
Professional Compliance Bureau  
Public Corruption Investigations Bureau  
Southeast Regional Domestic Security Task force

**DEPARTMENTAL SERVICES**

Investigative Support Division  
Central Records Bureau  
Crime Laboratory Bureau  
Crime Scene Investigations Bureau  
Property and Evidence Bureau

Uniform Services Division  
Airport District  
Community Affairs Bureau  
Police Operations Bureau  
Special Patrol Bureau

Psychological Services Section

**INVESTIGATIVE SERVICES**

Criminal Investigations Division  
Domestic Crimes Bureau  
Homicide Bureau  
Robbery Bureau  
Sexual Crimes Bureau  
  
Special Investigations Division  
Economic Crimes Bureau  
Narcotics Bureau  
Strategic & Specialized Inv. Bureau  
Warrants Bureau

**POLICE SERVICES**

North Operations Division  
Intracoastal Station  
Miami Gardens Station  
Northside Station  
Northwest Station

Police Services Bureau

South Operations Division  
Cutler Ridge Station  
Hammocks Station  
Kendall Station  
Midwest Station  
Agricultural Patrol Section

**SUPPORT SERVICES**

Administration and Technology Division  
Communications Bureau  
Information Systems Support Bureau  
Systems Development Bureau  
Municipal Services Unit

Budget, Planning and  
Resource Management Bureau  
Grants and Legislative Section

Centralized Services Division  
Court Services Bureau  
Fleet Management Bureau  
Intergovernmental Bureau  
Personnel Management Bureau  
Training Bureau

**PROUDLY SERVING**

The City of Doral  
The City of Miami Gardens  
The Town of Cutler Bay  
The Town of Miami Lakes  
The Village of Palmetto Bay

December 16, 2010

Chief Gary Mayer  
Troy Police Department  
500 West Big Beaver  
Troy, Michigan 48084

Dear Chief Mayer:

It has been brought to my attention that personnel from your department are worthy of commendation.

On Monday, November 1, 2010, Ms. Ann Scherlinck from Troy Police Department was contacted by a Miami-Dade Police officer, in regards to a report of a missing female juvenile. The 16-year old female was allegedly in Michigan being given drugs and prostituted by an adult male who was unknown to the parents of the juvenile. Various civilian personnel from Troy Police Department were instrumental in coordinating the effort to locate the juvenile with officers from your department. As information was being received, civilian dispatch personnel notified the team of officers of possible locations where the juvenile might be. Information was later obtained that the juvenile had moved into another jurisdiction. When our Miami-Dade Police officer contacted Madison Heights Police Department Sergeant Timothy Pawlowski, he quickly assembled an effort to locate the juvenile within his jurisdiction. In a joint effort with Troy Police Department, the missing juvenile was finally located in a hotel room which had indicia of prostitution. The juvenile was accompanied by the adult male that was originally reported, as well as an adult female.

Due to evidence of possible juvenile prostitution, the Federal Bureau of Investigation (FBI) was contacted by Sergeant Timothy Pawlowski from the scene. The FBI agent expressed an interest in following up and investigating the case with possible federal charges forthcoming.

Personnel from both departments are commended for their alertness and dedication to duty. Their swift actions, patience, and perseverance resulted in the recovery of the juvenile, and the possibility of exposing a prostitution ring. They are all a credit to their Police Department's and the community they serve. Thank you for a job well done.

Sincerely,

Richard Amion, Major  
Town of Miami Lakes

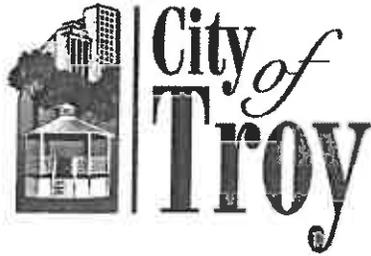
LT. BJORK, P.O. PILTZ, P.O. GARDNER, P.O. BRAZEL,  
P.O. HYCK, CS. JELLEY, CS. STRASZ, PSA SCHERLINCK  
PSA. McCANOLISH -

RECEIVED  
CHIEF OF POLICE  
1-4-2011

THANKS FOR YOUR GOOD WORK ON THIS  
COMPLEX INCIDENT. Gary

Chief Gary Mayer  
December 16, 2010  
Page 2

Distribution: Lieutenant Michael Bjork, #303  
Officer Neil Piltz, #3  
Officer Timothy Garcher, #17  
Officer Steve Brazel, #51  
Officer Christopher Huck, #85  
Communication Supervisor Renee Jelley, #512  
Communication Supervisor Jason Strasz, #516  
Police Service Aide Ann Scherlinck, #420  
Police Service Aide Korey McCandlish, #447



January 4, 2011

TO: John Szerlag, City Manager

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

SUBJECT: House Bill No. 6572 – Construction Zone Property Tax Relief Bill, aka “Adverse Construction Specific Tax Act”

House Bill 6572 was introduced in the state legislature on November 17, 2010 and referred to the Committee on Tax Policy. This bill allows a business impacted adversely by a major construction project, lasting at least three months its first year and at least two months into a second year, to be eligible for reduced property taxes. A business would be able to apply for an exemption with its local assessor which would amount to a 50% reduction in their general property tax, if approved by the governing body of the local tax collecting unit. The local unit, our City Council, would also have the option of extending this tax relief to other local businesses which are negatively impacted by a major construction zone.

This proposal stems from Oakland County Executive L. Brooks Patterson’s request to the Michigan legislature, and last year’s major road repair project on Telegraph Road which negatively impacted many businesses within the twelve mile long construction zone, to consider some form of tax relief for these businesses.

On December 2, 2010, the Finance Committee for the Oakland County Board of Commissioners passed a resolution (attached) supporting HB 6572, which subsequently was adopted by the Oakland County Board of Commissioners on December 9, 2010. While the resolution supports the concept of providing tax relief to businesses that are negatively impacted by construction zones, the resolution requests that the proposed legislation hold local taxing jurisdictions harmless from the decreased revenues, by having the State of Michigan reimburse those local units of government for lost revenues.

The most recent Troy project that would have fit the criteria for a major project was the Rochester Road reconstruction from Torpey to Barclay, which started in 2009 with utility relocations and finished with road construction in November, 2010. Future projects that would meet the criteria would be federally funded projects, whether they be on City or County major roads. These projects include: Rochester, Barclay to Trinway; Livernois, Square Lake to South Blvd.; John R, Long Lake to Square Lake; John R, Square Lake to South Blvd.; Dequindre, Square Lake to South Blvd. The proposed legislation may also apply to continuing major road repair projects, such as the city’s concrete slab replacement work on city major roads and Tri-Party slab replacement work on County roads.



Ruth Johnson  
Oakland County Clerk/ Register of Deeds  
[www.oakgov.com/clerk/rd](http://www.oakgov.com/clerk/rd)

December 16, 2010

To Whom It May Concern:

Enclosed please find a certified copy of Miscellaneous Resolution #10310 – Board of Commissioners – Support for Construction Zone Property Tax Relief Bill.

As the County Clerk/Register, I have been instructed to provide you with a certified copy of this adopted resolution. Please forward Miscellaneous Resolution #10310 to the appropriate person(s). Thank you for your cooperation.

Sincerely,

Ruth Johnson  
Clerk/Register of Deeds  
County of Oakland

Enclosure (1)

Attention: HR Dept  
1200 N Telegraph, Room 407  
Ann Arbor MI 48106-1117  
(734) 966-0382  
[hr@oakgov.com](mailto:hr@oakgov.com)

Attention: Vendor Records  
1200 N Telegraph, Room 412  
Ann Arbor MI 48106-1117  
(734) 966-0501  
[records@oakgov.com](mailto:records@oakgov.com)

Attention: IT Services Office  
1200 N Telegraph, Room 406  
Ann Arbor MI 48106-1117  
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**REPORT**

December 9, 2010

BY: Finance Committee, Thomas Middleton, Chairperson  
IN RE: **MR #10310 – BOARD OF COMMISSIONERS – SUPPORT FOR  
CONSTRUCTION ZONE PROPERTY TAX RELIEF BILL**  
To: The Oakland County Board of Commissioners  
Chairperson, Ladies and Gentlemen:

The Finance Committee, having reviewed the above referenced resolution on December 2, 2010, reports with the recommendation that the resolution be adopted.

Chairperson, on behalf of the Finance Committee, I move acceptance of the foregoing report.

  
FINANCE COMMITTEE

**FINANCE COMMITTEE**

Motion carried unanimously on a roll call vote with Woodward absent.

**MISCELLANEOUS RESOLUTION # 10310**

**BY: Commissioners Shelley G. Taub, District #16 and Bill Bullard, Jr., District #2**

**IN RE: BOARD OF COMMISSIONERS – Support for Construction Zone Property Tax Relief Bill**

To the Oakland County Board of Commissioners  
Chairperson, Ladies and Gentlemen:

**WHEREAS** Oakland County Executive L. Brooks Patterson requested the Michigan legislature to consider proposals to provide property tax relief to businesses that are negatively impacted by construction zones anywhere in Michigan; and

**WHEREAS** the proposal recommended that local communities should have the option to reduce property taxes up to 50% for businesses struggling financially from the impact of construction zones; and

**WHEREAS** House Bill 6572, known as the "Adverse Construction Specific Tax Act," requires a major infrastructure construction project last at least three months its first year and at least two months if it extends into a second year in order for a business to be eligible for reduced property taxes. This will not include projects performed on interstate highways. A business impacted adversely by major construction will be able to apply for an exemption with its local assessor or clerk of the local tax collecting unit; and

**WHEREAS** House Bill 6571 adds section 700 to MCL 211.1 to 211.155 (the General Property Tax Act), allowing governing bodies of local tax collecting units to adopt a resolution to exempt real and personal property owned or leased by an eligible business; and

**WHEREAS** if adopted, the two proposed bills will then allow local governing bodies to adopt a resolution allowing businesses within a significant infrastructure construction project to only pay the reduced adverse construction specific tax, which would amount to a 50% reduction in their general property tax; and

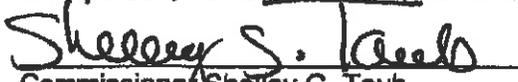
**WHEREAS** if adopted, local governmental units would have the option of extending this tax relief to their local businesses which are impacted by major construction zones.

**NOW THEREFORE BE IT RESOLVED** that the Oakland County Board of Commissioners, hereby proclaim their support for House Bills 6571 and 6572 – the Adverse Construction Specific Tax Act – which provides local units of governments with the opportunity to provide tax relief to local businesses which are negatively impacted by major construction projects.

**BE IT FURTHER RESOLVED** that the Oakland County Board of Commissioners requests that the proposed legislation holds local taxing jurisdictions harmless from the decrease in revenues associated with providing property tax relief to businesses that are negatively impacted by construction zones, by having the State of Michigan reimburse those local units.

**BE IT FURTHER RESOLVED** that the Oakland County Clerk is requested to forward copies of this adopted resolution to Oakland County Executive L. Brooks Patterson, State Representative Gail Haines, the House Committee on Tax Policy, Oakland County's delegation to the Michigan legislature, the Clerks for Oakland County's Cities, Villages and Townships, the Oakland County Chamber Network, the Michigan Association of Counties and Oakland County's legislative lobbyists.

Chairperson, we move the adoption of the foregoing resolution.

  
Commissioner Shelley G. Taub  
District #16

  
Commissioner Bill Bullard, Jr.  
District #2

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Commissioner  
District # 20

*[Handwritten signature]*

Commissioner  
District # 5

*[Handwritten signature]*

Commissioner  
District #

*Christine A. Long*

Commissioner  
District # 7

*[Handwritten signature]*

Commissioner  
District # 13

*[Handwritten signature]*

Commissioner  
District # 3

*[Handwritten signature]*

Commissioner  
District # 4

*[Handwritten signature]*

Commissioner  
District # 1

*Bill Bullard Jr*

Commissioner  
District # 2

Commissioner  
District #

Resolution #10310

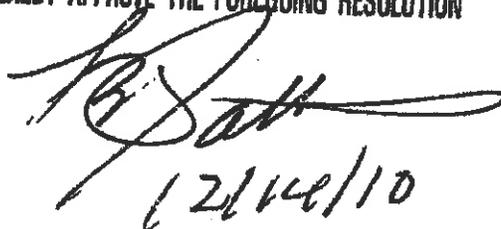
December 9, 2010

Moved by Middleton supported by Coleman the resolutions (with fiscal notes attached) on the amended Consent Agenda be adopted (with accompanying reports being accepted).

AYES: Bullard, Burns, Coleman, Coulter, Douglas, Gershenson, Gingell, Greimel, Hatchett, Jackson, Jacobsen, Long, McGillivray, Middleton, Nash, Potts, Runestad, Schwartz, Scott, Taub, Woodward, Zack. (22)  
NAYS: (0)

A sufficient majority having voted in favor, the resolutions (with fiscal notes attached) on the amended Consent Agenda were adopted (with accompanying reports being accepted).

I HEREBY APPROVE THE FOREGOING RESOLUTION



12/14/10

STATE OF MICHIGAN)  
COUNTY OF OAKLAND)

I, Ruth Johnson, Clerk of the County of Oakland, do hereby certify that the foregoing resolution is a true and accurate copy of a resolution adopted by the Oakland County Board of Commissioners on December 9, 2010, with the original record thereof now remaining in my office.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of the County of Oakland at Pontiac, Michigan this 9<sup>th</sup> day of December, 2010.



Ruth Johnson, County Clerk

**Resolution #10310**

**November 18, 2010**

**The Chairperson referred the resolution to the Finance Committee. There were no objections.**

# HOUSE BILL No. 6572

November 17, 2010, Introduced by Reps. Haines, Genetski, Rogers and Agema and referred to the Committee on Tax Policy.

A bill to provide for the exemption of certain property from certain taxes; to levy and collect a specific tax upon the owners of certain property; to provide for the disposition of the tax; to prescribe the powers and duties of certain local government officials; and to provide penalties.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1. This act shall be known and may be cited as the  
2 "adverse construction specific tax act".

3           Sec. 2. As used in this act:

4           (a) "Commission" means the state tax commission created by  
5 1927 PA 360, MCL 209.101 to 209.107.

6           (b) "Construction project" and "eligible business" mean those

1 terms as defined in section 700 of the general property tax act,  
2 1893 PA 206, MCL 211.700.

3 (c) "Taxable value" means the taxable value as determined  
4 under section 27a of the general property tax act, 1893 PA 206, MCL  
5 211.27a.

6 Sec. 3. Real and personal property of an eligible business is  
7 exempt from ad valorem property taxes collected under the general  
8 property tax act, 1893 PA 206, MCL 211.1 to 211.155, as provided  
9 under section 700 of the general property tax act, 1893 PA 206, MCL  
10 211.700.

11 Sec. 4. The assessor of each local tax collecting unit in  
12 which there is property of an eligible business exempt under  
13 section 700 of the general property tax act, 1893 PA 206, MCL  
14 211.700, shall determine annually as of December 31 the value and  
15 taxable value of each parcel of that property located in that local  
16 tax collecting unit.

17 Sec. 5. (1) There is levied upon the owner of every parcel of  
18 property of an eligible business exempt under section 700 of the  
19 general property tax act, 1893 PA 206, MCL 211.700, a specific tax  
20 to be known as the adverse construction property specific tax.

21 (2) The amount of the adverse construction specific tax in  
22 each year shall be determined by multiplying 50% of the number of  
23 mills that would be assessed in the local tax collecting unit if  
24 the property were subject to the collection of taxes under the  
25 general property tax act, 1893 PA 206, MCL 211.1 to 211.155, by the  
26 property's taxable value.

27 (3) The adverse construction specific tax is an annual tax,

1 payable at the same times, in the same installments, and to the  
2 same collecting officer or officers as taxes collected under the  
3 general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

4 (4) The collecting officer or officers shall disburse the  
5 adverse construction specific tax to and among this state and  
6 cities, townships, villages, school districts, counties, or other  
7 taxing units, at the same times and in the same proportions as  
8 required by law for the disbursement of taxes collected under the  
9 general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

10 (5) The collecting officer or officers shall send a copy of  
11 the amount of disbursement made to each taxing unit under this  
12 section to the commission on a form provided by the commission.

13 (6) Real and personal property of an eligible business that is  
14 located in a renaissance zone under the Michigan renaissance zone  
15 act, 1996 PA 376, MCL 125.2681 to 125.2696, is exempt from the  
16 adverse construction specific tax levied under this act to the  
17 extent and for the duration provided pursuant to the Michigan  
18 renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, except  
19 for that portion of the adverse construction specific tax  
20 attributable to a tax described in section 7ff(2) of the general  
21 property tax act, 1893 PA 206, MCL 211.7ff. The adverse  
22 construction specific tax calculated under this subsection shall be  
23 disbursed proportionately to the taxing unit or units that levied  
24 the tax described in section 7ff(2) of the general property tax  
25 act, 1893 PA 206, MCL 211.7ff.

26 Sec. 6. Unpaid adverse construction specific taxes are subject  
27 to forfeiture, foreclosure, and sale in the same manner and at the

1 same time as taxes returned as delinquent under the general  
2 property tax act, 1893 PA 206, MCL 211.1 to 211.155.

3 Enacting section 1. This act does not take effect unless  
4 Senate Bill No. \_\_\_\_ or House Bill No. 6571 (request no. 07677'10) of  
5 the 95th Legislature is enacted into law.



## CITY COUNCIL AGENDA ITEM

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Date: January 6, 2011

To: John Szerlag, City Manager

From: Mark F. Miller, Acting Assistant City Manager/Economic Development Services  
Timothy Richnak, Public Works Director

Subject: Snow and ice control 1/6/2011

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### Background

City council approved a modified level of service for snow and ice control for the 2010/11 winter season. City management would like to provide a snap shot of the modified level of service as provided on 1/6/11.

### Report

The street division was called out to provide snow and ice control on the morning of January 6, 2011. With the modified level of service 10 trucks were deployed to treat the RCOC, city major roads and school entry routes. The historical level of service would have deployed 17 trucks and the RCOC level of service would have deployed as few as 2 trucks.

The pavement condition at 7 A.M. was wet traffic lanes with slush and snow between the lanes and turn lanes being snow covered. With the historical level of service all lanes would have had wet pavement conditions. The RCOC conditions that could have been expected would have been from wet lanes on some segments to slush and snow covered on others do to delayed treatment from only 2 trucks being deployed.



## CITY COUNCIL AGENDA ITEM

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Date: January 5, 2011

To: John Szerlag, City Manager

From: Mark F. Miller, Acting Assistant City Manager/Economic Development Services  
Timothy Richnak, Public Works Director

Subject: RCOC snow and ice control contract expense report 1/1/11

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### Background

When the RCOC snow and ice control contract was approved by city council, city staff was requested to provide a monthly report on corresponding expenditures.

### Report

The expenditures for snow and ice control on county roads under the RCOC contract are as follows.

Labor	\$ 19,557	28%
Salt	\$ 40,307	57%
Equipment	\$ 10,202	15%
Total	\$ 70,066	100 %

This expense is 28% of the total RCOC contract (\$249,691).