



Regular Meeting
January 3, 2017
7:30 PM

City Hall, Commission Chambers, 301 Washington Avenue, Bay City MI 48708

ROLL CALL

PUBLIC HEARINGS

- 1 Ordinance amendment to the Code of Ordinances Chapter 102, Traffic and Vehicles, Section 102-106 through 102-109, regarding impoundment of vehicles.

SPECIAL ORDERS - UNFINISHED BUSINESS

- 1 City Manager recommending Ordinance amendment to the Code of Ordinances Chapter 102, Traffic and Vehicles, Section 102-106 through 102-109, regarding impoundment of vehicles.
RECOMMENDATION: Approve.

ACCOUNTS AND CLAIMS

*City Manager presenting Accounts and Claims in the amount of \$179,576.24 and Investments and Wire Transfers in the amount of \$848,929.00 (12/26/16) and Accounts and Claims in the amount of \$ and Investments and Wire Transfers in the amount of \$ (1/3/17).

RECOMMENDATION: Approve.

PAYROLL

*City Manager presenting Payroll in the amount of \$ (//16).

RECOMMENDATION: Approve.

REPORTS OF OFFICERS

- 1 *City Manager recommending Traffic Control Order #2016.0014 revising center lane of the northbound leg to straight only (remove left turn option in this lane) on Madison Avenue at the intersection of Woodside Avenue.
RECOMMENDATION: Approve.
- 2 *City Manager recommending rescission of Temporary Traffic Control Order # 2015.0003 and establishing Permanent Traffic Control Order # 2016.0015 to place a four-way red flashing signal at the intersection of Washington Avenue and Center Avenue.
RECOMMENDATION: Approve.
- 3 *City Manager recommending Traffic Control Order #2016.0016 for No Parking signs along both sides of Patterson Avenue from Marquette Avenue to Smith Street.
RECOMMENDATION: Approve.
- 4 *City Manager recommending consent of restrictive covenants at 740 N. Euclid Avenue

as an easement holder.

RECOMMENDATION: Approve.

- 5 *City Manager recommending Final Change Order No. 8 to the Development Agreement with Bay Riverfront, LLC/SSP Associates, Inc., Saginaw, MI, for Uptown at River's Edge Riverwalk Phase 1A in the decreased amount of \$150,400.29.

RECOMMENDATION: Approve.

- 6 *Mayoral appointment of Doug Sommer, Bay City, to the Building Code Board of Appeals, term to expire August 1, 2019.

RECOMMENDATION: Approve.

- 7 *City Manager recommending contract with Shaw Contracting, Saginaw, MI, for Removal and Disposal of Repair Spoils, in an amount not to exceed \$78,000.00 for years 1 & 2, and a not to exceed amount of \$79,600.00 in year 3.

RECOMMENDATION: Approve.

- 8 *City Manager recommending that the City Commission reject all bids received November 16, 2016, for the Disposal of Solid Waste Materials.

RECOMMENDATION: Approve.

- 9 *City Manager recommending one year extension to the current collective bargaining agreement with Teamsters Local 214 Supervisory Union expiring December 31, 2017, with no modification or change in wages or benefits.

RECOMMENDATION: Approve.

REPORTS OF COMMITTEES

- 1 *Minutes - Finance Policy Committee (12/12/16 & 12/19/16).

RECOMMENDATION: Approve.

- 2 *Minutes - Planning Commission (7/20/16, 8/17/16, 8/30/16 and 9/21/16).

RECOMMENDATION: Receive.

RESOLUTIONS

- 1 *Commission as a Whole resolution of support for the ratification of a submittal of a grant application to the United States Environmental Protection Agency (USEPA), seeking authorization to apply for a \$150,000 cleanup grant to assist with environmental cleanup activities at the former Surath Scrap Yard property at 1001 E Ohio Street and Marina Park Drive.

RECOMMENDATION: Approve.

- 2 *Commission as a Whole resolution of support for the ratification of the submittal of a grant application to the United States Environmental Protection Agency (USEPA) granting authorization to apply for a \$400,000 community-wide assessment grant (\$200,000 Hazardous Substances, \$200,000 Petroleum) to assist with inventory, characterization, assessment and to conduct planning (including cleanup planning) and community involvement related to city-wide Brownfield properties.

RECOMMENDATION: Approve.

Subject: Impoundment of Vehicles Ordinance
Reviewed By: City Manager: Richard M. Finn Deputy City Manager: Dana L. Muscott Public Safety Director: Michael J. Cecchini
Prepared By: Captain: Mark Turner

PERTINENT FACTS:

The purpose of this recommendation is to adopt an Ordinance to address the impoundment of vehicles. Sec. 102-106 addresses the creation of a vehicle pound to be located and operated at a place designated by the Public Safety Director. Sec. 102-107 addresses the designation of garages or impound yards as vehicle pounds, along with bond and insurance requirements. Sec. 102-108 addresses the circumstances that a public safety officer may provide for the immediate removal of a vehicle from public or private property at the expense of the last titled owner. Sec. 102-109 addresses the establishment of an administrative vehicle impound fee for all vehicles impounded by the Bay City Department of Public Safety.

This was presented for first reading at the December 19, 2016, meeting, and is herewith presented for final approval.

LEGAL ISSUES:

City Attorney Neil Wackerly has prepared the attached ordinance.

TIME SENSITIVITY:

Routine

BRIEFLY DESCRIBE THE NATURE OF THE TIME SENSITIVITY:

FINANCIAL CONSIDERATIONS:

The ordinance will be published along with the synopsis of the City Commission Meeting. The cost of publication will be approximately \$100 and will come from the City Clerk's Publishing budget.

CITY GOALS:

N/A

RECOMMENDED ACTION:

City Manager recommending Ordinance amendment to the Code of Ordinances Chapter 102, Traffic and Vehicles, Section 102-106 through 102-109, regarding impoundment of vehicles.
RECOMMENDATION: Approve.

ATTACHMENTS:

Description	Upload Date	Type
Impoundment of Vehicles	12/5/2016	Ordinance

Of Commission as a Whole:

Ordinance No. 2016- ____

Be it Ordained by the City of Bay City:

DIVISION 2. - IMPOUNDMENT OF VEHICLES

1. That the Code of Ordinances of the City of Bay City, Chapter 102, Traffic and Vehicles, Section 102-106, be amended to read as follows:

Sec. 102-106. - Pound created.

There is hereby created a vehicle pound to which vehicles may be removed by the department of public safety, as provided in this division. Such pound may be located and operated at a place designated by the director of public safety, or the director of public safety may designate approved storage garages or impound yards as vehicle pounds, as provided for in section 102-107.

2. That the Code of Ordinances of the City of Bay City, Chapter 102, Traffic and Vehicles, Section 102-107, be amended to read as follows:

Sec. 102-107. - Designation of garages or impound yards as pounds; bond and insurance.

(a) The director of public safety is authorized to designate in writing, filed with the city clerk, storage garages or impound yards approved as vehicle pounds to which vehicles may be removed under the provisions of this division. Each garage or impound yard designated as a vehicle pound shall file with the city clerk evidence of compliance with the insurance requirements as are set forth in section 30-58.

(b) Each garage or impound yard owner, whose facilities serve as a vehicle pound to which vehicles may be removed under provisions of this section, shall defend, save, keep, hold harmless, and indemnify the city, its officers, agents, and employees from and against all claims, damages, losses, and expenses, including attorney fees, arising out of, resulting from, or caused by owners' performances set forth in this Code, or otherwise performed or to be performed; provided that such claim, damages, loss, or expense is caused, in whole or in part, by any act or omission of the owner or anyone directly or indirectly retained, consulted, or employed by it or in privity with it, or anyone for whose acts it may be liable.

3. That the Code of Ordinances of the City of Bay City, Chapter 102, Traffic and Vehicles, Section 102-108, be added to read as follows:

Sec. 102-108. – Immediate removal of vehicles.

(a) A department of public safety officer may provide for the immediate removal of a vehicle from public or private property to a place of safekeeping at the expense of the last-titled owner of the vehicle in any of the following circumstances:

- (1) If the vehicle is in such a condition that the continued operation of the vehicle on a street or other place open to travel by the public would constitute an immediate hazard to the public.
 - (2) If the vehicle is parked or standing in such a manner as to create an immediate public hazard or an obstruction of traffic.
 - (3) If the vehicle is parked in a posted tow away zone.
 - (4) If there is reasonable cause to believe that the vehicle or any part of the vehicle is stolen.
 - (5) If the vehicle must be seized to preserve evidence of a crime, or if there is reasonable cause to believe that the vehicle was used in the commission of a crime.
 - (6) If removal is necessary in the interest of public safety because of fire, flood, storm, snow, natural or man-made disaster, or other emergency.
 - (7) If the vehicle is hampering the use of private property by the owner or person in charge of that property or is parked in a manner that impedes the movement of another vehicle.
 - (8) If the vehicle is stopped, standing, or parked in a space designated as parking for persons with disabilities and is not permitted by law to be stopped, standing, or parked in a space designated as parking for a person with disabilities.
 - (9) If the vehicle is located in a clearly identified access aisle or access lane immediately adjacent to a space designated as parking for persons with disabilities.
 - (10) If the vehicle is interfering with the use of a ramp or a curb-cut by persons with disabilities.
 - (11) If a vehicle is parked in violation of a major snow event declaration contrary to section 102-88.
 - (12) If removal is necessary to permit ordinary snow removal, street construction, clean up, or repair, tree work, or other public utility work, after at least 24 hours' notice thereof has been posted on the vehicle.
 - (13) If a vehicle is parked on a street for the principal purpose of storage, after at least 48 hours' notice thereof has been posted on the vehicle.
- (b) Unless the vehicle is ordered to be towed by a public safety department officer under subsection (a)(1), (4), or (5), if the owner or other person who is legally entitled to possess a vehicle to be towed or removed arrives at the location where the vehicle is located before the actual towing or removal of the vehicle, the vehicle shall be disconnected from the tow truck, and the owner or other person who is legally entitled to possess the vehicle may take possession of the vehicle and remove it without interference upon the payment of a reasonable service fee, for which a receipt shall be provided.
- (c) A public safety department officer that authorizes the removal of a vehicle under subsection (a) shall do all of the following:
- (1) Check to determine if the vehicle has been reported stolen prior to authorizing the removal of the vehicle.
 - (2) Except for vehicles impounded under subsection (a)(4) or (5), a department of public safety officer shall enter the vehicle into the Law Enforcement Information Network as abandoned not less than 7 days after authorizing the removal, and follow the procedures set forth in MCL 257.252(a).
 - (3) Not less than 20 days but not more than 30 days after a vehicle has been released by the department of public safety, the towing agency or custodian shall notify the

department of public safety to enter the vehicle as abandoned, and the department of public safety shall follow the procedures set forth in MCL 257.252(s) if the impounded vehicle has not been redeemed.

4. That the Code of Ordinances of the City of Bay City, Chapter 102, Traffic and Vehicles, Section 102-109, be added to read as follows:

Sec. 102-109. – Vehicle impound fee.

All vehicles impounded by the Bay City Department of Public Safety pursuant to the Michigan Vehicle Code, the Uniform Traffic Code for Cities, Townships, and Villages, or the Bay City Code of Ordinances shall be subject to an administrative fee. The fee shall be the fee on file with the city clerk which has been approved and filed by the city manager and of which the city commission has been notified for at least 30 days in compliance with section 2-1 of the Bay City Code of Ordinances.

Subject: Traffic Control Order 2016.0014
Reviewed By: City Manager: Richard M. Finn Deputy City Manager: Dana L. Muscott DPW
Director: William J. Bohlen
Prepared By: Rachel Phillips, Engineering Manager

PERTINENT FACTS:

Pursuant to the Uniform Traffic Code, the following Traffic Control Orders is submitted for approval:
#2016.0014: Revise center lane of the northbound leg to straight only (remove left turn option in this lane) on Madison Avenue at the intersection of Woodside Avenue.

LEGAL ISSUES:

To establish legal enforceability of the Traffic Control Orders pursuant to the Uniform Traffic Code.

TIME SENSITIVITY:

Routine

BRIEFLY DESCRIBE THE NATURE OF THE TIME SENSITIVITY:

FINANCIAL CONSIDERATIONS:

Installation of traffic control devices (regulatory signs) required of the Traffic Control Orders are considered routine traffic measures budgeted for in the Major and Local Street Fund operating budgets.

CITY GOALS:

The goal of this traffic control order is to simplify and improve the safety and operation of the intersection.

RECOMMENDED ACTION:

*City Manager recommending Traffic Control Order #2016.0014 revising center lane of the northbound leg to straight only (remove left turn option in this lane) on Madison Avenue at the intersection of Woodside Avenue.
RECOMMENDATION: Approve.

ATTACHMENTS:

Description	Upload Date	Type
TCO 2016.20014	12/14/2016	Cover Memo
Traffic Evaluation	12/14/2016	Backup Material

City of Bay City
Traffic Control Order
2016.0013

Location: Madison / Woodside Intersection

Order: Revise center northbound leg to straight only.

Justification:

Administrative decision to revise the center lane of the northbound leg to straight only. Currently, the center lane is straight and left. Since traffic comes south out of the Omnisource property, there is driver confusion about when they can turn left without stopping and when they can must yield to southbound traffic.

While there is no significant crash history over the past three-year period (2013-2015), there has been a potential for Rear-end Left Crashes due to driver confusion or uncertainty.

Traffic volumes justify only one left turn lane. The center lane left turn movement is not necessary.

Recommended by: Rachel Phillips, Engineering Manager Date: December 12, 2016

City Commission Approval: Date: _____

Traffic Control Devices Installed: Date: _____

CC:

City Clerk

Public Safety Director

Public Works Director

Manager of Streets, Public Works

Traffic Control Evaluation

Location: Madison and Woodside Intersection

Prepared by: Rachel Phillips, City Engineer

Date: December 14, 2016

Background

The city has received residents' concerns about the operation and safety at this intersection, specifically with the northbound leg. There are currently three northbound lanes: Left Turn Only, Left Turn & Thru, and Right Turn Only. Although Madison terminates at Woodside, Omnisource has a commercial driveway in alignment with the intersection on the north side. Drivers are uncertain about the signal for the center lane. Many don't realize there is a potential for traffic to be coming south from Omnisource, and they either turn left without verifying there is no oncoming traffic, or they wait for traffic to clear at the risk of being rear-ended by the vehicle behind. As a result, the operation of the intersection is not efficient.

Traffic Control Criteria

The Uniform Traffic Code (UTC) is adopted by reference by Bay City ordinance. The UTC further established duties of the City Traffic Engineer to follow accepted engineering practices for the placement of traffic control devices, such as those published in the Michigan Manual of Uniform Traffic Control Devices (MMUTCD). The MMUTCD is a universally accepted standard following a similar National standard utilized by city, county and state roadway officials, nationally.

Scope of the Traffic Control Evaluation

The traffic control evaluation consisted of the following:

- 24-hour Traffic Counts
 - 17,600 total vehicles travel through the intersection
 - 23% of the total vehicles approach from the south leg (Madison)
- Turning Movements
 - Average 170 vehicles per hour turn left (northbound to westbound) during peak hours
- Crash Data
 - Crash History 2013-2015 (3 years)
 - 8 Total Crashes
 - 2 crashes related to NW – WB movements
 - No Injuries

Findings

Taking into account the overall average daily traffic volume, the percentage of directional volume, and the number of left turn movements, this leg of the intersection does not require dual lanes. The crash history is low, which shows the overall intersection operates effectively. The signal timing is also effective for the needs of the intersection.

Recommendation: Remove the left turning movement from the center lane. Configure the northbound leg as: Left Turn Only in left lane, Thru Only in center lane, Right Turn Only in right lane. In addition reconfigure the signal heads with arrows appropriate for each lane, re-mark the lanes with Arrows and Onlys, and add a sign showing the lane configuration.

Subject: Traffic Control Order 2016.0015
Reviewed By: City Manager: Richard M. Finn Deputy City Manager: Dana L. Muscott DPW
Director: William J. Bohlen
Prepared By: Rachel Phillips, Engineering Manager

PERTINENT FACTS:

Pursuant to the Uniform Traffic Code, the following Traffic Control Orders is submitted for approval:
#2016.0015: Rescind Temporary Traffic Control Order # 2015.0003 and establish Permanent Traffic Control Order # 2016.0015 to place a four-way red flashing signal at the intersection of Washington Ave. and Center Ave.

LEGAL ISSUES:

To establish legal enforceability of the Traffic Control Orders pursuant to the Uniform Traffic Code.

TIME SENSITIVITY:

Routine

BRIEFLY DESCRIBE THE NATURE OF THE TIME SENSITIVITY:

FINANCIAL CONSIDERATIONS:

Installation of traffic control devices required of the Traffic Control Orders are considered routine traffic measures budgeted for in the Major and Local Street Fund operating budgets.

CITY GOALS:

The goal of this traffic control order is to improve the safety and operation of the intersection.

RECOMMENDED ACTION:

*City Manager recommending rescission of Temporary Traffic Control Order # 2015.0003 and establishing Permanent Traffic Control Order # 2016.0015 to place a four-way red flashing signal at the intersection of Washington Avenue and Center Avenue.

RECOMMENDATION: Approve.

ATTACHMENTS:

Description	Upload Date	Type
TCO 2016.0015	12/20/2016	Cover Memo
Signal Study Report 2012/2016	12/20/2016	Backup Material

City of Bay City
Traffic Control Order
2016.0015

Location: Intersection of Washington Avenue and Center Avenue

Order: Rescind Temporary Traffic Control Order # 2015.0003 and establish Permanent Traffic Control Order # 2016.0015 to place a four-way red flashing signal at the intersection of Washington Ave. and Center Ave.

Justification:

Pursuant to a traffic study completed in November 2012, the intersection of Washington Avenue and Center Avenue did not meet traffic signal warrants established by the Michigan Manual of Uniform Traffic Control Devices.

A temporary TCO for placement of the traffic signal on “all way red” operation for a 120 days provided ample time to review the effectiveness of the flashing operation to further verify the need for the traffic signal at the intersection. The permanent four-way red flashing operation will promote pedestrian safety within the business district.

Recommended by: Rachel Phillips

Date: 12/20/16

City Commission Approval:

Date: _____

Traffic Control Devices Installed:

Date: _____

CC:

City Clerk

Public Safety Director

Public Works Director

Manager of Streets, Public Works

Traffic Control Evaluation

Location: Washington and Center Avenue intersection

Prepared by: Ken Feldt, City Engineer

Date: August 31, 2016

Background

In November 2012 a city wide traffic signal warrant analysis was completed by Rowe Professional Services. This analysis revealed that the traffic signal at the intersection of Center and Washington Avenues did not meet the “traffic volume warrants” established by the Michigan Manual of Uniform Traffic Control Devices suggesting that it should be considered for removal. On October 19, 2015 the City Commission approved placing the traffic signal at the intersection on “all way red flashing” flashing operation for a trial period to evaluate the removal of it. The Commission further stipulated the evaluation period should encompass summer time special events in the business district. The traffic signal was placed on “all way red” flashing operation and the “no left turn” prohibition at the intersection was removed on May 2, 2016. To achieve motorists observance for the change in operation, “ALL WAY STOP” signs were also placed at the intersection for the trial period.

Traffic Control Criteria

The Uniform Traffic Code (UTC) is adopted by reference by Bay City ordinance. The UTC further established duties of the City Traffic Engineer to follow accepted engineering practices for the placement of traffic control devices, such as those published in the Michigan Manual of Uniform Traffic Control Devices (MMUTCD). The MMUTCD is a universally accepted standard following a similar National standard utilized by city, county and state roadway officials, nationally.

The MMUTCD provides 9 warrants for the placement and or removal of traffic signals. It also establishes minimum criteria for the placement of “Multi way stop sign control. The traffic signal warrants were reviewed by the Rowe study which determined that the intersection of Center and Washington did not warrant a traffic signal. In general the warrants applicable to the Center and Washington intersection relate to minimum traffic volumes, pedestrian activity and traffic crash experience.

Scope of the Traffic Control Evaluation

The scope of the traffic control measures appropriate for the intersection of Washington and Center Avenues include determining the followings:

1. Have traffic conditions changed since 2012 such a traffic signal is warranted at the intersection.
2. If not, do current traffic conditions warrant the placement of “all way stop” control and the need for the previous “No left turn” prohibition.

3. During the trial period of the operational change from traffic signal “STOP and GO” to” All Way Red Flashing “at the intersection, what traffic safety impacts have been realized, and
4. What is the recommended traffic control devices for the intersection.

1. Have traffic conditions changed since 2012 such a traffic signal is warranted at the intersection.

Traffic counts taken on August 22nd and 23rd, 2016 show that traffic volumes have increased slightly since 2012.

Subject: Traffic Control Order 2016.0016
Reviewed By: City Manager: Richard M. Finn Deputy City Manager: Dana L. Muscott DPW
Director: William J. Bohlen
Prepared By: Rachel Phillips, Engineering Manager

PERTINENT FACTS:

Pursuant to the Uniform Traffic Code, the following Traffic Control Order is submitted for approval:
#2016.0016: No Parking signs along both sides of Patterson Avenue from Marquette Avenue to Smith Street per Policy #605 of the Bay City Policy Manual. Policy #605 specifies “removal of parking on both sides of the street where the street width is less than 28 feet”. The pavement on Patterson Avenue is 24 feet wide. When vehicles are parked on the street, fire trucks, sanitation, and snow removal vehicles cannot fit between the vehicles. Removing parking will improve safety and efficiency for the city and emergency operations.

LEGAL ISSUES:

To establish legal enforceability of the Traffic Control Orders pursuant to the Uniform Traffic Code.

TIME SENSITIVITY:

Routine

BRIEFLY DESCRIBE THE NATURE OF THE TIME SENSITIVITY:

The City is planning a pavement rehabilitation project on Patterson Avenue in this location in 2017. Due to financial, right-of-way, and existing pavement restrictions, Patterson will continue to be 24' wide. All of the signing will be replaced with the project.

FINANCIAL CONSIDERATIONS:

Installation of traffic control devices (regulatory signs) required of the Traffic Control Orders are considered routine traffic measures budgeted for in the Major and Local Street Fund operating budgets.

CITY GOALS:

RECOMMENDED ACTION:

*City Manager recommending Traffic Control Order #2016.0016 for No Parking signs along both sides of Patterson Avenue from Marquette Avenue to Smith Street.

RECOMMENDATION: Approve.

ATTACHMENTS:

Description	Upload Date	Type
TCO 2016.0016	12/21/2016	Cover Memo

City of Bay City
Traffic Control Order
2016.0016

Location: Patterson Avenue, between Marquette Ave. and Smith St.

Order: Install No Parking signs along both sides of Patterson Avenue from Marquette Avenue to Smith Street.

Justification:

Administrative decision to restrict parking on Patterson Ave. in accordance with the Bay City Policy Manual. Policy #605 specifies “removal of parking on both sides of the street where the street width is less than 28 feet”. The pavement on Patterson Avenue is 24 feet wide.

When vehicles are parked on the street, fire trucks, sanitation, and snow removal vehicles cannot fit between the vehicles. Removing parking will improve safety and efficiency for the city and emergency operations.

Recommended by: Rachel Phillips, Engineering Manager Date: December 21, 2016

City Commission Approval: Date: _____

Traffic Control Devices Installed: Date: _____

CC:

City Clerk

Public Safety Director

Public Works Director

Manager of Streets, Public Works

Subject: Consent of Restrictive covenants as easement holder at 740 N. Euclid
Reviewed By: City Manager: Richard M. Finn Deputy City Manager: Dana L. Muscott
Prepared By: DPW Director: William J. Bohlen

PERTINENT FACTS:

The owners of 740 N. Euclid Avenue (Speedway Gas Station #8713) have prepared restrictive covenants required of the MDEQ, restricting the use and activities at the property because of a release of gasoline from leaking underground fuel storage tanks. The property includes alleys previously vacated by the City of Bay City in 1958. (See site survey map with alleys' highlighted in yellow). However when vacated, easements for city utilities was retained. Currently, the City has a sanitary sewer remaining within the north/south portion of the alleys. The MDEQ is requiring the property owner to secure a consent of the easement holder for the restrictive covenants. The restrictive covenants applicable to the city's easement generally restricts the placement of wells to extract ground water or the removal and disposal of any soils as a result of future utility maintenance work.

LEGAL ISSUES:

The City Attorney has reviewed the consent and restrictive covenants and finds no legal objections.

TIME SENSITIVITY:

Routine

BRIEFLY DESCRIBE THE NATURE OF THE TIME SENSITIVITY:

FINANCIAL CONSIDERATIONS:

Future excavation of soils within the alley easement for utility maintenance will require proper land fill disposal. The consent does not preclude the City from recovering expenses associated with contaminated soil disposal.

CITY GOALS:

RECOMMENDED ACTION:

*City Manager recommending consent of restrictive covenants at 740 N. Euclid Avenue as an easement holder.
RECOMMENDATION: Approve.

ATTACHMENTS:

Description	Upload Date	Type
Restrictive covenants for 740 N. Euclid incl consent	8/1/2016	Backup Material

**DECLARATION OF RESTRICTIVE COVENANT
FOR A RESTRICTED NONRESIDENTIAL CORRECTIVE ACTION**

MDEQ Reference No. RC-RRD-213-15-233

This Declaration of Restrictive Covenant (Restrictive Covenant) was recorded with the Bay County Register of Deeds to protect public health, safety, and welfare, and the environment by prohibiting or restricting activities that could result in unacceptable exposure to regulated substances present at the Property located at 740 North Euclid Avenue, Bay City, Bay County, Michigan and legally described in the attached Exhibit 1 (Legal Description of the Property) that are inconsistent with the environmental conditions at the Property. Exhibit 2 (Survey of the Property) provides a survey of the Property that is subject to the land and/or resource use restrictions specified in this Restrictive Covenant.

The Property is associated with Speedway LLC #8713, Facility ID 00012960, for which corrective actions were completed under Part 213, Leaking Underground Storage Tanks, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), MCL 324.21301 *et seq.* Corrective actions that were implemented to address environmental contamination are fully described in the site file available from the Michigan Department of Environmental Quality (MDEQ), Remediation & Redevelopment Division (RRD) Saginaw Bay Office.

The Property described contains regulated substances in excess of the concentrations developed as the unrestricted residential cleanup criteria under Section 21304a(2) of the NREPA. The MDEQ recommends that prospective purchasers or users of this Property undertake appropriate due diligence prior to acquiring or using this Property, and undertake appropriate actions to comply with the requirements of Section 21304c of the NREPA.

Part 213 requires the recording of this Restrictive Covenant with the Bay County Register of Deeds based upon the corrective action measures for the site to: 1) restrict unacceptable exposures to regulated substances located on the Property; 2) assure that the use of the Property is consistent with the exposure assumptions used to develop cleanup criteria under Section 21304a(2) of the NREPA; and 3) assure the exposure control measures relied upon in the site file are effective.

The restrictions contained in this Restrictive Covenant are based upon information available at the time the corrective action was implemented by Speedway LLC. Failure of the corrective action to achieve and maintain the cleanup criteria, exposure controls, and requirements specified in the site file; future changes in the environmental condition of the Property; changes in the cleanup criteria developed under Section 21304a(2) of the NREPA; the discovery of environmental conditions at the Property that were not accounted for in the site file; or use of the Property in a manner inconsistent with the restrictions described herein may result in this Restrictive Covenant not being protective of public health, safety, and welfare, and the

environment. The adequacy of the corrective actions undertaken pursuant to the site file may not have been reviewed by the MDEQ.

Definitions

For the purposes of this Restrictive Covenant, the following definitions shall apply:

“MDEQ” means the Michigan Department of Environmental Quality, its successor entities, and those persons or entities acting on its behalf.

“Owner” means at any given time the then-current title holder of all or any portion of the Property.

“Property” means the real property as described in Exhibit 1 (Legal Description of the Property) of this Restrictive Covenant that is subject to the restrictions, terms and conditions described herein.

All other terms used in this document which are defined in Part 3, Definitions, of the NREPA and Part 213 of the NREPA, shall have the same meaning in this document as in Part 3 and Part 213 of the NREPA, as of the date this Restrictive Covenant is filed.

Summary of Environmental Conditions and Corrective Action.

Hazardous substances including unleaded gasoline compounds were released from the underground storage tank system at Speedway Store #8713 resulting in contamination of the Property. Confirmed release numbers C-0035-12 dated April 10, 2012 and C-0106-12 dated September 11, 2012 were assigned to the releases. Soil and groundwater contamination remain present at levels which do not allow unrestricted use of the Property. Public health will be protected by prohibiting the use of the property for residential land uses; prohibiting the use of groundwater for ingestion or irrigation purposes; prohibiting the construction of structures unless engineering controls are incorporated; and requiring proper characterization and disposal of impacted soils, if soils are to be disturbed.

NOW THEREFORE,

1. Declaration of Land or Resource Use Restrictions.

Speedway LLC, as Owner of the Property, hereby declares and covenants that the Property shall be subject to the following restrictions and conditions:

- a. Prohibited Land Uses (Entire Property). The Owner shall prohibit all uses of the Property as described in Exhibit 2 (Survey of the Property) that are not compatible with or are inconsistent with the assumptions and basis for the nonresidential cleanup criteria established pursuant to Section 21304a(2) of the NREPA. Uses that are compatible with nonresidential cleanup criteria are generally described in Exhibit 3 (Description of Allowable Uses). At the time of recording of this Restrictive Covenant, the Bay City Zoning Ordinance Section 122-152: Highway Business, C-2-B, zoning code designation allowed for the following residential uses that are not compatible with the nonresidential cleanup criteria and are therefore prohibited by this Restrictive Covenant: Nursing Homes, Convalescent Homes, Adult Foster Care Facilities, Day Care Centers, and Dwellings Located on the First or Upper Floors of Commercial or Office Buildings.

Cleanup criteria for land use-based response activities are located in the Government Documents Section of the State of Michigan Library.

- b. Prohibited Activities to Eliminate Unacceptable Exposures to Regulated Substances (Entire Property). The Owner shall prohibit activities on the Property that may result in exposures above levels established in the site file. These prohibited activities include:
- (i.) The construction and use of wells or other devices on the Property to extract groundwater for consumption, irrigation, or any other purpose, except as provided below:
 - (a) Wells or other devices constructed for the purpose of evaluating groundwater quality or to remediate subsurface contamination associated with a release of regulated substances into the environment are permitted provided the construction of the wells or devices complies with all applicable local, state and federal laws and regulations and does not cause or result in a new release, exacerbation of existing contamination, or any other violation of local, state or federal laws or regulations.
 - (b) Short-term dewatering for construction purposes is permitted provided the dewatering, including management and disposal of the groundwater, is conducted in accordance with all applicable local, state, and federal laws and regulations and does not cause or result in a new release, exacerbation of existing contamination, or any other violation of local, state and federal environmental laws and regulations.
 - (ii.) The construction of new structures, unless such construction incorporates engineering controls designed to eliminate the potential for subsurface vapor phase hazardous substances to migrate into the new structure at concentrations greater than applicable criteria; or, unless prior to construction of any structure, an evaluation of the potential for any hazardous substances to volatilize into indoor air assures the protection of persons who may be present in the buildings and is in compliance with Section 21304c of the NREPA.
- c. Prohibited Activities to Eliminate Unacceptable Exposures to Regulated Substances (Entire Property). There are no additional activities to those presented in this Restrictive Covenant that need to be prohibited to eliminate unacceptable exposures to regulated substances.
- d. Prohibited Activities to Ensure Effectiveness and Integrity of the Corrective Action (Entire Property). There are no additional activities to those presented in this Restrictive Covenant that need to be prohibited to ensure the effectiveness and integrity of the Corrective Action.

2. Contaminated Soil Management. The Owner shall manage all soils, media, and/or debris located on the Property in accordance with the applicable requirements of Sections 21304b of the NREPA; Part 111, Hazardous Waste Management, of the NREPA; Subtitle C of the Resource Conservation and Recovery Act, 42 USC Section 6901 *et seq.*; the administrative rules promulgated thereunder; and all other relevant state and federal laws.

3. Access. The Owner grants to the MDEQ and Speedway LLC, and their designated representatives, the right to enter the Property at reasonable times for the purpose of determining and monitoring compliance with the site file, including the right to take samples, inspect the operation and maintenance of the corrective action measures and inspect any records relating to them, and to perform any actions necessary to maintain compliance with Part 213 and the site file. The right of access provided to Speedway LLC above is not required under Part 213 for the corrective action to be considered approved. This provision was agreed to by the Owner at the time the Restrictive Covenant was recorded. Accordingly, the MDEQ will not enforce the Owner's obligation to provide access to Speedway LLC.

4. Conveyance of Property Interest. A conveyance of title, easement, or other interest in the Property shall not be consummated by the Owner without adequate and complete provision for compliance with the terms of the site file and this Restrictive Covenant. A copy of this Restrictive Covenant shall be provided to all future owners, heirs, successors, lessees, easement holders, assigns, and transferees by the person transferring the interest in accordance with Section 21310a(2)(c) of the NREPA.

5. Audits Pursuant to Section 21315 of the NREPA. This Restrictive Covenant is subject to audits in accordance with the provisions of Section 21315 of the NREPA, and such an audit may result in the finding by the MDEQ that this Restrictive Covenant is not protective of the public health, safety, and welfare, and the environment.

6. Term of Restrictive Covenant. This Restrictive Covenant shall run with the Property and is binding on the Owner; future owners; and their successors and assigns, lessees, easement holders, and any authorized agents, employees, or persons acting under their direction and control. This Restrictive Covenant shall continue in effect until it is determined that the regulated substances no longer present an unacceptable risk to the public health, safety, or welfare, or the environment. Improper modification or rescission of any restriction necessary to prevent unacceptable exposure to regulated substances may result in the need to perform additional corrective actions by those parties responsible for performing corrective action at the Property or to comply with Section 21304c of the NREPA.

7. Enforcement of Restrictive Covenant. The State of Michigan, through the MDEQ, and Speedway LLC may individually enforce the restrictions set forth in this Restrictive Covenant by legal action in a court of competent jurisdiction.

8. Severability. If any provision of this Restrictive Covenant is held to be invalid by any court of competent jurisdiction, the invalidity of that provision shall not affect the validity of any other provision of this Restrictive Covenant, which shall continue unimpaired and in full force and effect.

9. Authority to Execute Restrictive Covenant. The undersigned person executing this Restrictive Covenant is the Owner, or has the express written permission of the Owner, and represents and certifies that he or she is duly authorized and has been empowered to execute and record this Restrictive Covenant.

IN WITNESS WHEREOF, Speedway LLC has caused this Restrictive Covenant, RC-RRD-213-15-233, to be executed on this 17th day of MARCH, 2016.

Speedway LLC

By: [Signature]

Name: John M. Helms

Its: Corporate Manager, Environmental



STATE OF OHIO
COUNTY OF CLARK

The foregoing instrument was acknowledged before me this _____ day of _____, 2016 by John M. Helms, Corporate Manager, Environmental of Speedway LLC, a Delaware limited liability company, on behalf of the company.

[Signature]
Notary Public Signature

Notary Public, State of Ohio

County of Clark

My commission expires: 12-12-2016

Acting in the County of Clark



Lilly A Woolverton
Notary Public, State of Ohio
My Commission Expires 12-12-2016

Prepared by:
Jenny McCrary
Practical Environmental Consultants, Inc.
1239 76th Street SW, Suite A
Byron Center, MI 49315

When recorded return to:
Jenny McCrary, Practical Environmental Consultants, Inc.

EXHIBIT 1

LEGAL DESCRIPTION OF PROPERTY

Property commonly known as:

740 North Euclid Avenue, Bay City, Bay County, Michigan

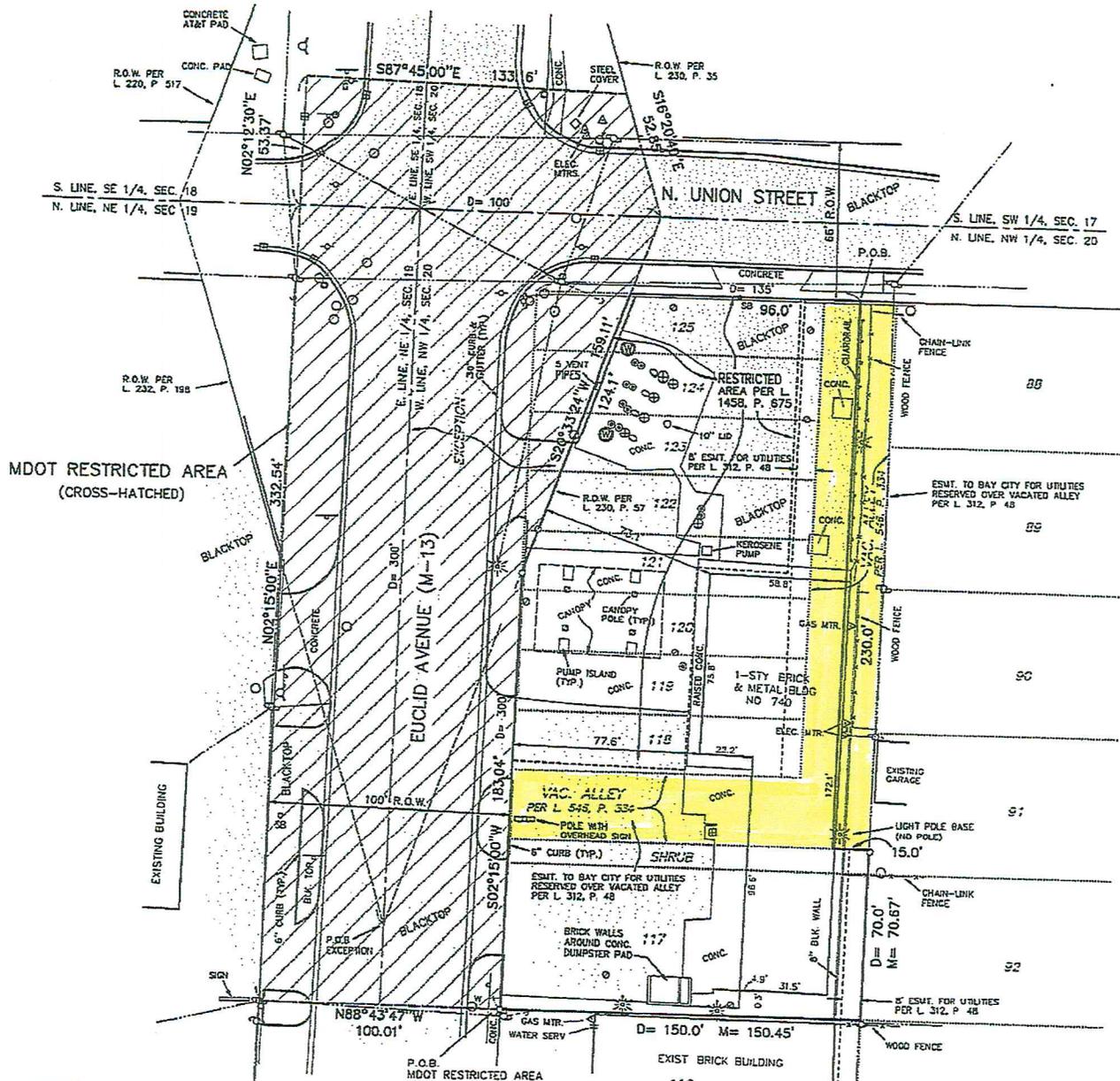
Parcel ID: 160-020-101-001-00

Legal Description of Parcel:

Commencing at a point on the South right-of-way line of North Union Street at its intersection with the centerline of the vacated North-South alley adjacent to Lot 125 on the East of WM. E. WEBB'S HANDY PARK SUBDIVISION, according to the plat thereof, as recorded in Liber 4 of Plats, Page 57, Bay County Records; running thence West along the South right-of-way line of North Union Street 135 feet to the Northwest corner of said Lot 125 of WM. E. WEBB'S HANDY PARK SUBDIVISION; running thence South along the West line of said Subdivision, 300 feet to the Southwest corner of Lot 117 of said Subdivision; thence East 150 feet along the South line of said Lot to the Southeast corner of said Lot; thence North along the West line of Lot 92 and 91 of said subdivision, 70 feet; thence West 15 feet to the centerline of the vacated North-South alley; thence North along said centerline of the vacated North-South alley, 230 feet to the point of beginning, EXCEPT therefrom a triangular parcel of land described as beginning at a point on the centerline of Highway M-47, now known as M-13 and also known as Euclid Avenue, 300 feet South of the intersection of said centerline of M-47 now M-13 and the North line of Section 20, Township 14 North, Range 5 East; thence North 300 feet along said centerline of M-13 to the said intersection; thence East 100 feet along said North line of Section 20; thence Southwesterly approximately 316 feet to the point of beginning.

EXHIBIT 2

SURVEY OF THE PROPERTY



Description of MDOT Restricted Area:

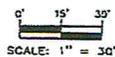
Part of the SW 1/4, Section 17, part of the SE 1/4, Section 18; part of the NE 1/4, Section 19 and part of the NW 1/4, Section 20, T14N, R5E, Bay City, Bay County, Michigan, described as: Beginning at the SW corner of Lot 117, Wm. E. Webb's Handy Park Subdivision (Liber 4 of Plats, Page 57); thence N88°43'47"W 100.01 feet to the West line of Euclid Avenue (Highway M-13); thence N02°15'00"E 332.54 feet to the North line of the NE 1/4, Section 19; thence N02°12'30"E 53.37 feet; thence S87°45'00"E 133.16 feet to the Easterly line of Euclid Avenue; thence S16°20'40"E 52.85 feet along said Easterly line to the South line of the SW 1/4, Section 17; thence S20°33'24"W 159.11 feet along the Easterly line of Euclid Avenue to the West line of Wm. E. Webb's Handy Park Subdivision; thence S02°15'00"W 183.04 feet along said West line to the place of beginning.

Notes:

- Bearings are based on Wm. E. Webb's Handy Park Sub., Liber 4 of Plats, Page 57.
- This property is subject to the covenants, conditions, restrictions and other provisions contained in the instrument recorded in Liber 312, Page 48.
- This property is subject to the terms and conditions contained in Restrictive Covenant recorded in Liber 1458, Page 675.
- This property is subject to the terms and conditions contained in Corrective Action Notice to Registrar of Deeds recorded in Liber 1426, Page 954.
- This property is subject to the terms and conditions contained in Encroachment Application and Authorization recorded in Liber 1303, page 288.

LEGEND

- D = DEEDED DIMENSION
- M = MEASURED DIMENSION
- o = IRON STAKE FOUND
- = IRON STAKE SET
- ⊙ = MONUMENT
- ⊕ = UTILITY POLE & GUY WIRE
- SB = STOP BOX
- = TELEPHONE BOX
- = CAPPED WELL
- = 20" LID
- = 14" LID
- ⊕ = 40" LID
- — — = FENCE LINE
- — — = OVERHEAD WIRES
- * = LIGHT POLE
- = SIGN
- ⊕ = HYDRANT
- ∨ = VALVE
- ⊕ = CATCH BASIN
- = MANHOLE
- ⊕ = TELEPHONE MANHOLE
- ⊕ = WATER MANHOLE
- ⊕ = CROSS-WALK POLE
- ⊕ = GAS VALVE



Description of Property:

Land situated in the County of Bay, City of Bay City, State of Michigan, described as follows:

Commencing at a point on the South right-of-way line of North Union Street at its intersection with the centerline of the vacated North-South alley adjacent to Lot 125 on the East of Wm. E. Webb's Handy Park Subdivision, according to the plat thereof, as recorded in Liber 4 of Plats, Page 57, Bay County Records; running thence West along the South right-of-way line of North Union Street 135 feet to the Northwest corner of said Lot 125 of Wm. E. Webb's Handy Park Subdivision; running thence South along the West line of said Subdivision, 300 feet to the Southwest corner of said Lot; thence East 150 feet along the South line of said Lot to the Southeast corner of said Lot; thence North along the West line of Lot 92 and 91 of said subdivision, 70 feet; thence West 15 feet to the centerline of the vacated North-South alley; thence North along said centerline of the vacated North-South alley, 230 feet to the point of beginning, EXCEPT therefrom a triangular parcel of land described as beginning at a point on the centerline of Highway M-47, now known as M-13 and also known as Euclid Avenue, 300 feet South of the intersection of said centerline of M-47 now M-13 and the North line of Section 20, Township 14 North, Range 5 East; thence North 300 feet along said centerline of M-13 to the said intersection; thence East 100 feet along said North line of Section 20; thence Southwesterly approximately 316 feet to the point of beginning.

SITE SURVEY

FOR: PRACTICAL ENVIRONMENTAL CONSULTANTS RE: SPEEDWAY #8713
 ATTN: JASON CONANT
 1239 - 76TH ST., SW (STE. A)
 BYRON CENTER, MI 49315
 IN: PART OF THE NW 1/4, SECTION 10, T14N, R5E,
 CITY OF BAY CITY, BAY COUNTY, MICHIGAN

REVISIONS		tixel engineering, inc.	
REV	MDOT RESTRICTED AREA	5/20/12	planners • engineers • surveyors
DRAWN BY		JJS	FILE NO
APPROVED BY		DJR	5121278
DATE		5/15/2012	SHEET 1 OF 1

EXHIBIT 3

DESCRIPTION OF ALLOWABLE USES

Non-Residential Land Use: This land use is characterized by any use which is not residential in nature and is primarily characterized by industrial and commercial uses. Industrial uses typically involve manufacturing operations engaged in processing and manufacturing of materials or products. Other examples of industrial uses are utility companies, industrial research and development, and petroleum bulk storage. Commercial uses include any business or income-producing use such as commercial warehouses, lumber yards, retail gas stations, auto dealerships and service stations, as well as office buildings, banks, and medical/dental offices (not including hospitals). Commercial uses also include retail businesses whose principal activity is the sale of food or merchandise within an enclosed building and personal service establishments which perform services indoors such as health clubs, barber/beauty salons, photographic studios, etc.

Any residential use is specifically prohibited from the non-residential land use category. This would include the primary use of the Property for human habitation and includes structures such as single family dwellings, multiple family structures, mobile homes, condominiums, and apartment buildings. Residential use is also characterized by any use which is intended to house, educate, or provide care for children, the elderly, the infirm, or other sensitive populations, and therefore could include day care centers, educational facilities, hospitals, elder care facilities, and nursing homes. The use of any accessory building or portion of an existing building as a dwelling unit permitted for a proprietor or storekeeper and their families, located in the same building as their place of occupation, or for a watchman or caretaker is also prohibited. Any authority that allows for residential use of the Property as a legal non-conforming is also restricted per the prohibitions contained in this restrictive covenant.

EXHIBIT 4

CONSENT OF EASEMENT HOLDERS

As evidenced below by my signature, I agree and consent to the recording of the land and resource use restrictions specified in this Restrictive Covenant and hereby agree that my property interest shall be subject to, and subordinate to, the terms of the Restrictive Covenant.

City of Bay City, Michigan

By: _____
Signature

Name: _____
Print or Type Name

Its: _____
Title

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2016 by _____, agent on behalf of the City of Bay City, Michigan.

Notary Public Signature

Notary Public, State of _____

County of _____

My commission expires: _____

Acting in the County of _____

Subject: Uptown at River's Edge - Phase 1A - Final Change Order #8
Reviewed By: City Manager: Richard M. Finn Deputy City Manager: Dana L. Muscott
Prepared By: Economic Development Project Manager, Sara Dimitroff

PERTINENT FACTS:

The purpose of this recommendation is to approve the final change order for the development agreement between the City of Bay City and Bay Riverfront, LLC for the development of Uptown Bay City. The original development agreement was signed on September 11, 2012. Per the development agreement American Excavating worked under Bay Riverfront, LLC. The original contract amount was for \$964,306.00 and was just for public sanitary sewer and water main. Several change orders were done to accommodate the Uptown project.

Change order #1 - increase of \$347,891.35 included changes to the original plans for sanitary sewer and water main and authorized the construction of public storm sewer.

Change order #2 - increase of \$5,649.00 included adding public utilities to Water Street between East Main and Columbus which was originally going to be just parking. This change order authorized the construction of the public water main, sanitary sewer and storm sewer on Water Street.

Change order #3 - increase of \$974,816.10 included adding the construction of public roads (Columbus, Uptown Drive and Water Street) including the earthwork, streetlight bases, and public road paving/curbing. The change order also balanced contract quantities for the public utilities.

Change order #4 - increase of \$118,743.00 included adding streetscape items that were originally part of the East Main Street project through the TEDF Grant. These items were not grant funding eligible but were originally include in the project for construction/coordination issues. To close out the TEDF grant project, the streetscaping items were transferred from the East Main Street TEDF contract to this contract. Additionally, deleterious materials (wood, organics, concrete, etc.) were found buried in the soil excavated during the utility construction. This change order authorized the contractor to dispose of the wood and concrete stockpiles at the landfill.

Change order #5 - increase of \$45,376.77 included balancing constructed quantities of the deleterious materials excavated during utility construction.

Change order #6 - increase of \$775,222.40 included authorizing the construction of the proposed streetscape items (plans, trash receptacles, etc.) as well as electric receptacles and wiring. Additionally, a storm water retention pond was constructed to capture site runoff during construction and prevent discharge into the Saginaw River. Once construction was complete, the water retention pond was filled with sand backfill.

Change order #7 - decrease of \$1,60,761.79 was issued to balance the completed construction items to date. Balance the completed items allowed the City to get a more accurate projection of the final contract amount.

Change order #8 - final change order, decrease of \$150,400.29 was issued as a final balancing change order to balance all the remaining contract items to the final as constructed quantities or work specified in the development agreement.

LEGAL ISSUES:

TIME SENSITIVITY:

Impending deadline

BRIEFLY DESCRIBE THE NATURE OF THE TIME SENSITIVITY:

The final pay application is waiting to be paid in the amount of \$154,621.09.

FINANCIAL CONSIDERATIONS:

Net proceeds from the sale of the property paid for \$2,356,245 of this project, the remaining \$652,118.78 was paid for with bond funds for the project.

CITY GOALS:

RECOMMENDED ACTION:

*City Manager recommending Final Change Order No. 8 to the Development Agreement with Bay Riverfront, LLC/SSP Associates, Inc., Saginaw, MI, for Uptown at River's Edge Riverwalk Phase 1A in the decreased amount of \$150,400.29.

RECOMMENDATION: Approve.

ATTACHMENTS:

Description	Upload Date	Type
Explanation of Change Orders	12/19/2016	Backup Material
Change Order No. 8	12/28/2016	Contract

City of Bay City
Uptown at River's Edge
November 21, 2016

CONTRACT COST SUMMARY:

Original Contract Amount (Public Sanitary and Water Main Only): \$964,306.00

Note: The original contract amount included authorization for the construction of the public sanitary sewer and water main only. Subsequent change orders were issued to authorize construction of the public storm sewer, roads, electrical, and streetscape items.

Change Order No. 1: \$347,891.35 (Issued on 8/20/2013)

Change Order No. 2: \$5,649.00 (Issued on 9/10/2013)

Change Order No. 3: \$974,816.10 (Issued on 11/01/2013)

Change Order No. 4: \$118,743.00 (Issued on 7/03/2014)

Change Order No. 5: \$45,275.76 (Issued on 8/25/2014)

Change Order No. 6: \$775,222.40 (Issued on 11/25/2014)

Change Order No. 7: **-\$160,761.79** (Issued on 7/6/2015)

Change Order No. 8 (FINAL): **-\$150,400.29** (Issued on 11/10/2016)

Overall Change Order Total: \$1,956,435.53

Final Contract Amount: \$2,920,741.53

DESCRIPTION OF CHANGE ORDERS

Change Order No. 1:

This change order authorized quantity adjustments to the public sanitary sewer and water main due to plan revisions that were made to the project as requested by the developer and approved by the City. This change order also authorized the construction of the public storm sewer.

Change Order No. 2:

The site plan and original construction drawings proposed Water Street terminating at E. Main Street. The area between Columbus Avenue and E. Main Street was originally proposed to be private parking lot. The developer requested the City to allow Water Street to be extended between Columbus Avenue and E. Main Street with the associated public utilities. The City approved the developer's request to extend Water Street and this change order authorized the construction of the public water main, sanitary sewer, and storm sewer along the extended section of Water Street.

Change Order No. 3:

This change order authorized the construction of the public roads (Columbus Avenue, Uptown Drive, and Water Street) including the earthwork, streetlight bases, and public road paving/curbing. This change order also balanced the contract quantities of the public storm sewer, water main, and sanitary sewer items completed to date.

Change Order No. 4:

The E. Main Street road and storm sewer construction received a Transportation Economic Development Fund (TEDF) grant. The TEDF funding required that the project be advertised, bid, and constructed under a separate contract. The TEDF bid package included streetscaping items along E. Main

Street which included plants. The streetscaping items were not grant funding eligible but were originally included in the project for construction/coordination issues. The E. Main Street road and storm sewer project was not completed until late in the year outside of the optimum planting season. To close the TEDF project, the streetscaping items were transferred from the E. Main Street TEDF contract to this contract (SSP/American). This change order authorized transferring the streetscaping items.

Deleterious materials (wood, organics, concrete, etc.) were found buried in the soil excavated during the utility construction. The contractor screened the soil and separated out the wood and concrete from the soil. The City reviewed the option for pulverizing and burying the material in greenbelt areas but this option was determined not to be feasible. This change order authorized the contractor to dispose of the wood and concrete stockpiles at a landfill.

Change Order No. 5:

This change order balanced the deleterious removal items to the as constructed quantities that were screened removed from the excavated soil upon the completion of the utility construction.

Change Order No. 6:

This change order authorized the construction of the proposed streetscape items (plants, trash receptacles, trash cans, bike racks, brick pavers), electric receptacles, and wiring.

A temporary storm water retention pond was constructed at the south end of the site to capture site runoff during construction and prevent it from being discharged to the Saginaw River. Once the site was stabilized and the outlet to the river was constructed, the pond was no longer needed. This change also authorized the temporary retention pond be filled with sand backfill.

Change Order No. 7:

This change ordered was issued to balance the completed construction items to date. Balancing the completed construction items allowed the City to get a more accurate projection of the final contract amount.

Change Order No. 8 (FINAL):

This change order is the final balancing change order to balance all the remaining contract items to the final as constructed quantities or work specified in the contract (Development Agreement).

CHANGE ORDER

NO. 8 (Final)

PROJECT: Uptown at River's Edge
 OWNER: City of Bay City
 CONTRACT NO: 11C0150 DATE OF ISSUANCE: 11/10/16
 CONTRACTOR: SSP Associates, Inc. ENGINEER: ROWE Professional Services Company

You are directed to make the following changes in the contract documents:
 Description: Balance completed contract pay item quantities to date; Add pay item for red maples, logo street signs, and no parking signs that were installed
 Reason for change order: As authorized by the City of Bay City and SSP Associates, Inc.
 Attachments: (List documents supporting change): Balancing Sheet

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES
*Original contract price: <u>\$964,306.00</u> SSP/American Subcontract dated 3/7/13 (Minus Tap fees) *Site Improvements only Does not include SSP Associates 3% overhead	Original contract times: Substantial completion: <u>N/A</u> Ready for final payment: _____
Net change from previous change orders: <u>\$2,106,835.82</u>	Net change from previous change orders: _____
Contract price prior to this change order: <u>\$3,071,141.82</u>	Contract times prior to this change order: _____
Net increase/decrease of this change order: <u>(\$150,400.29)</u>	Net increase/decrease of this change order: _____
Contract price with all approved change orders: <u>\$2,920,741.53</u>	Contract times with all approved change orders: Substantial completion: _____ Ready for final payment: _____

RECOMMENDED: Scott Hemeyer, PE Digitally signed by Scott Hemeyer, PE
Date: 2016.11.14 14:52:27 -05'00' 11/14/2016
 ROWE Professional Services Company DATE

APPROVED: _____ DATE
 CITY OF BAY CITY

ACCEPTED:  11/16/16
 SSP ASSOCIATES, INC. DATE

City of Bay City
 Uptown at River's Edge
 Change Order No. 8 - Balancing Sheet

WORK DESCRIPTION	AUTHORIZED QUANTITY	UNIT	AUTHORIZED QUANTITY CHANGE	DIFFERENCE IN QUANTITY	UNIT PRICE	AMOUNT
CATEGORY 2 - PUBLIC ROAD ITEMS						
<i>Existing Items</i>						
Aggregate Base, 6 inch, Modified (22A Limestone)	2,690	Syd	2,011.42	-678.58	\$4.71	(\$3,196.11)
Aggregate Base, 6 inch, Modified (using on-site agg)	8,755	Syd	5,813	-2,942	\$1.25	(\$3,677.50)
Curb and Gutter, Conc, Spill Out	1,725	Ft	1,767.90	42.90	\$14.00	\$600.60
Decorative Street Sign Pole	8	Ea	9	1	\$3,000.00	\$3,000.00
Pavt Mrkg, Ovly Cold Plastic, Handicap Symbol, Blue	3	Ea	1	-2	\$100.00	(\$200.00)
Pavt Mrkg, Regular Dry, 4 inch, Blue	410	Ft	178	-232	\$2.00	(\$464.00)
Turf Establishment, Performance	7,565	Syd	7,103	-462	\$4.00	(\$1,848.00)
Valley Gutter, Conc, Modified	1,430	Ft	1,461	31	\$14.00	\$434.00
Visual Indicator Fabric	7,565	Sft	0	-7,565	\$0.90	(\$6,808.50)
Curb and Gutter, Conc, Det C4	2,925	Ft	2,498.3	-426.7	\$14.00	(\$5,973.80)
Curb, Conc, Det E2	145	Ft	0	-145	\$14.00	(\$2,030.00)
Driveway Opening, Conc, Det M	710	Ft	697	-13	\$16.00	(\$208.00)
HMA, 13A	3,570	Ton	2,982	-608	\$67.00	(\$40,765.48)
Pavt Mrkg, Regular Dry, 4 inch, White	1,880	Ft	1,741.5	-138.5	\$2.00	(\$277.00)
Pavt Mrkg, Ovly Cld Plas, Thu, Rt Tn Ar Sym	1	Ea	0	-1	\$150.00	(\$150.00)
Pavt Mrkg, Ovly Cold Plastic, Lt Tn Ar Sym	1	Ea	0	-1	\$150.00	(\$150.00)
Sign, Type IIIA	54	Sft	33.25	-20.75	\$10.00	(\$207.50)
<i>New Items</i>						
Logo Sign	0	Ea	14	14	\$29.00	\$406.00
No Parking Sign and Steel Post	0	Ea	2	2	\$150.00	\$300.00
CATEGORY 2 - PUBLIC ROAD ITEMS SUBTOTAL						(\$61,215.29)
CATEGORY 7 - ELECTRICAL ITEMS						
<i>Existing Items</i>						
Conduit, Schedule 40, 2 inch	9,605	Ft	9,837	232	\$4.35	\$1,009.20
CATEGORY 7 - ELECTRICAL ITEMS SUBTOTAL						\$1,009.20
CATEGORY 8 - STREETScape ITEMS						
<i>Existing Items</i>						
Aggregate Base, 12 inch, Modified (22A Limestone)	1,565	Syd	0	-1,565	\$7.08	(\$11,080.20)
Aggregate Base, 12 inch, Modified (using on-site agg)	575	Syd	1,726	1,151	\$2.50	\$2,877.50
Aster novae-angliae 'Purple Dome', 8 Cell/Flat	75	Ea	0	-75	\$15.00	(\$1,125.00)
Bench	31	Ea	40	9	\$1,500.00	\$13,500.00
Bike Rack, Logo Plate	6	Ea	4	-2	\$500.00	(\$1,000.00)
Bike Rack, Standard	9	Ea	5	-4	\$400.00	(\$1,600.00)
Brick Pavers	37,850	Sft	32,667	-4,883	\$8.00	(\$39,864.00)
Brick Pavers, Crosswalk	3,105	Sft	1,842	-1,263	\$18.50	(\$23,365.50)
Calamagrostis x acutiflora 'Karl Foerster', #2 cont.	31	Ea	7	-24	\$12.00	(\$288.00)
Curb Planter	605	Ft	811	6	\$14.00	\$84.00
Detectable Warning Surface, Brick	40	Ft	101	61	\$38.00	\$2,318.00
Detectable Warning Surface, Modified (Streetscape)	116	Ft	191	75	\$37.00	\$2,775.00
Euonymus alata 'Compacta', B&B	17	Ea	0	-17	\$30.00	(\$510.00)
Gink biloba 'Autumn Gold', 2 inch	18	Ea	8	-10	\$300.00	(\$3,000.00)
Hemerocallis sp. 'Fairy Tale Pink', #1 cont.	41	Ea	25	-16	\$20.00	(\$320.00)
Impatiens Walleriana 'Starbright', 16 Cells/Flat	425	Ea	325	-100	\$5.00	(\$500.00)
Imperata cylindrica 'Red Baron', #1 cont.	14	Ea	0	-14	\$15.00	(\$210.00)
Panicum virgatum 'Heavy Metal', #3 cont.	73	Ea	0	-73	\$15.00	(\$1,095.00)
Panicum virgatum 'Thundercloud', #5 cont.	13	Ea	0	-13	\$15.00	(\$195.00)
Panicum virgatum 'Northwind', #3 cont.	9	Ea	0	-9	\$12.00	(\$108.00)
Pennisetum alopecuroides 'Little Bunny', #3 Cont.	35	Ea	10	-25	\$15.00	(\$375.00)
Petunia x hybrid 'Wave Series', 8 Cell/Flat	70	Ea	10	-60	\$5.00	(\$300.00)
Planter	12	Ea	0	-12	\$900.00	(\$10,800.00)
Platanus occidentalis, 2 inch	14	Ea	7	-7	\$280.00	(\$1,960.00)
Senecio cineraria, 12 Cells/Flat	90	Ea	60	-30	\$5.00	(\$150.00)
Sidewalk Ramp, Conc, 6 inch, Modified	1,800	Sft	1,026	-774	\$6.00	(\$4,644.00)
Sidewalk, Conc, 4 inch, Modified (Streetscape)	29,650	Sft	27,468.5	-2,181.5	\$4.00	(\$8,726.00)
Sidewalk, Conc, 6 inch, Modified	1,150	Sft	182	-968	\$6.00	(\$5,808.00)
Taxus x media 'Chadwick', #3 cont.	25	Ea	0	-25	\$15.00	(\$375.00)
Trash Receptacle	17	Ea	25	8	\$1,500.00	\$12,000.00

City of Bay City
 Uptown at River's Edge
 Change Order No. 8 - Balancing Sheet

WORK DESCRIPTION	AUTHORIZED QUANTITY	UNIT	AUTHORIZED QUANTITY CHANGE	DIFFERENCE IN QUANTITY	UNIT PRICE	AMOUNT
Vinca minor, 16 Cells/Flat (PH1B)	40	Ea	0	-40	\$5.00	(\$200.00)
Acer saccharinum, 2 Inch	26	Ea	12	-14	\$200.00	(\$2,800.00)
Myrica pennsylvanica, #3 cont.	30	Ea	0	-30	\$100.00	(\$3,000.00)
Panicum virgatum 'Shenandoah', #2 cont.	35	Ea	10	-25	\$20.00	(\$500.00)
Syringa reticulata 'Ivory Silk', 1 1/2"	11	Ea	5	-6	\$150.00	(\$900.00)
Zelkova serrata, 1 1/2 inch	6	Ea	3	-3	\$250.00	(\$750.00)
New Items						
Red Maple	0	Ea	9	9	\$200.00	\$1,800.00
CATEGORY 8 - STREETSCAPE ITEMS SUBTOTAL						(\$90,194.20)
TOTAL FOR CHANGE ORDER NO. 8						(\$150,400.29)

Subject: Building Code Board of Appeals Appointment
Reviewed By: City Manager: Richard M. Finn Deputy City Manager: Dana L. Muscott
Prepared By: Deputy City Manager: Dana L. Muscott

PERTINENT FACTS:

On October 20, 2016, notice was given of three vacancies on the Building Code Board of Appeals. One application was received from Doug Sommer.

Qualifications for members of the Building Code Board of Appeals are that they shall be qualified and experienced in the Construction Field. Mr. Sommer has previously served on the Building Code Board of Appeals.

LEGAL ISSUES:

The Building Code Board of appeals is not required by City Charter of the Code of Ordinances. It is mandated by state law MCL 125.1514, Stille-Derossett-Hale Single State Construction Code Act, Public Act 230 of 1972.

TIME SENSITIVITY:

Routine

BRIEFLY DESCRIBE THE NATURE OF THE TIME SENSITIVITY:

FINANCIAL CONSIDERATIONS:

There is no financial impact to the City, as the Building Code Board of Appeals members do not receive compensation for attending meetings.

CITY GOALS:

RECOMMENDED ACTION:

*Mayoral appointment of Doug Sommer, Bay City, to the Building Code Board of Appeals, term to expire August 1, 2019.

RECOMMENDATION: Approve.

ATTACHMENTS:

Description	Upload Date	Type
application	12/13/2016	Cover Memo



CITY OF BAY CITY
APPLICATION FOR APPOINTMENT TO:



Building Code Bd of Appeals
Name of Board, Committee or Commission

Name: Doug Sommer

Address: 414 S. Henry

Email Address: glbve@outlook.com

Cell/Home Phone No: 274-8453 Work Phone No: _____

Employer: Self Occupation: Builder

Do you reside within the corporate boundaries of the City of Bay City? yes

If so, length of time you have resided in the City of Bay City: _____

If you do not live in the City of Bay City, do you have an "interest" in this area? _____

List your qualifications for the Board, Committee or Commission:

previous member

Do you meet the qualifications needed for this Board, Committee or Commission? yes

Why are you interested in serving on this Board, Committee or Commission: _____

List any other information you feel would be pertinent in assisting the appointing authority and the City Commission in their selection: _____

Do you serve on any other City Board, Committees or Commissions? no

[Signature]
Applicant Signature

11-10-16
Date Submitted

Please return form to: Dana Muscott, Deputy City Manager
301 Washington Avenue, Room 307
Bay City, MI 48708

Subject: Recommendation of Award for Removal and Disposal of Repair Spoils to Shaw Contracting of Bay City, Michigan.
Reviewed By: City Manager: Richard M. Finn Deputy City Manager: Dana L. Muscott
Prepared By: Director of Public Works: William J. Bohlen

PERTINENT FACTS:

The Department of Public Works (DPW) solicited bids with the assistance of the Purchasing Department for the Removal and Disposal of Repair Spoils. Repair Spoils are soil that is excavated during utility repairs throughout the city as staff repairs watermain, sewers, and electrical facilities. In the majority of these excavations staff is required to backfill the excavated hole with sand backfill which results in surplus soil, which is defined as spoils. The DPW then stock piles this material to be hauled off site at another time. These materials can be hauled to vacant land or to a landfill based on the condition of said materials. The bid package was structured to receive unit pricing for both manifested and non manifested materials. Additionally, this bid was structured to be in place for three years with an approximate amount to be hauled of 4,000 cubic yards per year.

A bid opening was conducted on November 30, 2016. As part of the bid process, four bids were received as the attached bid tabulation will reflect. Of the bids received Shaw Contracting of Bay City is the apparent low bidder for this work scope. Staff has reviewed the proposals and feel that Shaw Contracting is the best fit based on price and previous experience with the DPW.

In recommending this award, a firm dollar amount is difficult to determine annually, as staff is uncertain on how many yards of manifested versus non manifested material will be excavated. Based on this factor, it is desired to award an amount not to exceed annually of \$78,000.00 for years 1 & 2, and a not to exceed amount of \$79,600.00 in year 3.

LEGAL ISSUES:

TIME SENSITIVITY:

Routine

BRIEFLY DESCRIBE THE NATURE OF THE TIME SENSITIVITY:

FINANCIAL CONSIDERATIONS:

Funding for this service is allocated in the operational budgets for the respective utilities.

CITY GOALS:

RECOMMENDED ACTION:

*City Manager recommending contract with Shaw Contracting, Saginaw, MI, for Removal and Disposal of Repair Spoils, in an amount not to exceed \$78,000.00 for years 1 & 2, and a not to exceed amount of \$79,600.00 in year 3.

RECOMMENDATION: Approve.

ATTACHMENTS:

Description

Bid Tab

Contract

Upload Date

12/28/2016

12/29/2016

Type

Backup Material

Contract

CITY OF BAY CITY PURCHASING DEPARTMENT - BID TABULATION SHEET

BID OPENED BY:

Susan Carmien

BID NAME:

Removal and Disposal of Repair Spoils

BID #:

17-1130

BID OPENING DATE:

November 30, 2016

WITNESSED BY:

Terry Kilburn

ANTICIPATED COMMISSION ACTION DATE:

BIDDER:	Submittals	Yes	No		Unit cost per CY	Year 1	Year 2	Year 3
Bolle Contracting 408 E.4th Clare, MI 48127	Quotation Request	X		Manifest	\$29.00	\$116,000.00		
	Proposal Form	X		No Manifest	\$20.00	\$80,000.00		
	Addendum(s)			Manifest	\$29.00		\$116,000.00	
	Non-Collusion Affidavit	X		No Manifest	\$20.00		\$80,000.00	
	Non-Iran Link Affidavit	X		Manifest	\$29.00			\$116,000.00
	Bid Bond	X		No Manifest	\$20.00			\$80,000.00
	Tentatively Accepted	X						
Bourdow Contracting LLC P.O. Box 410 Carrollton, MI 48724	Quotation Request	X		Manifest	\$34.20	\$136,800.00		
	Proposal Form	X		No Manifest	\$4.90	\$19,600.00		
	Addendum(s)			Manifest	\$35.23		\$140,920.00	
	Non-Collusion Affidavit	X		No Manifest	\$5.22		\$20,880.00	
	Non-Iran Link Affidavit	X		Manifest	\$35.74			\$142,960.00
	Bid Bond	X		No Manifest	\$5.38			\$21,520.00
	Tentatively Accepted	X						
Billy's Contracting 6950 N. Michigan Saginaw, MI 48604	Quotation Request	X		Manifest	\$43.15	\$172,600.00		
	Proposal Form	X		No Manifest	\$29.50	\$118,000.00		
	Addendum(s)			Manifest	\$43.15		\$172,600.00	
	Non-Collusion Affidavit	X		No Manifest	\$29.50		\$118,000.00	
	Non-Iran Link Affidavit	X		Manifest	\$44.45			\$177,800.00
	Bid Bond	X		No Manifest	\$30.39			\$121,560.00
	Tentatively Accepted	X						
Shaw Contracting Company 509 Morton Street Bay City, MI 48708	Quotation Request	X		Manifest	\$19.50	\$78,000.00		
	Proposal Form	X		No Manifest	\$9.75	\$39,000.00		
	Addendum(s)			Manifest	\$19.50		\$78,000.00	
	Non-Collusion Affidavit	X		No Manifest	\$9.75		\$39,000.00	
	Non-Iran Link Affidavit	X		Manifest	\$19.90			\$79,600.00
	Bid Bond	X		No Manifest	\$9.95			\$39,800.00
	Tentatively Accepted	X						

HIGHLIGHTED ITEMS INDICATE ADDITION ERRORS ON ORIGINAL SUBMITTALS

CONTRACT

THIS AGREEMENT, is entered into on _____, 20____,

BETWEEN the CITY OF BAY CITY, a Michigan Municipal Corporation, of 301 Washington Avenue, Bay City, Michigan 48708 [“CITY”], and **Shaw Contracting Company**
509 Morton Street
Bay City, MI 48708 [“CONTRACTING PARTY”].

The Project is: **Removal and Disposal of Repair Spoils.**

WITNESSETH:

The CITY and CONTRACTING PARTY agree as follows:

ARTICLE 1
THE CONTRACT DOCUMENTS

This Contract incorporates by reference the Bidding Documents as defined in the Instructions to Bidders, Quotation Request, and the Bidder's Proposal, which, with the other documents listed in this Agreement and Modifications issued after execution of this Agreement, form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. No change or amendment shall be made hereto except by a writing signed by the parties hereto.

ARTICLE 2
THE WORK OF THIS CONTRACT

The CONTRACTING PARTY will perform the work and furnish the materials and equipment under the terms, conditions, covenants and agreements set forth in the Quotation Request, the Bidder's Proposal, the Contract, Addenda, Bonds, any drawings, plans and specifications, modifications, the Prevailing Wage Schedule (as applicable to state or federally aided projects), the Bidding Documents, as defined in the Instructions to Bidders, and according to the provisions of the Charter of the City, the Ordinances of the City, and applicable laws and regulations appertaining thereto.

ARTICLE 3
EQUAL OPPORTUNITY

The CONTRACTING PARTY covenants that neither it nor its subcontractors shall discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, sex, age, height, weight, marital status, physical

The Master of this agreement was prepared by the City's Legal Counsel, Allsopp Wackerly, Attorneys and Counselors, P.C. Any alteration, change, deletion, or modification of the Master requires submittal to the City Attorney.

or mental disability, family status, sexual orientation, or gender identify. Breach of this covenant may be regarded as a material breach of this Contract, subject to section 66-54 of the Bay City Code of Ordinances.

ARTICLE 4
INDEPENDENT CONTRACTOR

The CONTRACTING PARTY is an independent contractor and not an employee, agent, partner or representative of the CITY.

ARTICLE 5
INDEMNIFICATION

To the fullest extent permitted by law and based upon its degree of fault the CONTRACTING PARTY shall defend, pay on behalf of, indemnify and hold harmless the City, its City Commission, officers, agents and employees from and against any and all claims, demands, suits, or loss, including all costs connected therewith (including reasonable attorneys' fees), and for any damages which may be asserted, claimed or recovered against or from the City, its City Commission, officers, agents and employees, arising out of, resulting from or caused by the performance of the work or furnishing of goods, machinery, equipment and machines, provided that such claim, damage, loss or expense: (1) is attributable to bodily injury, sickness, disease or death, or to injury or damage to or destruction of tangible property (other than the work itself), including the loss of use resulting therefrom; and (2) is caused in whole or in part by any act or omission of the CONTRACTING PARTY, any subcontractor or supplier of the CONTRACTING PARTY, anyone directly or indirectly retained, consulted or employed by any of them or in privity with them, or anyone for whose acts any of them may be liable.

In any and all claims against the CITY or any of its officers, agents or employees by any employees of the CONTRACTING PARTY, any Subcontractor or Supplier, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the CONTRACTING PARTY or any Subcontractor or Supplier under worker's compensation acts, disability benefit acts or other employee benefit acts.

If either party to the Contract suffers injury or damage to person or property because of an act or omission of the other party, of any of the other party's employees, officers or agents, or of others for whose acts such party is legally liable, written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding ten (10) days after first observance. The notice shall provide sufficient detail to enable the other party to investigate the matter.

ARTICLE 6
BONDS, INSURANCES AND WARRANTIES

The bonding, insurance and warranty requirements set forth in the Instructions to Bidders are incorporated herein by reference thereto and made an integral part hereof. The failure to comply therewith shall give the CITY the right, without protest or remedy, to immediately suspend the Contract, and any work thereunder, or in its sole discretion and without liability or penalty to terminate this Contract.

ARTICLE 7
DATE OF COMMENCEMENT AND COMPLETION

The date of commencement shall be the date of this Agreement, as first written above, or within ten (10) calendar days after date of a written Notice to Proceed.

The CONTRACTING PARTY shall complete the performances and Work set forth in the Contract Documents no later than **December 31, 2019**. Time shall be of the essence of this contract.

If the Work and/or this Contract extends past the fiscal year in which this Contract is approved by the CITY COMMISSION, then unless the CITY COMMISSION has approved a budget with sufficient funds to continue the Work into the next or subsequent fiscal year, this Contract shall terminate as of the last day of the fiscal year (i.e. June 30th) in which the CITY COMMISSION approved funding for the Contract. The CITY may also terminate this Contract for any reason on 7 days written notice to CONTRACTING PARTY.

In the event the CITY terminates this contract prior to the completion of the Work, and CONTRACTING PARTY is not in default or material breach of this Contract, then the CITY, in full satisfaction of this Contract, shall pay CONTRACTING PARTY to the extent that the Work has been completed through the date of termination.

ARTICLE 8
CONTRACT SUM

The CITY shall pay the CONTRACTING PARTY in current funds for the CONTRACTING PARTY's performance of the Contract the Contract Sum of

2017: \$78,000.00 2018: \$78,000.00 2019: \$79,600.00

The Contract Sum is based upon the following alternatives, if any, which are described in the Bidder's Proposal and are hereby accepted by the CITY:

ARTICLE 9
PROGRESS PAYMENTS

If progress payments are to be made hereunder, they shall be based upon Applications for Payment submitted to the City Manager or his designee by the CONTRACTING PARTY, and Recommendations for Payment issued by the City Manager or his designee.

ARTICLE 10
FINAL PAYMENT

Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the CITY to the CONTRACTING PARTY when: (1) the Contract has been fully performed by the CONTRACTING PARTY and accepted by the CITY, except for the CONTRACTING PARTY's responsibility to satisfy other requirements, if any, which necessarily survive final payment; and (2) a recommendation for final payment has been issued by the City Manager or his designee; such recommendation for final payment shall be acted on by the CITY not more than thirty (30) days after the issuance of the City Manager's or his designee's recommendation for final payment.

ARTICLE 11
APPLICABLE LAW, JURISDICTION & VENUE

This Agreement and the performances, transactions, covenants and agreements set forth in or arising out of the Contract Documents and Work of this Contract shall be governed and interpreted by Michigan law. Any lawsuit arising directly or indirectly out of this Agreement will be litigated in the Circuit or District Court for Bay County, Michigan.

CITY OF BAY CITY

CONTRACTING PARTY:

By: Kathleen Newsham, Mayor

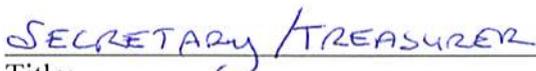


By:

By: Tema J. Lucero, Clerk



Print Name



Title:

Subject: Rejection of all bids received on November 16, 2016 for the Disposal of Solid Waste Materials.
Reviewed By: City Manager: Richard M. Finn Deputy City Manager: Dana L. Muscott
Prepared By: Director of Public Works: William J. Bohlen

PERTINENT FACTS:

The Purchasing Department assisted the Department of Public Works (DPW) with the solicitation of bids for the Disposal of Solid Waste Materials. The bids were opened on November 16, 2016 at 2:00PM and two bids were received. Upon review of the bids it is the recommendation of staff that all bids be rejected. After bids were requested and received it was determined that it may be feasible for the city to streamline the process for the collection and disposal of solid waste materials. This rejection is in accordance with the bidding documents that were supplied to all prospective bidders in our standard bid packet. More specifically, the Instruction to Bidders details under the section "Rejection of Bid" the following:

"The City of Bay City has absolutely reserved to itself the right and prerogative to reject any or all Bids, to reject a bid not accompanied by required bid security or other documentation or data required by the Bidding Documents, or to reject a bid which is any way incomplete, irregular, not responsive or not responsible."

Furthermore, in the section entitled "Award of Contract" the award states:

"The award of this Contract, if it is awarded, will be to a responsible and responsive bidder whom the City Commission, in its sole discretion and judgment, determines what will be in the best interest of the City of Bay City, and which will not exceed the funds available for the project."

To that end, it is recommended by staff that the City Commission reject all bids received November 16, 2016 for the Disposal of Solid Waste Materials.

LEGAL ISSUES:

This matter has been reviewed by the City Attorney and he is in agreement with this proposed rejection.

TIME SENSITIVITY:

Routine

BRIEFLY DESCRIBE THE NATURE OF THE TIME SENSITIVITY:

FINANCIAL CONSIDERATIONS:

CITY GOALS:

RECOMMENDED ACTION:

*City Manager recommending that the City Commission reject all bids received November 16, 2016, for the Disposal of Solid Waste Materials.

RECOMMENDATION: Approve.

Subject: Contract Extension Local 214 Supervisory

Reviewed By: City Manager: Richard M. Finn Deputy City Manager: Dana L. Muscott

Prepared By: Mikki Manion, Director of Human Resources

PERTINENT FACTS:

One year extension of the current collective bargaining agreement between the City and Teamsters Local 214 Supervisory Union, with no modification or change in wage or benefits. The new expiration date will now be December 31, 2017.

LEGAL ISSUES:

None

TIME SENSITIVITY:

Urgent; immediate action is necessary

BRIEFLY DESCRIBE THE NATURE OF THE TIME SENSITIVITY:

Urgent, as current CBA expires 12/31/2016

FINANCIAL CONSIDERATIONS:

Continued cost savings to the City for an additional year, by agreeing to make no changes to the current collective bargaining agreement.

CITY GOALS:

RECOMMENDED ACTION:

*City Manager recommending one year extension to the current collective bargaining agreement with Teamsters Local 214 Supervisory Union expiring December 31, 2017, with no modification or change in wages or benefits.

RECOMMENDATION: Approve.

ATTACHMENTS:

Description	Upload Date	Type
Agreement	12/28/2016	Backup Material
Agreement Mayor/Clerk	12/28/2016	Backup Material



Letter of Agreement Between
The City of Bay City
And
Teamsters Local #214 Supervisory Unit

Re: Continuation of 2013-2016 Collective Bargaining Agreement

The City of Bay City (City) and the Teamsters Local Supervisory Unit Local #214 (Union) mutually agree to the following:

1. The City of Bay City and Teamsters Local #214 tentatively agree pending unit ratification and City Commission approval to extend the Collective Bargaining Agreement (2013-2016) to a new expiration date of December 31, 2017.
2. All provisions, articles and subsections shall remain unchanged and in effect until December 31, 2017 or until a successor agreement is negotiated, ratified by the members and approved by the City Commission.
3. This agreement is without prejudice, non-precedent setting and does not in any way constitute an implied or overt past practice;
4. This agreement constitutes the entire understanding and agreement of the parties as to the matters addressed above, and no other agreement as to these matters shall be binding unless in writing and signed by all parties: and
5. The parties have had the opportunity to review this Agreement and thereby enter into this Agreement both freely and voluntarily.

For the City of Bay City:

Mikki B. Manion Date
Director of Human Resources

Richard M. Finn Date
City Manager

For the Teamsters Local #214:

James Kilburn Date
Steward

Terry Kilburn Date
Bargaining Committee Member

Human Resources Department
301 Washington Avenue
Suite 305
Bay City, Michigan 48708
Fax: 989-894-1070

The parties agree that the current collective bargaining agreement which expired on December 31, 2016 is hereby extended with all of its current terms with no modification or change in wage or benefits until December 31, 2017. The new expiration date shall now be December 31, 2017. This agreement is entered on this ____ day of January, __ 2017

For The City of Bay City

By _____ its _____

By _____ its _____

Teamsters Local 214—Supervisory Unit

By _____ its _____

By _____ its _____

Approved by the City Commission, City of Bay City, at a meeting held at the City of Bay City, Michigan on January __. 2017

Kathleen Newsham, Mayor

Tema Lucero, City Clerk

Subject: FP Minutes 12/12/16 & 12/19/16

Reviewed By: City Manager: Richard M. Finn Deputy City Manager: Dana L. Muscott

Prepared By:

PERTINENT FACTS:

LEGAL ISSUES:

TIME SENSITIVITY:

BRIEFLY DESCRIBE THE NATURE OF THE TIME SENSITIVITY:

FINANCIAL CONSIDERATIONS:

CITY GOALS:

RECOMMENDED ACTION:

*Minutes - Finance Policy Committee (12/12/16 & 12/19/16).

RECOMMENDATION: Approve.

ATTACHMENTS:

Description

Upload Date

Type

FP Minutes 12/12/16

12/28/2016

Backup Material

FP Minutes 12/19/16

12/28/2016

Backup Material

CITY OF BAY CITY
CITY COMMISSION
SPECIAL FINANCE/POLICY COMMITTEE MEETING MINUTES
Monday, December 12, 2016

The Finance/Policy Committee met at City Hall, 301 Washington Avenue, Commission Chambers. The meeting was called to order by Commission President Larry Elliott at 6:02 PM.

Present: Commissioners Lynn Stamiris, David Terrasi, Andrew Niedzinski, Brentt Brunner, Jim Irving, John Davidson, Ed Clements, Larry Elliott, 8.
Excused: Commissioner Davidson moved to excuse Commissioner Kerice Basmadjian, 1.
No objection.
Commissioner Basmadjian arrived at 6:04 PM.
Absent: None.
Others Present: City Manager Richard Finn, Deputy City Manager Dana Muscott, , Public Works Director Bill Bohlen, DPW Manager Kurt Hausbeck, Mayor Kathleen Newsham and Deputy City Clerk Jamie McFarland.

Discussion on Major Snow Event Process – DPW Director Bill Bohlen

Mr. Bill Bohlen and Mr. Kurt Hausbeck discussed the proposed plan for dealing with vehicles during a snow event. A map and list of possible parking locations was presented to commissioners. A sample letter that will be sent out to these property owners was also provided. Discussion followed and Mr. Bohlen and Mr. Hausbeck answered commissioner’s questions.

Street Sign Request Process

Mr. Bohlen presented commission with a copy of the proposed Street Sign Request Process procedure. Mr. Bohlen noted this process would create an official avenue to request street signs, while at the same time help reduce frivolous requests for signs and take any political issues out of the process. Discussion followed.

Other Issues/Concerns/Announcements

Commissioner Davidson noted an issue on the 1800 block of Braodway with the recessed curb not being plowed completely. Mr. Finn replied that he has sent an e-mail to Public Works just that afternoon regarding the issue.

Commissioner Basmadjian spoke regarding a conversation with Beth Dore regarding the Midland Street District. Mr. Finn and Mr. Bohlen both replied stating they have had previous conversations with Ms. Dore regarding the same issues.

Commissioner Niedzinski asked a question regarding the cost to the homeowner for sidewalk repair at 1705 11th Street. Mr. Bohlen responded that he was aware of the issue and that work was stopped when the estimate came back much higher than anticipated.

Mayor Newsham noted that Beth Dore had also spoken with her regarding Midland Street District issues and the cost of the Santa Claus for the Cause event she planned.

Commissioner Irving asked a question regarding DDA funding.

Public Input

Tom Baird, 1407 Taylor Street, wished to compliment the city on the good job with snow clean up. He also spoke regarding an issue with trash pick-up. The speaker was instructed that his time had expired. Commissioner Davidson moved that the speaker be allowed one more minute. There was no objection. Mr. Baird noted that the issue with trash pick-up had been resolved.

Meeting adjourned at 7:13 PM.

Respectfully submitted,

Jamie C. McFarland
Deputy City Clerk

CITY OF BAY CITY
CITY COMMISSION
FINANCE/POLICY COMMITTEE MEETING MINUTES
Monday, December 19, 2016

The Finance/Policy Committee met at City Hall, 301 Washington Avenue, Commission Chambers. The meeting was called to order by Commission President Larry Elliott at 6:30 PM.

Present: Commissioners Lynn Stamiris, David Terrasi, Andrew Niedzinski, Jim Irving, John Davidson, Kerice Basmadjian, Ed Clements, Larry Elliott, 8.
Excused: Commissioner Irving moved to excuse Commissioner Brentt Brunner, 1. No objection.
Absent: None.
Others Present: City Manager Richard Finn, Mayor Kathleen Newsham, Public Works Director Bill Bohlen, and Deputy City Clerk Jamie McFarland.

Discussion on Tennis Court Contribution – Janet Greif, Bay City Public School Superintendent

City Manager Rick Finn introduced Janet Greif and Joe Ricard, who presented on the current status of the tennis court project and answered commissioner’s questions regarding the project.

Bay Future Update

Mr. Finn introduced Mark Linton of Bay Future, who gave a status update regarding Bay Future and area developments and projects.

Agenda Review

Contract with Resource Recovery Systems, LLC

Mr. Finn noted that Mr. Bohlen had been negotiating with Resource Recovery Systems until that afternoon and the final contract was being presented this evening. Mr. Bohlen noted that this new contract would be an increase in cost for recycling due to market conditions. He answered commissioner’s questions regarding the process and costs.

Petition – Northern United Brewing Company, LLC

Commissioner Niedzinski asked which building was 105 3rd Street, as google had shown it in the river. Mr. Finn replied that it was the Atrium restaurant building.

Other Issues/Concerns/Announcements

Mayor Kathleen Newsham noted that she had a visit from a former exchange student from Ansbach, Germany that had attended Bay City Central in 1976. Mayor Newsham also noted Bay City is making good strides in renewing their relationship with sister city Ansbach, Germany, including exchange of Christmas greetings and gifts.

Commissioner Irving wished to commend city staff on their hard work with snow removal during the recent storm.

Public Input

Bruce Eckhart, 801 Germania Street, wanted to compliment city staff on the clean-up from the recent storm. He also noted he is in favor of recycling.

Forrest Robison, 1210 Hine Street, stated he thinks the city should continue the recycling program.

Meeting adjourned at 7:23 PM.

Respectfully submitted,

Jamie C. McFarland
Deputy City Clerk

Subject:

Reviewed By: City Manager: Richard M. Finn Deputy City Manager: Dana L. Muscott

Prepared By:

PERTINENT FACTS:

LEGAL ISSUES:

TIME SENSITIVITY:

BRIEFLY DESCRIBE THE NATURE OF THE TIME SENSITIVITY:

FINANCIAL CONSIDERATIONS:

CITY GOALS:

RECOMMENDED ACTION:

*Minutes - Planning Commission (7/20/16, 8/17/16, 8/30/16 and 9/21/16).

RECOMMENDATION: Receive.

ATTACHMENTS:

Description	Upload Date	Type
Planning Commission Minutes - July 20, 2016	12/27/2016	Backup Material
Planning Commission Minutes - August 17, 2016	12/20/2016	Backup Material
Planning Commission Minutes - August 30, 2016	12/20/2016	Backup Material
Planning Commission Minutes - September 21, 2016	12/20/2016	Backup Material



**PLANNING COMMISSION
MINUTES OF MEETING
July 20, 2016**

CALL TO ORDER & ROLL CALL

A regular meeting of the Bay City Planning Commission held in the Commission Chambers, City Hall, was called to order by President Frank Starkweather at 7:00 p.m.

Members present: Bob Shea, Bill. Branigan, Rich Milster, Mary Ewald Sayles, Jerry Green, Frank Starkweather.

Staff and City Commission Liaisons present: Planning & Zoning Manager Terry Moulthane. The Commission Liaisons asked to be excused from the meeting.

F. Starkweather introduced Lori Dufresne in the audience to the Planning Commission. Ms. Dufresne is the newly appointed member and her first meeting on the commission will begin at the August meeting.

The commission and others present recited the pledge of allegiance.

APPROVAL OF MINUTES

J. Green requested the minute's state he was excused from the meeting. T. Moulthane stated the meeting minutes do reflect Mr. Green being excused from the meeting.

R. Milster noted the following corrections:

- Page 3 of Business Session. The first sentence should read, "R. Milster is not comfortable trying to impose a higher standard thru a special use permit and what is otherwise required by law."
- Bottom of page 3 first finding, change "exist" to "existing".
- Bottom of page 3, third finding, and the last portion should read, "...willingness to not allow loudness and profanity outside as it is not allowed inside."
- Bottom of page 3, fifth finding should read, "It is on a border of commercial and residential areas and this particular area is zoned commercial. The fence does exist between the business and residence to the east and does comply with the applicable zoning regulations."
- Page 4, eighth finding should read "with the number of parking spaces."
- Page 4, eleventh finding, second sentence should read, "...building code require for the building the fence and placing tables on the patio would be followed as part of this motion. If the building code does not otherwise provide for changes in the bathroom or the creation of a handicapped bathroom or does not require any change in accessibility to the building, this special use permit does not include any of those requirements in this motion."

Motion made by R. Milster, seconded by B. Shea, to approve the minutes as corrected. Motion carried.

PUBLIC COMMENTS AND COMMUNICATIONS NOT ON THE AGENDA:

Jeannie Nichols of 309 Green, President of Humane Society of Bay County stated the Humane Society had a vision for their group and ask for help in making it a reality. Sandy Covaleski from Commercial Equities Real Estate introduced herself and stated she's assisting the Humane Society in the attempt to secure a building for their use and the challenges they've encountered from the zoning ordinance. Ms. Covaleski commented there's nothing in the zoning ordinance specific to their use and the Humane Society was denied a use variance last month at the Zoning Board of Appeals for a location on N. Henry Street. Staff suggested we come to the Planning Commission and speak at the public input and seek a text amendment to address this.

July 20, 2016

Ms. Nichols explained the Humane Society is a home based foster care program with volunteers fostering the dogs and cats. Available animals are placed on the website and at adoption sites. The Humane Society has a goal to open an adoption center with multiple purposes and to adopt out sterilized vaccinated cats and dogs. The dogs would come to the adoption center with their foster family on a daily basis. The dogs would not be staying overnight. The cats would transfer from the foster home to the adoption center when they are available for adoption with some cats spending the night. Another goal is to be in the city and provide maximum exposure along with a convenient location to provide a retail space for our homemade items and have a space at a building where the TN&R program operates. She explained a permanent location would increase grant eligibility to support the programs, discontinue renting space, increase membership and volunteers would have a home base as well as increased exposure and adoption. Unfortunately, the building on Henry Street, zoned C-2-A, was denied the variance because the ordinance did not allow the holding of cats overnight or be considered a kennel. The Humane Society found a property zoned M-1, light industrial, which there is a purchase agreement on. The issue is again the present ordinance does not allow the Humane Society to have an adoption center because a kennel must be located on a two acre parcel, which this is not. They are asking the Commission to review the present ordinance and to help make an adoption center a possibility within the city.

T. Moulane stated the Zoning Ordinance lays out how text amendments can be made. Proposed text amendments, supplements or repeals may be originated by the City Commission, Planning Commission or by petition. All proposals not originating with the Planning Commission shall be referred to the Planning Commission for report before any action is taken on a proposal by the City Commission. T. Moulane asked the Humane Society to come to the Planning Commission to explain their dilemma and request that the Planning Commission evaluate their request and form a subcommittee to look at some better definitions for the zoning ordinance and make a text amendment.

Question was asked whether any of the zoning districts allow this type of use. T. Moulane stated they don't and the ordinance only refers to the term kennels. He explained there is a list of uses and some activities fit the parameters of the zoning district uses, however housing animals and animal sheltering is not specified, the closest association was commercial kennels.

Question asked if animal control is outside the city limits and what it is zoned. T. Moulane stated it is in the City limits and zoned parks with a governmental use, in a residential area. T. Moulane added that the Planning Commission will be provided better definitions for the zoning ordinance in a text amendment.

Motion made by J. Green, seconded by M. Sayles, to form a subcommittee and perform a study from other communities to come up with a sample text amendment. All in favor, motion passed.

NEW BUSINESS

SPR 16-03, 2632 Broadway Avenue: Request for site plan approval to construct a 35 by 45 foot addition and a 24 by 50 foot truck loading/unloading area with additional paved area.

Dave Grzegorzcyk, from Bay Industrial Finishing was present. Mr. Grzegorzcyk stated that Bay Industrial Finishing has an opportunity to expand the business and was asked by Nexteer in Saginaw to put in place a new paint line. In order to do so, more space is needed. The plan is to build an addition along with a couple truck docks. There is a lot with a house next to Bay Industrial Finishing that fronts Broadway and he said he has a purchase agreement to purchasing and will have the structure demolished in order to create a new entry way and provide additional parking.

Mr. Grzegorzcyk stated the total project will take about 6 months from start to finish once they know. F. Starkweather stated he looked over the plans and understands they are asking for site plan approval contingent on this additional lot. Mr. Grzegorzcyk stated he had a meeting with Roth Cleaners, the owner of the lot and all are in agreement for the purchase. T. Moulane added that the Commission can approve contingent upon

July 20, 2016

certain conditions. He added at the time building permits are being submitted he reviews the conditions and any conditions must be met prior to the issuance of a building permit.

Motion made by J. Green, seconded by B. Shea, to approve **SPR 16-02** Site Plan Review based on the following conditions:

- Screening is necessary along the west property line and can include the installation of fencing or shrubs to provide a visual screening buffer to the truck loading location.
- The Engineering Department requests a revised plan submitted with a storm water plan and show the storm sewer outlet.
- The applicant must make contact with Local Transportation Service MDOT office.
- Water Service to proposed demolition of house must be abandoned by the Water Department prior to installation of the drive approach.
- Fire hydrant may have to be relocated by the Water Department prior to the installation of the drive approach.
- Discuss with City Staff the list of chemical and waste products used at the site and potential spill containment.
- Land control must be obtained for the two parcels and once property is acquired, the property must be combined.

Vote: All in favor, Motion carried.

V 16-03, Ally vacation: Bounded by 9th, 11th, Water, and Saginaw Streets: Petition requesting the vacation of an alley pursuant to Section 94 of the City Code of Ordinances. The alley is located in Block 112, Lots 1-16 of the Lower Saginaw Addition and the north 30 feet of Block 129 of the Lower Saginaw Addition.

Public Hearing

Motion made by R. Milster, seconded by B. Branigan to open the public hearing. Motion carried.

T. Moulane stated the application is an alley vacation for Lot 1-16 of Block 112 and 30 feet of Block 129. The applicants were notified of the meeting, but not present.

F. Starkweather stated the applicant is the Dow Bay Area Family Y (Y) and asked if they own the land adjacent to the alley. T. Moulane mentioned a letter from the Great Lakes Center Foundation is on file with the Y having a purchase agreement on three adjoining parcels. He explained the alley runs north and south and block 112 was not vacated as part of the portion of the alley being vacated in 1942. He stated the City Attorney prepared a memo regarding the past history of the property and it was noted the intent may have been to vacate the entire alley, in both Block 112 and 129. T. Moulane explained the adjacent west property and east property will each receive 10 feet. He commented that once the formal action is taken to vacate the alley, the Y can continue discussions to acquire the properties. Once the alley is vacated, the Assessing Department will describe the 10 feet in the property description.

Public comment: No one came forward.

Motion made by M. Sayles, seconded by B. Shea, to close the public hearing. Motion carried.

Business Session

Motion made by B. Branigan, seconded by M. Sayles, to approve **V16-03** and recommend to the City Commission to vacate the alley in Block 112, Lots 1-16 of the Lower Saginaw and the north 30 feet of Block 129 of the Lower Saginaw Addition. Vote: All in favor, Motion carried.

T. Moulane commented on the easement and that it is still being evaluated. Consumers Energy and the Sewer Department have been notified and the goal is to remove the lines with no easements needed to be retained.

July 20, 2016

F. Starkweather asked that the Dow Bay Area Family Y pay for that line removal within the easement. T. Moulthane stated that is up to the individual department assisting with the development.

SU 16-03, 900 N. Madison Avenue: Request for special use and site plan approval for a 47-unit rental apartment development for residents aged 55 and older. The three story building contains 16,352 sq. ft. per floor.

Public Hearing

Motion made by B. Shea, seconded by R. Milster to open public hearing. Motion carried.

Architect Rick Keith with Wolgast Design Group was present representing Westbrook Center LLC. He stated they are asking for a special use and site plan approval for a 47-unit rental apartment development to be marketed for residents aged 55 and older. The three story building will contain 16,352 sq. ft. per floor and 49,056 sq. feet total. The proposed building entry will be to the west and 87 parking spaces provided. The site is currently a parking lot with lighting and landscaping. He explained the lighting will remain and a few new fixtures will be around the perimeter of the building. He noted two signs at this site, one for each driveway and 25 sq. feet each. He commented the exterior of the building will be masonry brick and brown on all 4 sides up to the 1st floor window, then cement board horizontal siding on the remainder with a shingled roof. Trees will be added and adjust the location of the trash receptacle as noted in the staff report. In addition, the developer will work with the Engineering Department to satisfy all the conditions. Question was asked about the location of the dumpster and it was noted it will be moved more towards the island with landscaping around towards the center of the site.

A question was asked if there were statistics or any data showing the need in that area for this type of housing. T. Moulthane mentioned he received a market study from the developer which was reviewed however it was not included in the material provided because he wasn't sure permission was given. He noted the market study did indicate a need for this housing type in the community and the housing study has yet to be received.

T. Moulthane stated a land combination was being submitted and they are working towards a purchase agreement on the property and the applicant and owner of the property have each signed the application. Terry commented many projects for site plan approval are contingent that the applicant obtain the property.

J. Green commented about the property to the north and its blighting condition. Mr. Keith stated the property is not part of this development and he doesn't have the ability to make anyone fix their property.

Public Comment: Doug Rise, Executive Director of the Bay City Housing Commission mentioned that the City has not had a housing study since 1990 and the Housing Commission Board voted to dedicate funds for a complete housing analysis. This analysis can also be used for the Master Plan. Mr. Rise asked to wait for approval of this site plan until we have the study and feels it would be best until we have the study. The study should be completed at any time and essential for the master plan. Mr. Rise explained the study will provide information and data not previously obtained relating to the topic of housing.

M. Sayles questioned the AMI amounts and transportation for Maplewood Manor residents. Mr. Rise stated that Maplewood Manor has residents with transportation or vehicles and that others use Bay Metro bus along with walking. Mr. Rise explained what AMI meant and is based on area income and floats on family size. For a single person it is about \$32,000 and rent is a product of the income.

Members discussed the housing study that is being prepared and the steps being taken with the master plan. T. Moulthane stated the housing study is due to be released to the city by July 29th.

Mr. Keith mentioned that he understands the importance of the study and Westbrook has done many projects in many states. He stated they have a very thorough market study and wouldn't do the project if it wasn't

July 20, 2016

viable. He commented that the project will be on the agenda at the City Commission Finance and Policy on August 15th for a presentation and overview of the project.

Motion made by M. Sayles, seconded by B. Shea, to close the public hearing. Motion carried.

Business Session

M. Sayles questioned if it was best to wait for what the housing study determines and then it would be more justification for the project. She stated money has been spent for a housing study and it should be reviewed before making a substantial housing decision which other members pointed out.

Motion made by R. Milster, seconded by B. Branigan, to table case SU 16-03 for further consideration until the August meeting in order for the housing study to be received. Vote: All in favor, Motion carried.

OTHER BUSINESS

T. Moulane gave an update on the Bay/Zilwaukee Trail presentation that will be on the August meeting agenda. The Great Lakes Regional Trail group will do the presentation.

Wenonah Park Update: T. Moulane stated the Park's Manager has not received a date for the draft design for the Wenonah Park project and OHM is still working on draft items.

Master Plan Update: Information was received from the consultant and provided to the members. Also, reimbursement has been made for the resilience reporting. F. Starkweather added that the master plan website is up and running.

T. Moulane commented that the fiscal year budget included funds for a non-motorized plan to be done in 2016-17.

T. Moulane stated the Park and Recreation Plan is valid until 2018, however there's discussion to do an amendment before the current plan expires. The primary project underway that should be in the parks plan is the playground or Imagination Station being considered for construction. He explained there's a process to amend the plan with the DNR and will have further information later.

J. Green stated there is a lot of property in the city just sitting there and mentioned that it's something that needs to be looked into. T. Moulane stated that issue is being evaluated in the Master Plan.

F. Starkweather mentioned that Tall Ships was a major stellar event and carried the City's name statewide. It was extremely successful. He stated he's aware of a letter is being created and sent to the Mayor and City Manager regarding the festivals and people walking from each side of the bridge. It will be asked about the possibility of installing a walkway or stairway at the hill.

R. Milster commented he was very skeptical of the angle parking constructed at the front of Wenonah Park however, based on his observation and how the spaces are being used, but feels it has been a very good addition.

T. Moulane stated that the Commission Liaisons were unable to attend the meeting.

Adjourn

Motion made by B. Branigan seconded by R. Shea to adjourn the meeting. Motion carried.

Prepared by Terry Moulane, Manager
Planning, Zoning & Grant Administration



**PLANNING COMMISSION
MINUTES OF MEETING
August 17, 2016**

CALL TO ORDER & ROLL CALL

A regular meeting of the Bay City Planning Commission held in the Commission Chambers, City Hall, was called to order by President Frank Starkweather at 7:00 p.m.

Members present: Rich Milster, Mary Ewald Sayles, Jerry Green, Lori Dufresne, Bob Shea, Bill Branigan, and Frank Starkweather.

Staff and City Commission Liaisons Present: Planning & Zoning Manager Terry Moulthane and City Commission Liaison Lynn Stamiris.

The commission and others present recited the pledge of allegiance.

APPROVAL OF MINUTES

Motion made by B. Shea, seconded by R. Milster, to approve the July 20, 2016 meeting minutes. Motion carried.

PUBLIC COMMENTS AND COMMUNICATIONS NOT ON THE AGENDA:

There was no public comment at this time.

PRESENTATION BY GREAT LAKES BAY REGIONAL TRAIL GROUP:

Cathy Washabaugh was present and gave a presentation on the Great Lakes Regional Trail Project. This project centers on a non-motorized trail in the Great Lakes Bay Region to encourage physical activity, preserve natural beauty, and strengthen the local economy. It started through the Great Lakes Bay Regional Alliance. They tried to purchase the railroad property that goes from Bay City to Zilwaukee and had a difficult time with purchasing property between counties. The Great Lakes Regional Trail was able to move this forward. A tri-county study was created and came up with visions, goals, and focus groups with people in the community to connect all three trail systems.

The Bay City to Saginaw section was the first phase. Other phases will be Saginaw to Midland and Midland to Bay City. This trail is completed with state and federal funds to help create a 100 mile system for health and recreational benefits. There is almost \$200,000 in a maintenance endowment which can be used to maintain the trail. The ribbon cutting is scheduled for October 15th at Hotchkiss Road at 10:00 a.m. At 10:30 there will be a 5K race and fun run.

Ms. Washabaugh stated the plan is to eventually connect to the Bay City Riverwalk by way of crossing over to the Middlegrounds which will connect to the existing Bay City Trails.

F. Starkweather mentioned that there has been talk about a kayak and canoe route in the location on Hotchkiss Road, where a pedestrian bridge may be installed. He stated the shoreline would be an easy trail to the water's edge and there are all kinds of educational opportunities out there. He mentioned this is a great project coming together and thanked Ms. Washabaugh for coming to the Planning Commission.

T. Moulthane added that the Planning Commission will see more when the project is brought to the Planning Commission for the bridge crossing. The Planning Commission will be kept involved and the Park and Recreation Plan has identified this project as a high priority and it is in the Master Plan.

August 17, 2016

PENDING BUSINESS:

SU 16-03, 900 N. Madison, Madison Place Senior Apartments: Referred from the July 20th meeting. Request for special use and site plan approval for a 47-unit rental apartment development for residents aged 55 and older. The three story building contains 16,352 square feet per floor.

Motion made by R. Milster, seconded by M. Sayles, to open the public hearing. Motion carried.

Brian Stadler, development partner for Madison Place Senior Apartments, was present and stated that the request and need for trees on the east side of the building has been added. The dumpster has been placed more internal to the site with landscape around and a bike rack was also added.

M. Sayles stated that it was her intention the Planning Commission was waiting for the Housing Study, which has not yet been released. T. Moulane stated the study is expected to be released tomorrow. The Housing Commission will receive it on the 24th for their board and it will be released to the Planning Commission and City Commission after.

Mr. Stadler stated at this time the project has met the special use standards and should have approval from the zoning ordinance and believes the project has passed all the items. He mentioned he was invited to a meeting with the City Manager and the Housing Commission Director Doug Rise and in the meeting it was noted that they will not support the project. Madison Place Senior Apartments has gained MSHDA funding and that application is very rigid. They have a professional firm complete a study and it says there is market demand in the area and that the project will be a good fit in the area. The MSHDA study looked at the project on merits and the need for the community. Mr. Stadler stated they did not get the option to tweak or edit the report to fit the need and now the Housing Commission has time to edit their study. Mr. Stadler hopes the Planning Commission considers the project, even though this study isn't completed.

J. Green asked if Mr. Rise or the City Manager gave a reason as to why he was trying to destroy the project. Mr. Stadler mentioned that Mr. Rise had a study for his project in 2012 and it said it was meeting a demand. He stated that the City Manager and Mr. Rise stated that it wasn't the right place for the project even though it is one block away from rental housing similar to the project.

R. Milster asked if the study was ordered by MSHDA and if it was for an application for refinancing. Mr. Stadler stated the study was ordered by MSHDA and they also hired the research firm.

R. Milster asked if it is part of the City Commission to approve a payment in lieu of taxes. T. Moulane stated it would be the City Commission that has that decision to make. T. Moulane added that on August 29th there will be a joint presentation of the study to the Housing Commission, Planning Commission and the City Manager.

M. Sayles stated the study given by Madison Place states the vacancies in the city and that we have an aging population with significant number of vacancies. It mentions we have a healthy vacancy rate.

J. Green asked if Mr. Finn gave reasons why he was against this project to the point that he wants to sink it. Mr. Stadler stated Mr. Finn didn't want to decrease the opportunity for property taxes. He said that area was a better place for something that would pay full taxes.

J. Green mentioned he saw that Madison Place would pay the City \$15,000 to \$20,000 a year. Mr. Stadler stated that would be PILOT that would come in later. The City Manager didn't think that would be enough to cover the services in the area. This type of facility would have less services because of how things are handled.

Motion made by B. Shea to close the public hearing. Motion failed due to lack of second motion.

August 17, 2016

R. Milster felt it was appropriate to leave tabled until the special August 30th meeting. This way the commission can read the Housing Study and the applicant can still reach their deadline.

F. Starkweather stated that on the 29th there will be a joint meeting with the City Commission, Housing Commission and Planning Commission and on the 30th the Planning Commission will have a meeting followed by the Zoning Board of Appeals having a special meeting on the 31st.

NEW BUSINESS

SU 16-04, 251 N. Monroe Street, T & T Family Investments, LLC. Request for special use and site plan approval for an off-street parking area in an adjoining residential zoning district.

Public Hearing

Motion made by J. Green, seconded by B. Shea to open the public hearing. Motion carried.

Mark Trahan, Partner of T & T Family Investments, LLC and owner of Trahan Funeral Home was present and stated the parcel will be for parking and will be the 6th parcel they have developed. It was formally a rental unit in which Public Safety Officers trained on. It has since been demolished.

B. Shea stated that Trahans' have done a wonderful job in that area and understands the need for additional parking area.

Public comment: F. Starkweather asked if there was anyone in the audience that wished to speak on this case. No one commented and no correspondence was received by staff.

Motion made by M. Sayles, seconded by L. Dufresne, to close the public hearing. Motion carried.

Business Session

Motion made by M. Sayles, seconded by B. Shea, based on the finding of facts in the staff report to approve SU 16-04, 251 N. Monroe Street, noting the special use standards have been met and is a continuation of what has been done within this block to accommodate additional parking, is appropriate and compatible with surrounding area and that the project does comply with zoning regulations and location of the site minimizes any adverse effect and enhances the area. The lighting specs will be submitted if needed and driveway permit being submitted to the Engineering Department. Motion carried.

OTHER BUSINESS

Text amendments: T. Moulane and the subcommittee met with the Humane Society and had information prepared to review. He stated a good discussion took place on how they were going to use that site. A determination was made that M-1 zoning regulations with special use approval can be permitted under retail-office component of the M-1 zoning regulations. T. Moulane stated that after speaking with other communities for pet adoption centers, it was determined this is similar to a retail zoning use and its anticipated the case will be on the September 21st meeting and a public hearing will be held and appropriate property owners will be notified.

T. Moulane mentioned in the Planning Commission packet there is a revision to sign regulations. Michigan communities are looking at sign regulations and seeing if they are up to date. What has developed is that city owned properties have a variety of uses and the current sign regulations prohibit signs in the right of ways or any public areas. The recommended revised text amendment provides the city the ability to allow temporary signs or other signs with an agreement with the city. F. Starkweather asked about garage sale signs on electrical phones. T. Moulane stated these signs are prohibited and there is a policy allowing staff to remove those signs.

August 17, 2016

B. Branigan asked about real estate signs that would be no greater than 6 square feet that are temporary for open houses and it doesn't differentiate between residential and commercial. There are many commercial signs that are not listed in MLS and the property owner has or has not given the real estate company approval to put the sign up. B. Branigan would like this size to be considered in the current text amendment and change to allowing nine square feet.

Staff Update on Planning Activities: T. Moulane stated staff has been busy with the Housing Study. The Wenonah Park Plan is still going and DDA has had discussion and making decision on the final ideas. That will be coming forward to the Planning Commission by the end of the year.

T. Moulane stated Carlisle Wortman has played a key role with the Housing Study and this is a major component of the Master Plan. F. Starkweather stated the website for the building site for the master plan is baycitymasterplan.com and there is a documents section and shows where things are being taken from.

R. Milster asked if there is any indication that payments in lieu of taxes would be received by the City Commission. T. Moulane stated the application for the special use is what the Planning Commission acts on and the next step is for the City Commission. In order to approve the PILOT, there will need to be two readings. The order is that the Planning Commission acts on the special use and the Zoning Board of Appeals will hear a case for the requested height variance then the City Commission acts on the PILOT.

M. Sayles asked T. Moulane if he knew the amount of rental in the area to the amount of owner occupied and T. Moulane believes it is 40%.

Commissioner Lynn Stamiris asked about the issue of tabling an item and if that is the correct term. After discussion it was noted that the word tabling may be used.

F. Starkweather noted the house on the corner of Lincoln Street and Center Avenue was repainted and worth going to see. He also mentioned the white apartment across from First Presbyterian has been water blasted and being painted a dark red brick. He also noted the Crapo building on the corner of Center and Washington Avenues metal covering is being taken down and exposing the beautiful building underneath.

M. Sayles stated in the Planning Commission contacts, her number needs to be changed.

Adjourn

Motion made by B. Shea, seconded by L. Dufresne, to adjourn the meeting. Motion carried.

Prepared by Terry Moulane, Manager
Planning & Zoning Department



**PLANNING COMMISSION
MINUTES OF MEETING
August 30, 2016**

CALL TO ORDER & ROLL CALL

A special meeting of the Bay City Planning Commission held in the Commission Chambers, City Hall, was called to order by President Frank Starkweather at 7:00 p.m.

Members present: Frank Starkweather, Rich Milster, Lori Dufresne, Jerry Green, Robert Shea and Bill Branigan.

Members absent: Mary Ewald Sayles

Staff and City Commission Liaisons present: Planning & Zoning Manager Terry Moulane and Commission Liaison Larry Elliott.

The commission and others present recited the pledge of allegiance.

PUBLIC COMMENTS AND COMMUNICATIONS NOT ON THE AGENDA:

No public comments at this time.

NEW BUSINESS

SU 16-03 900 N. Madison Avenue (Madison Place Senior Apartments): SU 16-03 was referred from the August 17th meeting. This is a request for special use and site plan approval for a 47-unit rental apartment development for residents aged 55 and older.

Motion made by R. Shea, seconded by J. Green, to bring this item from the table to business session. Motion carried.

Business Session

Motion made by R. Milster, seconded by L. Dufresne, to go into public hearing. Motion carried.

Public Hearing

John Dupont gave a presentation on Madison Place Senior Apartments. He stated this is a very important project and a positive asset in the community. He is not present to discuss affordable housing, or tax credits. He had a meeting with the City Manager regarding a PILOT and made positive progress. The City Manager would like to reach some type of agreement to bring to the City Commission. Mr. Dupont gave a description of the project. Madison Place Senior Apartments is a 47-unit with one and two bedrooms apartments designed for seniors 55 and over. This is a special federal program that is used for seniors and does not involve HUD nor does it have project based vouchers. The program is highly regulated. If for some reason the developers do not do their job, the investors step in and the funds are credits sold to investors and banks. They have a very small mortgage for the development that help with allow for reduced rents. Staff will include full time management and maintenance for 40 hours per week. They will have annual reserves for each unit. The residents are all in enclosed corridors. It's a safe secure facility and meet all codes and requirements. Key factors of the facility include safety and security with electronic key and have state of the art of fire and safety design. Handicapped capability is designed in the floor plan with 2 apartments fully handicapped. Apartments are equipped with high efficiency electrical equipment with the residents paying for electric. The facility meets the parking requirement, and landscapes with this being an attractive building.

August 30, 2016

Mr. Dupont described the outline of the ordinance. He stated the O-1, Office zoning district is meant for a variety of uses. The permitted uses are listed under section 132 and in terms of the special uses the third one listed is multiple-family dwelling. The requirements of a special use must be considered on the development standards and there are three sub-listings. All business, services or processing, except for off street parking and loading, shall be conducted within a completely enclosed building. Mr. Dupont stated the facility is in agreement with these standards. There will be no outdoor storage of any goods or vehicles and the facility agrees with this. Mr. Dupont states the facility complies with all of the site plan approval and T. Moulane agreed. Mr. Dupont added it is in a zoning district for office (O-1) and meets the maximum height of 35 feet. However, the code also states it can be not greater than 2 ½ stories and Mr. Dupont states he is going to the Zoning Board of Appeals in order to get a variance for a 3 story building. If not, the project can be redesigned for a 2 ½ story but it will be more practical and appropriate for a 3 story.

Mr. Dupont stated in the special uses, article 122-357:

- (a) The proposed special use will not impair the public health, safety or welfare. Mr. Dupont stated this is a senior housing and does not violate.
- (b) The proposed special use is appropriate for its proposed location and compatible with the character of surrounding land uses, and the uses permitted in the zoning district(s) in which surrounding property is located. Mr. Dupont added there are similar uses in the area as there is Maplewood Manor. The facility will blend in with the surroundings and the building will be beautiful.
- (c) The proposed special use complies with applicable zoning district regulations. The facility complies because it is a multi-family issue.
- (e) The location and design of the proposed special use minimizes any potential adverse effects of the use on adjacent property by avoiding significant adverse impact relating to parking, loading, delivery, storage and service areas, odors, noise, glare, vibration and other potential nuisances. This does not apply to this facility.
- (f) The location and design of the driveways are safe in relation to streets providing access to the use. Access to the use is designed to minimize conflicts between vehicles and pedestrians and with traffic using adjacent streets and driveways. Vehicular circulation is designed to be safe and convenient for this facility and was in place before. Some residents will not have cars and use the bus.
- (g) Off Street parking areas comply with the provisions of article XVII. They do for this facility.
- (h) Greenbelts, landscaping and screening are provided in accordance with the regulations of article XVIII. Mr. Dupont believes the facility is in compliance.
- (k) Refuse receptacles are adequately screened and it was mentioned they it will comply.
- (l) All exterior lighting (building mounted and freestanding) is designed and installed so as to comply with the regulations. The facility is in compliance.
- (m) Access routes to all buildings structures and uses are provided or emergency services vehicles. This item was designed in the traffic plan.
- (n) Public utilities are provided in accordance with the regulations of public utility providers.

Mr. Dupont stated this is a modern, safe, handicapped accessible facility. Other than the Housing Commission, there is a 6 month waiting list from Region 7 who helps seniors with housing. MSHDA has a market analysis that states the need is there.

R. Milster asked about the 2 1/2 story requirement. Mr. Dupont stated when he looked into the ordinance they used 2 1/2 stories and used the attic as a living area.

T. Moulane asked should the Zoning Board of Appeals denies the request, would the building footprint or any circumstances of the plan change. Mr. Dupont stated it would not.

Mr. Dupont had a discussion with the City Manager and you have to remember this property is owned by a non-profit and does not pay taxes. The proposal to the City Manager was a 4% PILOT, which our projection is based on our revenues, estimated in the low \$300,000. Most cities in Michigan they give out PILOTS to help affordable housing develop and in this case it will help the city's revenue and offered an upfront of

August 30, 2016

\$100,000 incentive. The City Manager said 4% would not be enough and won't cover the ambulance trips. It was stated that if there is a way to pay for the full city millage he would support the PILOT and avoid taxes.

B. Branigan asked about the kind of disposable income would the residents would have. Mr. Dupont mentioned the target is a range of rents and residents with a household income of \$25,000 – \$30,000 income. Rents range from \$650 and lower and it's based on income. They look at 30% of the total income and look mainly for moderate to low income levels.

B. Branigan stated the housing study was an important document to have and showed that the city currently has a fragile housing market. There is an 11.5% vacancy rate we have in Maplewood Manor and Bay Town. He was concerned the project could result in a decrease in value in the homes in the neighborhood. He questioned if Mr. Dupont had any experience in attracting new businesses where these buildings are located.

Mr. Dupont stated that as housing professional, you have the people for the business, then you have a market. He stated the details of the PILOT should be discussed with the city commission and let them do the economic portion and the planning Commission needs to go by the zoning ordinance.

J. Green stated that he has heard of a lot of vacancies in the city. He commented on an incident his brother had looking for senior housing and it took 4 months.

Motion made by L. Dufresne, seconded by R. Shea, to go back into Business Session. Motion carried.

Business Session

R. Milster stated he was trying to compare the housing study to this and there are many inconsistencies. There is a housing study that says Bay City has too much of a supply of housing and little demand and people are not putting money in their houses and that's why we have a declining market. He stated the housing study addresses the housing situation in the city but is being asked to approve a special use.

T. Moulthane added that you need to go back to the original intent of the Master Plan. The housing study was independent with the Housing Commission paying for it. The City was in the early stages of developing the request for proposal for the Master Plan and there were cost savings of data gathering information. The two were paired together and the housing study is now completed. The goal of the Planning Commission is to work this topic into the Master Plan. The housing study was important to the timing of this project and it was just one step towards finishing the Master Plan. He stated it can be considered but at this point it goes back to the facts of the Zoning Ordinance and Regulations.

J. Green mentioned the City has a 44 page Housing Study and tonight we are talking about senior citizens. He stated that if anyone can find where senior citizens are in that report he'd appreciate it being shown. For many reasons they are better off in a facility like this than a large home where the husband is gone, kids are moved out and you have a 4-bedroom house and the mom is on social security. That was not addressed in the study.

Motion made by J. Green that we accept the Site Plan and Special Use SPR 16-03 900 N. Madison Avenue, Madison Place Apartments as specified in this request.

T. Moulthane stated the staff reports have cited a number of detail items that should be included in the motion.

- A site and building drainage plan should be provided for review and approval before building permits are issued.
- Provide detail for the size of the water service and verify if the building will have fire suppression. If so, a separate service line and tap will be required for the fire line.
- Provide size of line for both storm and sanitary sewer service lines.
- Fire suppression Line not shown on the site plan. If fire suppression line is needed or required, provide calculations to assure existing fire flow is adequate to meet need.

August 30, 2016

- Land Combination Application must be submitted to the Assessing Department for the two parcels to be combined.
- The building exceeds 2 ½ stories and the applicant must receive a variance from the Zoning Board of Appeals for the buildings height of 3 stories.
- Provide product information for the two light fixtures that will be installed.
- A sign permit shall be obtained prior to the installation of any signage
- Modify landscaping so that trees are planted to the east of the building.

T. Moulthane also added that there are two findings of facts that need to be in the motion:

- A. The proposed special use will not impair the public health, safety or welfare.
- B. The proposed special use is appropriate for its proposed location and compatible with the character of surrounding land uses, and the uses permitted in the zoning district(s) in which surrounding property is located.

J. Green accept as amendment to motion and R. Shea seconded the motion. No further discussion was held.

Motion carried with 1 nay from B. Branigan. Motion carried.

Planning Commission took a 10 minute recess and attendance remained the same.

OTHER BUSINESS

T. Moulthane stated that a letter was received from Doug Rise, Executive Director of the Housing Commission, presenting the housing study and each of the members was provided with a copy.

F. Starkweather stated that most of the Planning Commission had the opportunity to witness presentation of the Housing Study and he was impressed by the presentation. One item impressed him was how badly we are over supplied with low income housing and what a negative impact it has on the housing stock in Bay City, which in turn impacts tax assessment and gross tax revenue for the City budget. He agreed that the Planning Commission did the right thing by approving the site plan of 900 N. Madison. He mentioned there are a few more steps for this project. First is the approval of ZBA on the 2 ½ story 3 story matter. The Planning Commission motion require that the 3 story be approved by the ZBA and it is a condition of our site plan. If the ZBA does not grant the 3 story, they do not have a site plan. Secondly, the City Commission needs to accept a payment in lieu of taxes PILOT.

F. Starkweather asked the Planning Commission members to authorize the chairman to write a letter to the City Commission to reject the project by not approving the PILOT. It was discussed that it would also be helpful if the Director of the Housing Commission writes a similar letter.

J. Green stated if Mr. Starkweather wanted to continue to fight the project all the way to the White House he could but doesn't support asking the Planning Commission to have such a letter. F. Starkweather stated that it is under discussion and he was doing this for the future of the City as reviewed to us in the housing study.

R. Milster mentioned he did vote yes to grant the special use permit and that was his decision as Planning Commissioner however he does not believe this project is good for the City. He believes the housing study is a study in which was comprehensive, well written and he was pleasantly surprised that it had some specific recommendations. He does agree with the author that we need to take steps to right size our housing in particular considering our population. The City has too much housing in general and too much low income and agrees that it impacts the housing values and there is less equity. A healthy City would have a balance of high, middle, and low income housing and Bay City has an overabundance of low income housing. This will prevent the City from thriving if it is not addressed.

R. Milster mentioned that the Planning Commission needs to make a motion that a letter be written from the Planning Commission to the City Commission not approve the PILOT because it is inconsistent with the

August 30, 2016

Housing Study and it will further increase supply when we have no particular for that and have a negative effect on the housing.

B. Branigan agrees with R. Milster and even the applicant stated that there is available housing such as this and within the surrounding townships. He feels there is space for people that are desirous of this type of housing in this price range. He has seen this in the homes he has sold. He states we have to look at the Housing Study and obey its principles.

L. Dufresne stated that the biggest problem is the notification of that neighborhood. She believes 300 feet is basically one city block and not enough residents were notified. We need to look at the ordinance in how we notify people when we have a project like this coming in so the neighborhood is properly notified. The building is flat landscape and it was with hesitation that she approved the special use permit.

T. Moulane stated the public hearing process is based in the Planning Act, which was recently revised in 2006 and all communities within the State of Michigan have the same public hearing requirement of 300 feet.

L. Dufresne asked if it restricts us to go farther. T. Moulane said he would check the act. There are some states that do different means of notices like signs. L. Dufresne states that from a City's standpoint, we may want to consider that option.

J. Green stated the housing study discussed tonight is to get rid of the low income houses. They are the problem and dragging everyone down. What are we going to do with the low income people and the low income houses?

R. Shea stated this topic has gone through three meetings and he has had a few conversations about it and the housing study. The Planning Commission approved it and he does not believe they should tell the City Commission not to vote for it.

T. Moulane would like to make a comment on the 2 ½ stories and variance. The Zoning Ordinance specifically states that a special use has to have that decision before it goes to the ZBA that was the reason why we had to schedule the ZBA for tomorrow night. The zoning ordinance specifically states that a special use shall be granted by the Planning Commission before any type of variance is granted for a project. He stated the purpose of the question regarding any change to the site plan is administratively, staff can approve slight changes to a plan.

Motion made by R. Milster, seconded by B. Branigan, that the Planning Commission is opposed to a PILOT for this project and authorize F. Starkweather as Chairperson to write a letter to the City Commission and attend the meeting to speak in opposition to a PILOT. This motion is that the project is not a good project for the City and that it is inconsistent with the housing study and that we are adding more housing and more supply as opposed to trying to reduce supply and increase equity and build demand.

J. Green stated he would appreciate that whatever is passed here and sent to the City Commission it not include his name. F. Starkweather stated he does not sign for anyone on the Planning Commission. F. Starkweather mentioned that if the Planning Commission goes forward with this, it would be a vote.

Vote: 4 yeas and 2 nays being R. Shea and J. Green. Motion carried.

Adjourn

Motion made by R. Shea, seconded by L. Dufresne to adjourn the meeting. Motion carried.

Prepared by Terry Moulane, Manager
Planning & Zoning Department



**PLANNING COMMISSION
MINUTES OF MEETING
September 21, 2016**

CALL TO ORDER & ROLL CALL

A regular meeting of the Bay City Planning Commission held in the Commission Chambers, City Hall, was called to order by President Frank Starkweather at 7:00 p.m.

Members present: F. Starkweather, R. Milster, B. Branigan, L. Dufresne, J. Green, and R. Shea

Members absent: M. Ewald Sayles

Staff and City Commission Liaisons present: Planning & Zoning Manager Terry Moulane and City Commissioner Larry Elliott.

The commission and others present recited the pledge of allegiance.

T. Moulane stated the minutes will be available for the next meeting.

PUBLIC COMMENTS AND COMMUNICATIONS NOT ON THE AGENDA:

No public comments at this time.

NEW BUSINESS

RZ 16-1, 2006 Raymond St. Request to rezone lots 10 and 11 Block 5 Fitzhugh 1st Addition, 2006 Raymond Street from R-1, Single Family Residential to M-1, Light Industrial.

Public Hearing

Motion made by R. Shea, seconded by L. Dufresne, to go into public hearing. Motion carried.

Property owner Chad Weiss operates his business Weiss Property Management out of 2006 Raymond St. He purchased the property about three years ago with the intent to stay in the current building. Business is growing and hoping to rezone the parcel in order to use the property for future buildings as well as parking lot for the equipment store. The business entails external property maintenance and corporate maintenance.

Public comment: None

Motion by L. Dufresne, seconded by B. Branigan to close the public hearing. Motion carried.

Business Session

R. Shea mentioned he looked at the property and it is well maintained and no abutting neighbors would be impacted. He felt it is a good fit for the area.

R. Milster made a motion, seconded by B. Branigan, to recommend to the City Commission to amend Chapter 122, Zoning Code of Ordinances, Section 82, entitled "Adoption of Zoning Map", a.k.a. the zoning map, to rezone Lots 10 & 11 of Block 5 Fitzhugh 1st Addition from R-1, Single Family Residential to M-2, General Industrial as the remaining portion of the parcel is zoned. Based upon finding of facts that the zoning requests, comments, and staff report meets the spirit of section 122-191 and the site's physical and other environmental

September 21, 2016

features are compatible with the proposed zoning. The proposed zoning will allow one single parcel, currently with two zoning designations, R-1 and M-2 to the M-2. The property has the capacity of infrastructure and municipal services is adequate to accommodate the uses in the proposed zoning districts. The rezoning takes another step forward in a zoning trend in creating a Morton Street industrial area. It does not create an isolated and unplanned spot zone. Looking in the future would allow the owner to expand the use of the property in similar fashion to the remaining area of the parcel. Motion carried.

SU16-05 1607 Marquette Street Humane Society of Bay County, Special use and site plan approval for an institutional office use with retail and adoption center.

Public Hearing

Motion made by J. Green, seconded by R. Shea, to open public hearing. Motion carried.

Ms. Jean Nichols stated the Humane Society is a home based fostering program with volunteers fostering the dogs and cats in their own home. Available animals that are sterilized and vaccinated are placed on the website and adoption sites. Many cats are housed at Soldens and Pet Supplies Plus for adoption. Since January, 301 dogs and cats have been adopted. The Humane Society would like to open an adoption center with multiple purposes. Dogs would come in with their foster families on a daily basis, but would not stay. The cats would transfer from the foster home to the adoption center when they are ready for adoption and may spend the night. The Humane Society would like to stay in the city for maximum exposure. It is a convenient location to attend workshops on pet owner responsibility and have a retail space. This location would also have space for their TNR program operation. This property would allow the Humane Society to increase adoption and increases grant eligibility that support programs.

Public comment:

Jim Barcia: stated this location will give the Humane Society a building and make them more eligible for grants. It will help increase and enhance healthy adaptable pets and the animals will be controlled. They could expand their mission in a better way.

Mike Halstead, Manager of Bay County Animal Control stated he submitted a letter from Mr. Tom Hickner endorsing the Humane Society. Their mission and use of the building enhances the opportunity to educate the public on the sterilization of animals and will have them sterilized and reduce the number euthanized in Bay County. Supports the project and hopes the Planning Commission does also.

Kerice Basmadjian, resident of Bay County, is in favor of the project and stated the care of animals is a selfless job. Feels this is a fantastic thing and in support of the project.

J. Green asked when the building is expected to be occupied. Ms. Nichols stated the only piece they are waiting for is the environmental report then the Humane Society can close on the property. Could be in the building by October 1st.

Motion made by R. Shea, seconded by L. Dufresne, to close the meeting. Motion carried.

Business Session

Commissioner Branigan stated he's familiar with the building and the layout is could be a good use for this project and adequate parking and will not interfere with other businesses in that area.

T. Moulthane mentioned that in the staff report there is a condition regarding the boarding of dogs. They do expect to have dogs, but not have them overnight. F. Starkweather mentioned if times change he hates to see the approval block them from having dogs overnight and feels that should be left open. T. Moulthane mentioned that an amendment can be placed later in the future as to housing the dogs. Not having the dogs overnight would stop the concern of having it called an animal shelter and kennel.

September 21, 2016

Motion made by B. Branigan, seconded by J. Green, approve SU16-05, 1607 Marquette Street special use and site plan approval for an institutional office with retail and adoption center. Based upon additional information presented by the applicant at the meeting, the Planning Commission determining there is not potential nuisance that will impair the health, safety or welfare. No animals are being left outdoors and no dogs will remain overnight on the site. The Marquette Industrial Park contains a variety of office, commercial and industrial uses. The proposed use meets the regulations after special approval is granted. There is no adverse impact regarding parking, loading, delivery, storage, and service areas and other potential nuisances. No site improvements to access drives are proposed. Staff recommends that parking areas be painted within one year from receiving approval. There is no additional landscaping being recommended and all walls and fences comply. Signs comply but any proposed signage change must meeting zoning ordinance and a new sign permit obtained. If any dumpsters are in place they have to be located to minimize their visibility, enclosed and shall be set back at least 10 feet from any side or rear lot line. Any exterior light that will be in place will result in minimal light trespass onto adjoining property and to avoid interference with the vision of motorists on adjoining streets. All public utilities are serving the property. The staff findings meets the requirements and use approval standards 122-357 apply. No area of the building or site can be used to board dogs overnight. Motion carried.

Zoning Ordinance Text Amendments: Proposed amendments to the Zoning Ordinance, Chapter 122 of the Bay City Code of Ordinances. The amendments consists of changes to Article XX, Signs.

Public Hearing

Motion made by R. Shea, seconded by L. Dufresne, to open the public hearing.

Section 122-445: Signs General Provisions subsection (b)(21). Amends the prohibited sign provisions to allow an exception of a written authorization approved by the city in conjunction with a lease agreement or a special use permit for the city parks, streets, buildings, or grounds.

T. Moulane stated this will clarify the different aspects and use of the parks and the placement of the typical temporary signs for events.

Section 122-445: Signs General Provisions subsection (c) Table 122-445. Amends the temporary sign standards for real estate signs to increase the maximum size permitted from six (6) square feet to nine (9) square feet.

T. Moulane stated this will reflect the real estate signs. Included in the packet is a letter from the City Attorney, Neil Wackerly which has the current ordinance as it stands. T. Moulane mentioned the reason this was received dates back to a meeting with the Little League and scoreboards on the property. The consensus with staff is that there is not an issue with signs that face the park however advertisements viewable from the street was an issue because the sign regulations prohibit advertisement in public space. The amendment will allow signage provided it's in an agreement with the city and be more consistent with the zoning ordinance.

J. Green mentioned some of the little leagues and ball fields receive funds from local businessmen who have been very generous with upkeep of the fields and materials. He does not see a reason for this and questions how many regulations you really need.

T. Moulane stated staff views this as a positive step as the zoning regulations currently prohibit any signage on public property. When they came to the city for new a score board, the Parks Manager, City Manager and Planning Department met with the league. Out of that meeting it was suggested the City Attorney create language that allows the City to take the steps to have that in the agreement. It is not something we want to restrain but when the scoreboard is place there has to be a limit to the advertising itself. It still is a sign within a city park. The way the ordinance is now prohibits it and this will allow flexibility for the installation of a scoreboard.

September 21, 2016

Motion made by R. Milster seconded by R. Shea to close the public hearing. Motion carried.

Business Session

Motion made by R. Milster, seconded by B. Branigan, to amend Section 122-445 subsection (b) (21) and purpose is to amend the prohibited sign provisions to allow an exception to be added to subsection (b) (21) “or by written authorization approved by the city in conjunction with a lease agreement or a special use permit for city parks, streets, buildings, or grounds”.

Also to amend Table 122-445 to increase the size of temporary real estate signs from six (6) square feet to nine (9) square feet. Motion carried.

OTHER BUSINESS

T. Moulthane introduced the new Community Development Director Steve King. He supervises Community Development, which includes Planning & Zoning, Grants Administration, Economic Development and the Building and Code Enforcement.

T. Moulthane distributed information recently placed on the website for the Master Plan. Any further documents that will be forth coming will be on this website. The Planner from Carlisle Wortman had some new information added to the website on form based codes. There is information on the changing economy and resilience planning which is a component of the Master Plan. Currently time was being spent on getting through the Payment-in-lieu-of-taxes (PILOT) and on Monday night it was received, but not acted on. This means the developer will not be receiving the PILOT. T. Moulthane stated the goal is to have draft Master Plan by the end of this year and then there is a 60 day comment period.

T. Moulthane added that the Housing Study has generated interest of how we plan to work with the document in the short term to help the housing market. It is felt that partnerships will be strengthened with the study and discussions have taken place to get the data from the maps and begin implementation strategies and tools we can use.

BUSINESS NOT ON THE AGENDA

F. Starkweather asked the members to support and request to the City Planner to prepare language to remove drive in banks from uses allowed in the C-3 zoning and have that report for the October meeting.

Discussion was held and the current banks would be nonconforming. F. Starkweather would like to stop the creation of any further drive thru's. R. Shea would like to be able to discuss it further. Other members commented they did not want to take action on this request until a later date and when the master plan is completed.

Adjourn

Motion made by R. Shea, seconded by B. Branigan, to adjourn the meeting. Motion carried.

Prepared by Terry Moulthane, Manager
Planning & Zoning Department

Subject: Resolution of Support - United States Environmental Protection Agency Grant Application for Brownfield Cleanup Funds
Reviewed By: City Manager: Richard M. Finn Deputy City Manager: Dana L. Muscott
Prepared By: Economic Development Project Manager: Sara Dimitroff

PERTINENT FACTS:

The purpose of this recommendation is to consider a resolution of support for a submittal of a grant application to the United States Environmental Protection Agency (USEPA). City Staff is seeking authorization to apply for a \$150,000 cleanup grant to assist with environmental cleanup activities at the former Surath Scrap Yard property located at 1001 E Ohio Street and Marina Park Drive.

City staff has developed solid relationships with several funding agencies, including the Environmental Protection Agency, Michigan Department of Environmental Quality (MDEQ), Michigan Economic Development Corporation and the Michigan Department of Transportation and has developed a positive reputation for property and timely administration of grant funds.

The USEPA will select grant recipients by Spring, 2017 and require that recipients conduct eligible cleanup activities within three years of the initiation of grant activities.
A public hearing was held on December 5, 2016, at the City Commission meeting with no comments.

LEGAL ISSUES:

State and local governments are eligible to apply for funding through this cleanup grant program.

TIME SENSITIVITY:

Ratification

BRIEFLY DESCRIBE THE NATURE OF THE TIME SENSITIVITY:

The grant application deadline was December 22, 2016. Staff submitted the application without Mayor and Commission approval so as to not miss the submission deadline. If the Mayor and Commission do not approve the Brownfield Grant Application for the cleanup grant, staff will withdraw the application.

FINANCIAL CONSIDERATIONS:

City staff is seeking authorization to apply for \$150,000 in grant funding which would require the City to provide a 20% local match that may include cash, and/or in-kind contributions such as staff time, materials and services. Additionally, net proceeds from fair market sale of the property can be used or a reduction of the purchase price from fair market value.

CITY GOALS:

RECOMMENDED ACTION:

*Commission as a Whole resolution of support for the ratification of a submittal of a grant application to the United States Environmental Protection Agency (USEPA), seeking authorization to apply for a \$150,000 cleanup grant to assist with environmental cleanup activities at the former Surath Scrap Yard property at 1001 E Ohio Street and Marina Park Drive.

RECOMMENDATION: Approve.

ATTACHMENTS:

Description

Resolution

Upload Date

12/20/2016

Type

Resolution Letter

CP 01/03/17

Of Commission as a Whole:

Whereas, the United States Environmental Protection Agency provides funds to conduct cleanup activities related to brownfield sites;

Whereas, the City of Bay City is submitting a grant application to obtain \$150,000 for site specific cleanup activities on the former Surath site, and

Whereas, the Bay City City Commission supports the United States Environmental Protection Agency grant application in the amount of \$150,000 for the purpose of site specific cleanup activities on the former Surath site, and

Whereas, if awarded a grant, the City of Bay City will enter into a Grant Agreement with the United States Environmental Protection Agency for implementation of the grant,

Now Therefore Be It Resolved that the Bay City City Commission hereby supports the United States Environmental Protection Agency application for a Brownfield Cleanup Grant, and, if awarded, that the Mayor and City Clerk shall be authorized to sign grant contracts, any necessary amendments to grant contracts, and other contract related documents.

Subject: Resolution of Support-United States Environmental Protection Agency (USEPA) Brownfield Grant Application for Community Wide-Assessment Grant for Hazardous Substances and Petroleum

Reviewed By: City Manager: Richard M. Finn Deputy City Manager: Dana L. Muscott

Prepared By: Economic Development Project Manager: Sara Dimitroff

PERTINENT FACTS:

The purpose of this recommendation is to consider a resolution of support for the submittal of a grant application to the United States Environmental Protection Agency (USEPA). City staff is seeking authorization to apply for a \$400,000 community-wide assessment grant (\$200,000 Hazardous Substances, \$200,000 Petroleum) to assist with inventory, characterization, assessment and to conduct planning (including cleanup planning) and community involvement related to city-wide Brownfield properties. Some of the properties where funds are slated to be used include the former American Tire property on Wilder Road, the Fletcher Oil property on Marquette and the former Saginaw Bay Industries property off of Saginaw Street.

City staff has developed solid relationships with several funding agencies, including the Environmental Protection Agency, Michigan Department of Environmental Quality (MDEQ), Michigan Economic Development Corporation and Michigan Department of Transportation and has developed a positive reputation for property and timely administration of grant funds. City staff has recently completed the implementation of a MDEQ grant and loan and is currently implementing several USEPA grants.

The USEPA will select grant recipients by the Spring, 2017 and require that recipients conduct eligible activity within three years of the initiation of grant activities.

A public hearing was held at the City Commission meeting held on December 5, 2016, with no comments.

LEGAL ISSUES:

State and local governments are eligible to apply for funding through this assessment grant program.

TIME SENSITIVITY:

Ratification

BRIEFLY DESCRIBE THE NATURE OF THE TIME SENSITIVITY:

The grant application deadline was December 22, 2016. Staff submitted the application without Mayor and Commission approval so as to not miss the submission deadline. If the Mayor and Commission do not approve the Brownfield Grant Application for community-wide assessment grant for hazardous substances and petroleum, staff will withdraw the application.

FINANCIAL CONSIDERATIONS:

City staff is seeking authorization to apply for \$400,000 in grant funding which requires no local match.

CITY GOALS:

RECOMMENDED ACTION:

*Commission as a Whole resolution of support for the ratification of the submittal of a grant application to the United States Environmental Protection Agency (USEPA) granting authorization to apply for a \$400,000 community-wide assessment grant (\$200,000 Hazardous Substances, \$200,000 Petroleum) to assist with

inventory, characterization, assessment and to conduct planning (including cleanup planning) and community involvement related to city-wide Brownfield properties.

RECOMMENDATION: Approve.

ATTACHMENTS:

Description

Resolution

Upload Date

12/20/2016

Type

Resolution Letter

CP 01/03/17

Of Commission as a Whole:

Whereas, the United States Environmental Protection Agency provides funds to inventory, characterize, assess, and conduct planning (including cleanup planning) and community involvement related to brownfield sites;

Whereas, the City of Bay City is submitting a grant application to obtain \$400,000 for city-wide assessment activities on brownfield sites, and

Whereas, the Bay City City Commission supports the United States Environmental Protection Agency grant application in the amount of \$400,000 for the purpose of city-wide assessment activities on brownfield sites, and

Whereas, if awarded a grant, the City of Bay City will enter into a Grant Agreement with the United States Environmental Protection Agency for implementation of the grant,

Now Therefore Be It Resolved that the Bay City City Commission hereby supports the United States Environmental Protection Agency application for a Brownfield Assessment Grant, and, if awarded, that the Mayor and City Clerk shall be authorized to sign grant contracts, any necessary amendments to grant contracts, and other contract related documents.