

CITY OF MASON

201 West Ash St.
Mason, MI 48854-0370

City Hall 517-676-9155
Fax 517-676-1330

CITY COUNCIL MEETING - COUNCIL CHAMBER Monday, October 7, 2013

7:30 p.m.

AGENDA

1. Call to Order
2. Roll Call
3. Pledge of Allegiance and Invocation
4. Announcements
5. People from the Floor
6. Presentations
 - A. Christian Andersen, System Manager of WOW
7. Executive Session – Personnel Issue
8. Public Hearing
 - A. Authorizing the City of Mason to establish an Obsolete Property Rehabilitation Act District
 1. Resolution 2013-43—To Establish an Obsolete Property Rehabilitation Act District Pursuant to 2000 PA 146
 2. Motion- Authorizing City of Mason to Enter into Development Agreement for the Rehabilitation of 124 and 140 E. Ash Street
9. Consent Agenda
 - A. Approval of Minutes
 - Regular Council Meeting: September 3, 2013
 - Regular Council Meeting: September 16, 2013
 - B. Approval of Bills
10. Regular Business
 - A. First Reading—Ordinance 195—An Ordinance to amend Section 94-151 of the Chapter 94- Zoning- of the Code of the City of Mason to amend subsection (d) to add a new subsection (4) to permit the sale of repaired, used vehicles, by special use permit as an accessory use to a body and paint shop for automobiles and other vehicles.
 - B. Resolution 2013-41 – Approval to award rehabilitation and cleaning of material out of Well No. 8 to Northern Pump and Well
 - C. Motion—Street Closure— Mason High School Homecoming Parade
11. Unfinished Business
12. New Business
13. Correspondence
 - Thank you card from Mason Sycamore Creek Garden Club
 - Invitation from Mason Public Library to 75th Anniversary Celebration
14. Liaison Reports
15. Councilmember Reports
16. Administrator's Report
 - Personal Property Tax Reform
17. Adjournment

CITY OF MASON
STAFF AGENDA REPORT TO CITY COUNCIL

Meeting Date: October 7, 2013

Agenda Item: 8 (A-1)

AGENDA ITEM

- Public Hearing
- Resolution 2013-43— To Establish an Obsolete Property Rehabilitation Act District Pursuant to 2000 PA 146

EXHIBITS

September 26, 2013 letter from Ingham County Land Bank Director Jeff Burdick

STAFF REVIEW

Administration

SUMMARY STATEMENT

The Obsolete Property Rehabilitation Act (OPRA), Public Act 146 of 2000, provides for a tax incentive to encourage the redevelopment of obsolete buildings in which a facility is contaminated, blighted or functionally obsolete. The goal is to rehabilitate older buildings for commercial activities. The City of Mason, working with the Ingham County Land Bank and the development company of Kincaid Henry Building Group, Inc., are pursuing a public/private project to make significant improvements at 124 and 140 E. Ash St., Mason. Jeff Burdick, Director of the Ingham County Landbank, wishes to create an Obsolete Property Rehabilitation District in Mason. Once a District is created, the owner may apply for an OPRA certificate. The certificate offers an obsolete property tax rehabilitation tax abatement.

RECOMMENDED ACTION

- Hold Public Hearing
- Move to approve Resolution 2013-43.

Introduced:
Second:

**CITY OF MASON
CITY COUNCIL RESOLUTION NO. 2013-43**

**A RESOLUTION TO ESTABLISH AN OBSOLETE
PROPERTY REHABILITATION ACT DISTRICT PURSUANT
TO 2000 PA 146**

WHEREAS, a qualified local governmental unit has the authority, pursuant to section 3 of Act No. 146 of the Public Acts of 2000, to establish an “Obsolete Property Rehabilitation Act District” within the city of Mason upon the written request filed by the owner of property comprising at least 50% of all taxable value of the property to be located within a proposed Obsolete Property Rehabilitation Act District; and

WHEREAS, the City of Mason, Ingham County, was declared and remains a “qualified local governmental unit” within the meaning of subsection 2(k) of 2000 PA 146 by determination of the Michigan State Tax Commission adopted at its June 12, 2012 meeting; and

WHEREAS, the Ingham County Land Bank has filed a written request with the Mason City Clerk requesting that the City establish an Obsolete Property Rehabilitation Act District on certain tax-reverted property owned by the Ingham County Land Bank located in the city of Mason and described as follows:

East 2/3 of Lot 2; West 2/3 of Lot 3; and North 41 feet of Lot 9,
Block 17, Section 9, T2N, R1W, City of Mason, Ingham County,
Michigan.

TIN 33-19-10-09-110-021 - commonly known as 124 E. Ash Street

TIN 33-19-10-09-110-007 - commonly known as 140 E. Ash Street

TIN 33-19-10-09-110-015 - being a portion of Alley 17 of the Plat of the City of
Mason

and

WHEREAS, the City of Mason finds that the property proposed for the Obsolete Property Rehabilitation Act District is “obsolete property” as defined by section 2(h) of Act 146, that it comprises at least 50% of all taxable value of the property to be located within the proposed Obsolete Property Rehabilitation Act District and otherwise meets the requirements set forth in section 3(1) of 2000 PA 146; and

WHEREAS, written notice has been given by mail to all owners of real property located within the proposed district and to the public by newspaper advertisement in the *Ingham County Community News* of the hearing on the establishment of the proposed district as required by Act 146; and

WHEREAS, on October 7, 2013, a public hearing was held regarding the establishment of the proposed Obsolete Property Rehabilitation Act District and all residents and taxpayers of the City of Mason were afforded an opportunity to appear and be heard thereon; and

WHEREAS, the City of Mason deems it to be in the public interest of the City of Mason to establish the Obsolete Property Rehabilitation Act District as proposed by the applicant;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Mason that the following described parcels of land situated in the city of Mason, Ingham County, Michigan, to wit:

East 2/3 of Lot 2; West 2/3 of Lot 3; and North 41 feet of Lot 9,
Block 17, Section 9, T2N, R1W, City of Mason, Ingham County,
Michigan.

TIN 33-19-10-09-110-021 - commonly known as 124 E. Ash Street
TIN 33-19-10-09-110-007 - commonly known as 140 E. Ash Street
TIN 33-10-10-09-110-015 - being a portion of Alley 17 of the Plat of the City of
Mason

be and hereby are established as an Obsolete Property Rehabilitation Act District pursuant to the provisions of Act No. 146 of the Public Acts of 2000, to be known as the City of Mason Obsolete Property Rehabilitation Act District No. 1.

Yes ()
No ()
Absent ()

CLERK'S CERTIFICATION: I hereby certify that the foregoing is a true and complete copy of a Resolution adopted by the City Council of the City of Mason, Ingham County, Michigan, at a regular public meeting held in the City Council chambers on October 7, 2013, at 7:30 p.m., the original of which is part of the Council's minutes.

Deborah J. Cwierniewicz, City Clerk
City of Mason, Ingham County, Michigan

Drafted by and approved as to form:

Dennis E. McGinty (P17407)
Mason City Attorney
601 Abbot Road, PO Box 2502
East Lansing, MI 48826-2502

Appointed Members
BRIAN McGRAIN, Vice-Chair
REBECCA BAHAR-COOK, Treasurer
DEB NOLAN, Secretary
KARA HOPE



Chair
ERIC SCHERTZING
Executive Director
JEFFREY D BURDICK



www.inghamlandbank.org

Ingham County Land Bank Fast Track Authority

422 Adams Street • Lansing, Michigan 48906 • phone (517) 267-5221 • fax (517) 267-5224
600 W Maple Street • Lansing, Michigan 48906 • phone (517) 580-8825 • fax (517) 580-8857

September 26, 2013

Marty Colburn
City Administrator/DPW Director
201 West Ash Street
Mason, MI 48854

Dear Marty:

As the owner of the properties that make up the Ash Street Mixed-Use Redevelopment Project in downtown Mason, the Ingham County Land Bank is requesting that the City Council of the City of Mason establish an Obsolete Property Rehabilitation Act (OPRA) District to assist in the development of this project. The real property to be included in the OPRA District is more specifically described as follows:

TIN 33-19-10-09-110-021 – commonly known as 124 E. Ash Street
TIN 33-19-10-09-110-007 – commonly known as 140 E. Ash Street
TIN 33-19-10-09-110-015 – being a portion of Alley 17 of the Plat of the City of Mason

The Ash Street Mixed-Use Redevelopment Project will result in ten new residential apartments and over 5,000 square feet of new first-floor commercial space in downtown Mason. The two buildings included in the project are the oldest in the city of Mason. Combined, they also represent the single largest building in the Downtown. These buildings have been substantially vacant for over twenty years and are the sole remaining blighted buildings in Downtown Mason. The total cost for this project is just over \$2 million, with approximately \$785,000 in private funding leveraging \$1.275 million in grants from the Michigan State Housing Development Authority and the Michigan State Economic Development Corporation.

Establishing an OPRA District is the first step in applying for an OPRA certificate. The application for the OPRA certificate will be made in the future and will also require a public hearing before the Mason City Council. The OPRA certificate will freeze the value of the property within the district for a period of no more than twelve years at a rate below the assessed value of the property upon completion of the construction. The OPRA Certificate is intended to assist an end user that the project developer, Kincaid Henry, has identified for the commercial portion of this project.

Should you have any questions about this request for the establishment of an OPRA District, please do not hesitate to contact me.

Sincerely,

Jeffrey Burdick – Executive Director, Ingham County Land Bank

CITY OF MASON
STAFF AGENDA REPORT TO CITY COUNCIL

Meeting Date: October 7, 2013

Agenda Item: 8 (A-2)

AGENDA ITEM

- Authorizing the City of Mason to Enter Into a Development Agreement for the Rehabilitation of 124 and 140 E. Ash Street

EXHIBITS

Development Agreement

STAFF REVIEW

Administration

SUMMARY STATEMENT

Ingham County Land Bank Fast Track Authority ("Land Bank"), the City of Mason ("City"), and the developer, RKH Investments, LLC ("Developer"), wish to enter into a Development Agreement with the City of Mason regarding the properties at 124 and 140 E. Ash Street, Mason ("Property").

The Agreement will allow the Land Bank and Developer to enter into an Option to Purchase under which the developer is purchasing the property from the Land Bank. The Land Bank, the City, and Developer share the goal of redeveloping the Property in such a manner as to benefit the City of Mason and its downtown in which the property is located and support and further the continued economic revitalization of both Mason and its downtown.

The Developer and the City intend to redevelop the Property as commercial space and ten rental apartment units using private funds, bank financing and public funds provided by the Michigan State Housing Development Authority (MSDHA) through the Michigan Housing and Community Development Fund (MHCDF), the U.S. Department of Housing and Urban Development Community Development Block Grant (CDBG) funds for rental rehabilitation, the U.S. Department of Housing and Urban Development Blight Elimination Grant administered by the Michigan Economic Development Corporation through the Michigan Strategic Fund CDBG Grant Program, and a façade improvement grant through the City of Mason's Downtown Development Authority.

The Land Bank, City, and Developer desire to enter into this Agreement to guide the conduct and actions of Developer with respect to the redevelopment of the Property and the goals set forth above. Once all grant and grant agreements are approved, staff will bring a completed Development Agreement for ratification. The Michigan Economic Development Corporation (MEDC) blight removal Community Development Block Grant (CDBG) is being recommended for \$446,000. The offer is contingent on the execution of a grant Agreement no later than March 27, 2014. The environmental review is being conducted to meet the requirements of both the Michigan State Housing Development Authority (MSHDA) and MEDC grants.

RECOMMENDED ACTION

Approve the Development Agreement as to form.

DEVELOPMENT AGREEMENT

This DEVELOPMENT AGREEMENT (the "Agreement") is made as of this ____ day of _____, 2013 ("Effective Date"), by and between the **Ingham County Land Bank Fast Track Authority**, a Michigan public authority ("Land Bank"), the **City of Mason**, a Michigan municipal corporation (the "City"), and **RKH Investments, LLC**, a Michigan limited liability company ("Developer") (each a "Party" and collectively the "Parties"), upon the terms and conditions set forth below.

RECITALS

A. Land Bank is the owner of the real property in the City of Mason, Ingham County, Michigan described as

<u>Tax ID</u>	<u>Property Address</u>	<u>Legal Descriptions</u>
33-19-10-09-110-007	140 E. Ash St.	W 2/3 OF LOT 3, BLOCK 17, SEC 9 T2N R1W, CITY OF MASON, INGHAM CO.
33-19-10-09-110-015	Alley 17	N 41 FT OF LOT 9, BLOCK 17, SEC 9 T2N R1W, CITY OF MASON, INGHAM CO.
33-19-10-09-110-021	124 E. Ash St.	E 2/3 OF LOT 2, BLOCK 17, SEC 9 T2N R1W, CITY OF MASON, INGHAM CO.

(the "Property"), upon which one or more unoccupied structure(s) are located.

- B. Contemporaneously with entry into this Agreement, Land Bank and Developer are entering into an Option to Purchase (the "Option") under which Developer is purchasing the Property from the Land Bank.
- C. The Land Bank, the City, and Developer share the goal of redeveloping the Property in such a manner as to benefit the City of Mason and its downtown in which the property is located and support and further the continued economic revitalization of both Mason and its downtown and the Ingham County region.
- D. The Developer and the City intend to redevelop the Property as commercial space and ten rental apartment units using private funds, bank financing and public funds provided by the Michigan State Housing Development Authority (MSDHA) through the Michigan Housing and Community Development Fund (MHCDF), the U.S. Department of Housing and Urban Development Community Development Block Grant (CDBG) funds for rental rehabilitation, the U.S. Department of Housing and Urban Development Blight Elimination Grant administered by the Michigan Economic Development Corporation through the Michigan Strategic Fund CDBG Grant Program, and a façade improvement grant through the City of Mason's Downtown Development Authority.
- E. Land Bank, City, and Developer desire to enter into this Agreement to guide the conduct and actions of Developer with respect to the redevelopment of the Property and the

furtherance of the goal set forth above.

TERMS

WHEREFORE, in consideration of the mutual promises contained in this Agreement and in the Option, the parties agree as follows:

1. Redevelopment Property. Developer shall redevelop the Property in accordance with the following:
 - a. *Use*. The Property shall be redeveloped into a mixed use property (commercial and residential) in accordance with applicable zoning and land use regulations; provided, however, that the Property shall not be redeveloped for uses prohibited by local regulations or by conditions placed on zoning approval. The Developer shall renovate the first floor of the Property as office and/or commercial space. The second and third floors shall be renovated as ten residential rental apartment units. Upon completion of construction or rehabilitation in accordance with the terms and conditions of this Agreement, 51% of the residential units shall be rented to income eligible households earning 80% or less of area median income (AMI). Required standards for construction and rehabilitation are further referenced in this Agreement and the plans and specifications.
 - b. *Preliminary Plans and Drawings*. Attached hereto as Exhibit A are preliminary architectural plans and drawings for the redevelopment of the Property prepared by or on behalf of Developer. Developer intends to redevelop the Property in a manner largely consistent with the attached plans and drawings; provided, however, that Developer shall have authority to modify the plans and drawings as Developer chooses in order to redevelop the Property in a commercially reasonable manner and to respond to the needs and desires of prospective tenants of the Property, so long as the use of the Property is consistent with Section 1.a above and in full compliance with the City's zoning and land use regulations and all building codes. Plan modifications shall be submitted to the City's Zoning and building officials for review prior to commencing any work described in such modified plans or drawings. Substantial deviations in the plans and drawings shall be submitted to the Land Bank for approval, which shall not be unreasonably withheld, conditioned or delayed.
 - c. *Energy Efficiency*. Developer shall utilize commercially reasonable efforts to redevelop the Property in a manner that respects and promotes energy efficiency.
 - d. *Timeframe*. Developer shall apply for a building permit for the construction of the improvements by _____, and shall commence construction within thirty (30) days after obtaining the building permit. Once construction commences, Developer shall diligently prosecute the construction to completion. Developer shall utilize its best efforts to obtain a certificate of occupancy for the primary project on the Property within twelve (12) months of the date of this

Agreement. Copies of building permits and certificates of occupancy shall be promptly delivered to the Land Bank when obtained.

- e. *Construction of Improvements.* The construction of improvements and related activities in connection with the redevelopment of the Property shall be performed in accordance with the approved drawings and plans by duly licensed contractors and in accordance with applicable building codes and related laws and regulations. Developer shall be responsible for obtaining all building, electrical, plumbing, and similar permits necessary for the construction of improvements in connection with the redevelopment of the Property.
 - f. *Progress Reports.* Developer shall make reports in such detail and at such times as may reasonably be requested by the Land Bank as to the progress of construction, but in no event shall the reports be required to be made more frequently than monthly, nor shall any report be due less than thirty (30) days following the Land Bank's request for the report.
 - g. *Access to Development Site.* Until the completion of construction, Developer shall permit representatives of the Land Bank and the City access to the project at all times determined necessary by the Land Bank or the City during normal business hours and upon prior notice for the purposes of this Agreement, including, but not limited to, viewing all work being performed in connection with the construction of the Project. The Land Bank or the City shall provide the Developer a 24-hour notice when requesting access to the project.
2. Reimbursement of Certain Costs. Provided that the redevelopment of the Property is proceeding in accordance with Section 1 above:
- a. Land Bank shall directly reimburse Developer for costs incurred by Developer in coordination with the Michigan Housing and Community Development Fund Grant secured through MSHDA. The total amount of reimbursement under this subsection shall not exceed Five Hundred Thousand Dollars (\$500,000).
 - b. The City shall directly reimburse Developer for all costs incurred by Developer in coordination with the Blight Elimination – Michigan Community Development Block Grant secured through the Michigan Economic Development Corporation, pursuant to the terms and conditions of the Blight Elimination Grant Agreement between the MEDC and the City dated _____, 2013. A copy of said Grant Agreement is attached hereto, incorporated herein, and made a part of this Agreement. The general and special terms and conditions of the Grant Agreement shall be binding upon the Developer. The total amount of reimbursement to Developer under this subsection shall not exceed Four Hundred Forty-Six Thousand Dollars (\$446,000).
 - c. Developer shall submit such costs as they are incurred, along with such other documentation as may reasonably be required by Land Bank, and Land Bank

shall reimburse Developer for such costs (strictly in accordance with the foregoing) within fifteen (15) days of receipt of such documentation.

- d. All cost reimbursements to Developer shall be received by it and disbursed by Developer in accordance to the requirements of the Michigan Building Contract Fund Act, MCL 570.151 *et seq.*, and disbursed by Developer solely for payment of the contractors, laborers, subcontractors, or materialmen for building construction purposes.
 - e. The sole source of funds for the City's reimbursement to Developer for costs or expenses incurred for redevelopment of the Property shall be those funds made available to the City by the Michigan Economic Development Corporation through its community development block grant under the Grant Agreement described in subsection 2(b) above and the additional funds made available by the City of Mason DDA through its façade grant, and nothing contained herein shall be deemed or be construed to create any obligation against the City's General Fund or its revenues other than the Grant Funds Receivable. The City shall diligently perform its obligations under the grant agreements and take all reasonable steps necessary to fulfill the City's grant obligations and obtain disbursement of the grant funds.
 - f. Before taking physical possession of or entering upon the Property to perform any work, the Developer shall furnish, at its sole cost, a performance bond and a payment bond issued by a bonding company or insurance company authorized to do business in Michigan in a form acceptable to the City and Land Bank attorneys, and in the form and manner required by MCL 129.201 *et seq.*, in the amount of \$_____. The bonds shall name the Land Bank and the City as obligees and duplicate originals shall be filed in the offices of the Land Bank and City Clerk.¹
3. Economic Incentives. Land Bank, City, and Developer shall cooperate with and reasonably support and assist each other in connection with the pursuit of and application for tax abatements and other economic incentives which may be available from or through the United States of America, State of Michigan, or City of Mason in connection with the redevelopment of the Property. This includes the pursuit of an Obsolete Property Rehabilitation Act (OPRA) certificate from the Michigan State Tax Commission to freeze the taxable value upon completion of the project at a certain point below the completed project's assessed value for a period of no more than twelve years.

¹The minimum amount allowed by statute is 25% of the contract price. The City and the Land Bank may consider dropping any requirement for a bond under the Contractor's Bond for Public Buildings or Works Act, MCL 129.201 *et seq.*, once the Developer has exercised its option to purchase the Property and has acquired the title or equitable ownership under a land contract on the basis that the construction thereafter does not constitute work on a public building or public improvement of the City or Land Bank.

4. Developer Qualifications. Developer represents that it is purchasing the Property for the purpose of redevelopment as stated in this Agreement and not for speculation. Developer acknowledges that the project is important to the general welfare of the greater Ingham County community, and the success of the project will in great part depend on the authority and qualifications of the managers of Developer. Developer represents and warrants that at the time of execution of this Agreement Ryan Kincaid and Ryan Henry are the owners and managers of Developer. Developer represents and warrants to the Land Bank that the Developer's Operating Agreement provided to the Land Bank prior to the execution of this Agreement is the sole agreement of the members, and is in full force and effect as of the Effective Date. In the event the Operating Agreement is proposed to be amended after the Effective Date and prior to completion of construction, Developer shall deliver to the Land Bank and the City written notice of the proposed amendment and a copy of the proposed amendment. Developer acknowledges that the persons having the management authority within Developer and that person's qualifications are of particular concern to the Land Bank. Developer further acknowledges that it is, in part, because of the qualifications of these individuals that the Land Bank and the City are entering into this Agreement, and in so doing, is further willing to accept and rely on the obligations of Developer for the faithful performance of all of Developer's obligations under this Agreement. Developer agrees that Ryan Kincaid and Ryan Henry will retain all management authority of Developer until such time as Developer gives written notice to the Land Bank and the City that another manager(s) has been named, and the Land Bank has given its written approval of the manager, which shall not be unreasonably withheld, conditioned, or delayed. The notice shall specify the qualifications of the manager to undertake and complete the obligations on behalf of Developer under this Agreement. The Land Bank and City will be deemed to have approved the new manager named by Developer unless written notice of disapproval is given by either party within ten (10) business days after receipt of Developer's notice. In the event of the Land Bank's or the City's disapproval, Developer shall notify the Land Bank within ten (10) business days of another manager. This process shall continue until a manager is approved by the Land Bank. Prior to approval by the Land Bank, management of Developer shall remain vested solely in Ryan Kincaid and Ryan Henry. The preceding provisions shall apply to any successor manager appointed by Developer. Developer's obligation under this Section shall cease upon completion of construction. Nothing in this Section 4 shall be construed to impose liability on the Land Bank or the City for any act or failure to act by any manager of Developer, or constitute a waiver of the rights of the Land Bank to claim default under this Agreement for the act or failure to act of Developer or any manager of Developer.
5. Default and Remedies. The Land Bank shall have the right to terminate this Agreement upon written notice if any of the following occur prior to completion of construction:
- a. Any change in the management of Developer which the Land Bank does not approve;
 - b. Any material adverse change in the financial condition of Developer; and,

- c. Developer's failure to perform any of its obligations under this Agreement or the Option which it is required to perform and failure of Developer to cure the default within thirty (30) days after notice, unless the cure would reasonably take longer than thirty (30) days, then within such longer period. Upon termination, Developer will release its interest in the Property by assignment of the vendee's interest in the Option to the Land Bank, warranting title to the property and Developer's vendee's interest against all claims and interests other than those liens and encumbrances which are in existence on the Effective Date. The assignment shall be delivered to the Land Bank within ten (10) business days after termination. The obligation of Developer to assign is enforceable in an action for specific performance. All monies paid by Developer on the Option shall be retained by the Land Bank, but shall not constitute liquidated damages relating to claims of the Land Bank against Developer for breach of this Agreement or the Option.
6. Other Remedies. The termination remedy in Section 5 is not an exclusive remedy. Therefore, in the event of default by Developer under this Agreement or the Option, the Land Bank may pursue any remedy available to it at law or equity.
7. Inclusion of Small Businesses. It is anticipated that the Developer/Contractor will seek bids from and use where possible as subcontractors small businesses, including but not limited to, micro local business enterprises (Micro-LBE), veteran owned small businesses (VOSB), minority business enterprises (MBE), and women-owned business enterprises (WBE).
8. Section 3. The Developer/Contractor agrees to comply with applicable requirements of Section 3 of the Housing and Community Development Act of 1968, as amended and implemented in 24 CFR Part 135. All subcontractors interested in submitting bids for contracts shall be informed of Section 3 requirements and goals.
9. Procurement Processes. The Developer/Contractor, unless also the general contractor, shall comply with the procurement processes detailed in the CD Bidding and Contractor Selection Practices document with regard to the procurement of professional services, bidding of construction work, submission of information on selected contractors, CD review of construction costs, and execution of construction contracts. These processes are detailed in CD bidding and contractor selection practices. The Developer/Contractor will be notified when this document is revised.
10. Environmental Requirements. The Developer/Contractor shall comply with all environmental related requirements the Owner determines necessary to comply with provisions of 24 CFR Part 58.
11. Lien Waivers. The Developer/Contractor shall obtain lien waivers from all parties providing labor, materials or equipment for construction or rehabilitation of the Property. The lien waivers shall be maintained by the Developer/Contractor in accordance with the General Terms and Conditions and any revisions thereto, and shall be made available to the Owner upon request. The Developer/Contractor shall immediately notify the Owner in

writing if a Claim of Lien is filed by any party that has provided labor, materials or equipment for the construction or rehabilitation of the Property. The notification shall include the name of the party filing the claim, the amount of the claim, a description of the circumstances surrounding the filing of the claim and actions taken and/or planned by the Developer/Contractor to resolve the situation.

12. Completion of Work. The Developer/Contractor shall complete construction or rehabilitation of the Property standards set forth in this Agreement not later than _____. The Developer/Contractor shall be responsible for providing the Owner with written notification that the work on the Property has been completed.

13. Insurance and Indemnification.

a. Insurance. The Developer shall obtain, and keep in full force and effect during construction, builders risk insurance, effective as of the date of commencement of construction, in an amount adequate to cover the cost of construction of the project, naming as insured the Developer, the City, and the Land Bank, among others, as their interest may appear from time to time. The Developer shall also obtain and keep in full force and effect throughout the period of construction and thereafter as required by this or a related agreement, a policy of comprehensive general public liability insurance in single implement form issued on an occurrence basis with a limit of not less than \$10 million, naming the City and the Land Bank, and their respective officers, agents and employees as additional insureds. The City and Land Bank shall each be provided with a certificate of such insurance prior to the Developer commencing construction, which certificate shall provide that the certificate holder shall receive thirty (30) days prior written notice of cancellation, non-renewal, or a material change of such insurance coverage. A failure to cure any breach of this requirement within the time prescribed herein shall be deemed a material breach of this Agreement and cause for immediate termination of this Agreement.

b. Indemnification. Developer shall, to the fullest extent permitted by law, defend, indemnify and hold harmless the Land Bank and the City, and all of their elected and appointed officers, agents, servants, and employees from any and all claims or threats of claims, damages, losses, expenses, liability, judgment, or liens, including reasonable attorney fees and other costs of defense arising out of any acts or omissions by Developer or by anyone acting on their behalf under or in any matter connected with this Agreement. Developer's obligations to indemnify the Land Bank and the City are supplemental to any insurance required under this Agreement and shall survive the expiration, non-renewal, or termination of this Agreement.

14. Miscellaneous.

a. *Complete Agreement.* This Agreement constitutes the complete agreement among the parties and supersedes and replaces all prior negotiations and agreements, other than the Option. There are no representations, warranties, covenants, conditions, terms, agreements, promises, understandings, commitments or other arrangements

whether express or implied other than those expressly set forth or incorporated herein or made in writing on or after the date of this Agreement.

- b. *Governing Law; Forum.* This Agreement will be governed by, and construed in accordance with, the laws of the State of Michigan applicable to contracts made and to be performed entirely within such State and without giving effect to choice of law principles of such State. Each of the Parties agrees that any legal or equitable action or proceeding with respect to this Agreement or entered into in connection with this Agreement or transactions contemplated by this Agreement shall be brought only in a state or federal court located in or having jurisdiction over Ingham County, Michigan.
- c. *Relationship of Parties.* The relationship between Land Bank and Developer shall be that of independent contracting parties, and not partners in an actual or implied partnership nor joint venturers. The rights and obligations of the Parties shall be governed solely by this Agreement and the Option. Each party shall determine its own methods and manner for performing its obligations under this Agreement.
- d. *No Third Party Beneficiaries.* This Agreement is made solely for the benefit of the Parties to this Agreement. Nothing contained in this Agreement shall be deemed to give any person, partnership, joint venture, corporation, limited liability Corporation, governmental authority or other entity any right to enforce any of the provisions of this Agreement, nor shall any of them be a third party beneficiary of this Agreement.
- e. *No Waiver.* The failure of any Party to exercise or enforce any right or remedy conferred upon it hereunder shall not be deemed to be a waiver of any such or other right or remedy nor operate to bar the exercise or enforcement of any thereof at any time thereafter.
- f. *No Assignment.* Neither this Agreement nor any of the rights or obligations hereunder may be assigned by either Party hereto without the express written consent of both Parties.
- g. *Binding Nature.* This Agreement and the rights and obligations hereunder are binding on the Parties and their successors and permitted assigns.
- h. *Counterparts and Facsimiles.* This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Facsimiles (including electronic versions) of original signatures and facsimiles of this Agreement shall constitute originals for all purposes. Time is of the essence in the performance of every covenant, term, condition and provision of this Agreement.
- i. *Notices and Demands.* Any notice, demand or other communication under this Agreement by one party to the other shall be made in writing and is sufficient if made by any of the following means: (i) hand delivery, or (ii) Federal Express, UPS, or like overnight courier service. Notice made in accordance with this

Section will be deemed given and/or delivered on receipt if by hand, or on the next business day after deposit with an overnight courier service if made by overnight courier. The notice information for each party is stated below. The notice information for a party may be changed by the party from time to time, by providing notice to the other party in the manner provided in this Section.

In the case of Developer, to:
Ryan Kincaid
934 Clark St.
Lansing, MI 48906

In the case of City, to:
Marty A. Colburn
201 W. Ash, PO Box 370
Mason, MI 48854

In the case of the Land Bank, to:
Jeff Burdick
422 Adams St.
Lansing, MI 48906

- j. *Photographic Record.* The Developer shall maintain a photo inventory of the construction or rehabilitation of the Property, including before, during, and after photographs.
- k. *Notice of Problems, Delays, Adverse Conditions.* The Developer shall inform the Land Bank as soon as any problems, delays, or adverse conditions that materially affect the ability of the Developer to complete any herein described activity, or prevent the meeting of time schedules become known. A statement of the action taken, or contemplated, by the Developer to resolve the situation shall accompany this disclosure.
- l. *Failure to Complete Construction and/or Rental.* In the event the Developer fails to complete construction or rehabilitation in accordance with the terms and conditions of this Agreement, the Land Bank and the City shall have all remedies at law or equity for breach.
- m. *Severability.* If any provision or provisions set forth in this Agreement is in conflict with any Michigan law or is otherwise unenforceable, that provision is void to the extent of the conflict or unenforceability and is severable from and does not invalidate any other provision of this Agreement.
- n. *Headings.* The headings in this Agreement are for convenience of reference only and shall not affect the meaning of this Agreement.

WHEREFORE, the Parties have duly executed this Agreement effective as of the day and year first above written.

**INGHAM COUNTY LAND BANK
FAST TRACK AUTHORITY**

RKH INVESTMENTS, LLC

Name: Eric Schertzing
Title: Chairperson

Name: Ryan J. Kincaid
Title: Member

CITY OF MASON

Name: Martin A. Colburn
Title: City Administrator

Approved as to Form:

Dennis E. McGinty (P17407)
Mason City Attorney

**CITY OF MASON
REGULAR CITY COUNCIL MEETING
MINUTES OF SEPTEMBER 3, 2013**

Clark called the meeting to order at 7:30 p.m. in the Council Chambers at 201 W. Ash Street, Mason, Michigan. Droscha led the Pledge of Allegiance and offered the invocation.

Present: Councilmembers: Brown, Bruno, Clark, Droscha, Ferris, Mulvany, Naeyaert
Absent: Councilmember: None
Also present: Martin A. Colburn, City Administrator
Deborah J. Cwiertniewicz, City Clerk
Eric Smith, Finance Director/Treasurer
Don Hanson, Police Sgt.

ANNOUNCEMENTS

- Sesquicentennial Committee Meeting – September 9, 2013
- Thursday Night Live (rain date concert) – September 5, 2013
- Mason Brass Quintet – Concert at Griffin Park – September 15, 2013

PEOPLE FROM THE FLOOR

None.

CONSENT AGENDA

MOTION by Naeyaert, second by Droscha,
to approve the Consent Agenda as presented:

- A. Approval of Bills - \$317,502.08
- B. Motion – Street Closure – Riverwalk Meadows Homeowners Association Annual Neighborhood Picnic
to approve the Riverwalk Meadows Homeowners Association request to close the cul-de-sac on the end of Raging River Road, September 22 between 3:30 p.m. – 6:30 p.m., assembling in front of the 408, 409, and 412 Raging River residences.

MOTION APPROVED UNANIMOUSLY

REGULAR BUSINESS

Motion – Approval of Minutes – Regular Council Meeting: August 19, 2013

Discussion was held to correct the Minutes on page four under Liaison Reports and to strike the last paragraph under New Business.

MOTION by Bruno, second by Naeyaert,
to approve the Minutes of August 19, 2013 as corrected.

MOTION APPROVED UNANIMOUSLY

Motion – Utilization of Right of Way – Harvest Creative Services

Alan Greer of Harvest Creative Services stated that since his appearance before Council on August 5, 2013, he has determined that street closures will not be necessary for the commercial he is planning to shoot in Mason. He is requesting to use the right-of-way

MOTION by Naeyaert, second by Droscha,
to approve the utilization of right-of-way for a commercial shoot by Harvest

Creative Services.
MOTION APPROVED UNANIMOUSLY

Executive Session – AFSCME Contract Negotiations

MOTION by Naeyaert,
to adjourn to executive session to discuss a matter involving the AFSCME
Contract Negotiations.

ROLL CALL VOTE:

Yes (7) Brown, Bruno, Clark, Droscha, Mulvany, Ferris, Naeyaert

No (0)

MOTION APPROVED UNANIMOUSLY

Council adjourned to executive session at 7:39 p.m. and reconvened at 8:20 p.m.

Resolution No. 2013-36 – AFSCME Agreement

MOTION by [DELETE] Naeyaert [INSERT] Droscha, second by [DELETE] Droscha [INSERT]
Brown,

to consider Resolution No. 2013-36 read.

MOTION APPROVED UNANIMOUSLY

Resolution No. 2013-36 was introduced by Naeyaert, seconded by Droscha.

**CITY OF MASON
CITY COUNCIL RESOLUTION NO. 2013-36
AFSCME AGREEMENT
September 3, 2013**

BE IT HEREBY RESOLVED by the Mason City Council that it does hereby ratify an Agreement between the City of Mason and Mason City Employees, Chapter of Local #1390, Council 25, American Federation of State, County and Municipal Employees, dated September 3, 2013 – September 2, 2016; and

BE IT FURTHER RESOLVED, the Mayor and City Administrator are hereby authorized to execute said Agreement on behalf of the City Council.

RESOLUTION APPROVED UNANIMOUSLY

UNFINISHED BUSINESS

None.

NEW BUSINESS

None.

CORRESPONDENCE

All correspondence was distributed. A letter from Ms. Kelly Hildebrandt was received by Mayor Pro Tem Naeyaert regarding issues with WOW.

LIAISON REPORTS

- Brown informed Council regarding the Sesquicentennial Committee business
- Mulvany informed Council regarding Historic District Commission business
- Ferris informed Council regarding Tree Commission business

COUNCILMEMBER REPORTS

Clark reported on the success of the Sun-Dried Festival and Sun-Dried Worship Service and thanked local business support, especially those who do not benefit financially from the event, and the Mason Police Department.

ADMINISTRATOR'S REPORT

Colburn informed Council regarding City business.

ADJOURNMENT

The meeting adjourned at 8:40p.m.

Deborah J. Cwiertniewicz, City Clerk

Leon R. Clark, Mayor

**CITY OF MASON
REGULAR CITY COUNCIL MEETING
MINUTES OF SEPTEMBER 16, 2013**

Clark called the meeting to order at 7:30 p.m. in the Council Chambers at 201 W. Ash Street, Mason, Michigan. Droscha led the Pledge of Allegiance and offered the invocation.

Present: Councilmembers: Brown, Bruno, Clark, Droscha, Ferris, Mulvany, Naeyaert
Absent: Councilmember: None
Also present: Martin A. Colburn, City Administrator
Deborah J. Cwiertniewicz, City Clerk
Eric Smith, Finance Director/Treasurer

ANNOUNCEMENTS

- Thursday Night Live – September 19, 2013

PEOPLE FROM THE FLOOR

None.

PUBLIC HEARINGS

Application to the Michigan Economic Development Corporation for a Blight Reduction Grant for 124 and 140 East Ash Street, Mason, MI through the Community Development Block Grant Program

Clark opened the public hearing at 7:37 p.m. Being there were no comments, he closed the public hearing at 7:38 p.m.

Resolution No. 2013-37 – A Resolution Authorizing the City of Mason to Apply to the Michigan Economic Development Corporation for a Blight Reduction Grant for 124 and 140 East Ash Street, Mason, MI through the Community Development Block Grant Program

MOTION by Naeyaert, second by Droscha,
to consider Resolution No. 2013-37 read.
MOTION APPROVED UNANIMOUSLY

Resolution No. 2013-37 was introduced by Droscha, seconded by Mulvany. A brief discussion was held on the process to follow if the grant was not awarded, and the increase in grant funds requested.

**CITY OF MASON
CITY COUNCIL RESOLUTION NO. 2013-37
A RESOLUTION AUTHORIZING THE CITY OF MASON TO APPLY TO THE
MICHIGAN ECONOMIC DEVELOPMENT CORPORATION FOR A BLIGHT
REDUCTION GRANT FOR 124 AND 140 E. ASH ST MASON, MI THROUGH
THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
September 16, 2013**

WHEREAS, the City of Mason is working cooperatively with the Ingham County Land Bank (ICLB), who in turn is working on a Development Agreement with private investors to develop their properties located at 124 and 140 East Ash Street; and

WHEREAS, this is a private/public partnership in which there are numerous components to make this project work financially; and

WHEREAS, the plan is to redevelop blighted properties that are within the Mason Historic District that front the southern exposure of the historic Ingham County Courthouse, and have been acquired by the ICLB due to foreclosure; and

WHEREAS, the concept is to develop the second and third stories of the two properties into ten single bedroom loft apartments, with the first floor designated as commercial space, totaling 23,000 square feet; and

WHEREAS, the City Council held a Public Hearing the evening of September 16, 2013 in regard to a Community Development Block Grant (CDBG) being applied for by the City of Mason through the Michigan Economic Development Corporation (MEDC) to assist blight reduction by rehabilitating loft apartments; and

WHEREAS, this grant request is for \$496,000 to eliminate these blighted properties and rehabilitate the properties to code. As required through the CDBG because of its federal funding, these properties are declared blight and a hazard to the community as documented by John Heckaman, City Building Code Inspector; and

WHEREAS, the Mason Historic District Commission met on August 27, 2013, and approved the proposed façade reconstruction for 124 and 140 E. Ash Street; and

WHEREAS, the Mason Historic District Commission has forwarded a letter of support of this project to the Michigan Economic Development Corporation, demonstrating the historic and economic values of this project; and

WHEREAS, the properties have been designated as blight properties, meeting the following requirements:

- Is declared a public nuisance in accordance with a local housing, building, plumbing, fire, or other related code or ordinance.
- Is an attractive nuisance to children because of physical condition, use, or occupancy.
- Is a fire hazard or is otherwise dangerous to the safety of persons or property.
- Has had the utilities, plumbing, heating, or sewerage permanently disconnected, destroyed, removed, or rendered ineffective so that the property is unfit for its intended use.

- Is property owned or under the control of a land bank fast track authority, whether or not located within a qualified local governmental unit. Property included within a Brownfield plan prior to the date it meets the requirements of this subdivision to be eligible property shall be considered to become eligible property as of the date the property is determined to have been or becomes qualified as, or is combined with, other eligible property. The sale, lease, or transfer of the property by a land bank fast track authority after the property's inclusion in a Brownfield plan shall not result in the loss to the property of the status as blighted property for purposes of this act; Now

BE IT HEREBY RESOLVED, by the Mason City Council, that this Public Hearing and Resolution authorizes the City of Mason to apply to MEDC blight reduction grant of \$496,000 for 124 and 140 E. Ash St. Mason, MI through the CDBG Program to reduce blight within the City of Mason, due to the conditions of the buildings as listed above, and place these properties to productive use.

RESOLUTION APPROVED UNANIMOUSLY

Efficiency Production, Inc. (EPI) – Request for IFT Exemption Agreement

Ken Forsberg, Efficiency Production, Inc. (EPI) President, informed Council regarding the request for an industrial facilities exemption. EPI manufactures trench safety equipment. The business expanded by opening rental stores across the country, stocking them with equipment manufactured in Mason. The rentals often are returned needing repair. An addition to the building is necessary to handle storing and repairing the rented equipment. The installation of a new linear drilling machine will be more economical and increase productivity for the business, as well as making the business more competitive.

Clark opened the public hearing at 7:51 p.m. and closed it at 7:52 p.m. as there were no comments from the public.

Resolution No. 2013-38 - Approval of Application for Industrial Facilities Exemption Certificate and Industrial Facilities Exemption Agreement with Efficiency Production, Inc.

MOTION by Naeyaert, second by Droscha,
to consider Resolution No. 2013-38 read with the inclusion of, "approval for a period of twelve (12) years" in the BE IT HEREBY RESOLVED paragraph.
MOTION APPROVED UNANIMOUSLY

Resolution No. 2013-38 was introduced by Droscha, seconded by Mulvany.

**CITY OF MASON
CITY COUNCIL RESOLUTION NO. 2013-38
APPROVAL OF APPLICATION FOR INDUSTRIAL FACILITIES EXEMPTION
CERTIFICATE AND INDUSTRIAL FACILITIES EXEMPTION AGREEMENT
WITH EFFICIENCY PRODUCTION, INC.
September 16, 2013**

WHEREAS, the State of Michigan has enacted 1974 PA 198 allowing industrial property owners property tax abatement under certain conditions; and

WHEREAS, Efficiency Production, Inc. ("EPI") has submitted an application to the City for tax abatement pursuant to Act 198, whereby property taxes would be abated or reduced on new industrial facilities to be acquired by the applicant consisting of machinery, equipment, and fixtures of approximately \$180,445 and real property improvements and additions of approximately \$775,000, as set forth in the applicant's application to the City Clerk dated July 16, 2013; and

WHEREAS, the City Council has adopted Council Resolution No. 1992-37, after a public hearing on July 6, 1992, duly noticed by publication, to establish Industrial Development District No. 3 pursuant to Act 198 to encompass the land and territory within which the Applicant proposes to acquire and maintain the building, land improvements, machinery and equipment to be acquired by the Applicant; and

WHEREAS, the description of said property is:

PART OF NW1/4 OF SEC 16 T2NR1W CITY OF MASON PA 425 AGREEMENT DESC AS: COM AT W 1/4 COR OF SEC 16 - S89N53'41" E ALNG EW 1/4 LN 1161.25 FT TO POB - S89N53'41"E ALNG SD 1/4 LN 762.51 FT TO WLY R/W LN OF CONRAIL RR - N07N08'04"W ALNG SD R/W LN 498.7 FT - ALNG SD R/W LN 157.14 FT ON CURVE TO LEFT, RAD 2861.25 FT, DELTA 03N08'48", CHD BRG N08N41'01"W 157.12 FT - N89N53'41"W 673.73 FT - S00N4'38"E 109.89 FT - SELY 32.98 FT ALNG CURVE TO RT, RAD 75 FT TO R/W LN OF TRILLIUM DR, SWLY ALNG SD R/W LN 44 FT ON CURVE TO RT, RAD 75 FT CHD BRG S29N38'29"W 43.37 FT - S00N04'38"E 474.8 FT TO POB 10.742 AC.

Commonly known as 685 Hull Road, Mason, Michigan
TIN 33-19-10-16-100-017

and

WHEREAS, EPI wishes to install a new linear CNC drilling machine and support equipment to its facility on the property legally described above, the value of said personal property to be approximately \$180,445 and to construct a building addition of approximately 14,000 square feet at a cost of approximately \$775,000 for real property improvements; and

WHEREAS, EPI seeks an Industrial Facilities Exemption Certificate on the personal property for a term of twelve (12) years, as described in its Application, dated July 16, 2013; and

WHEREAS, the City Council met in public hearing on September 16, 2013, as heretofore resolved and noticed, for the purpose of considering approval of said application; and

WHEREAS, the City Council has afforded the applicant, the public, the Assessor, and all of the affected taxing units notice and an opportunity for all persons desiring to be heard, either orally or

in writing, with respect to the approval of an Industrial Facilities Exemption Certificate for the applicant; and

WHEREAS, the granting of an Industrial Facilities Exemption Certificate to EPI will not substantially impede the operations or financial soundness of the City of Mason; and

WHEREAS, the City Council has received and considered a proposed written agreement as required by Section 22 of Act 198 to be entered into between the City and EPI containing the requirements for approval and the terms and conditions under which the Industrial Exemption Facilities Agreement shall be issued and retained;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Mason finds and determines that the granting of the EPI Industrial Facilities Exemption Certificate considered together with the aggregate amount of certificates previously granted and currently in force under 1974 PA 198, shall not have the effect of substantially impeding the operation of the City of Mason, or impairing the financial soundness of a taxing unit which levies ad valorem property taxes in the City of Mason; and

BE IT HEREBY RESOLVED, that the application of EPI for an Industrial Facilities Exemption Certificate for real and personal property improvements of \$775,000 and \$180,445, respectively, is hereby approved for a period of twelve (12) years; and

RESOLVED FURTHER, the City of Mason and EPI shall enter into the written Agreement containing the requirement for approval and issuance of the Industrial Facilities Exemption Certificate and allowing for the revocation of the Certificate if conditions imposed by the City of Mason are not met.

RESOLUTION APPROVED UNANIMOUSLY

CONSENT AGENDA

MOTION by Naeyaert, second by Droscha,
to approve the Consent Agenda as presented:

A. Approval of Bills - \$59,425.16

MOTION APPROVED UNANIMOUSLY

REGULAR BUSINESS

Motion – Approval of Minutes – Regular Council Meeting: September 3, 2013

Discussion was held to correct the Minutes on page two under Regular Business, Resolution No. 2013-36 – AFSCME Agreement, by changing the motion maker to Droscha and the seconder to Brown. The City Clerk was asked to check the information; if a change is required, she will add them to the next regular meeting agenda for approval.

MOTION by Naeyaert, second by Droscha,
to approve the Minutes of September 3, 2013.

MOTION APPROVED UNANIMOUSLY

MOTION by Naeyaert, second by Droscha,
to amend the agenda by moving Item 8(F) Motion – Request to Occupy the Public Right-of-Way, to Item 8(A), and move the remaining items accordingly.

MOTION APPROVED UNANIMOUSLY

Motion – Request to Occupy the Public Right-of-Way

Mr. Carl Brower, member of Kingdom Hall of Jehovah's Witnesses, stated that he is requesting to locate a brochure display in the public-right-of-way, monitored by two members, on Saturday, September 21 and during the remaining Farmers Market days.

MOTION by Naeyaert, second by Droscha,
to approve the request of Mr. Carl Brower to occupy the public-right-of-way
during the Farmers Market and Down Home Days.
Yes (6) Brown, Bruno, Droscha, Mulvany, Ferris, Naeyaert
No (1) Clark
MOTION APPROVED

First Reading – Ordinance No. 195 – An Ordinance to Amend Section 94-151 of Chapter 94 – Zoning – of the Code of the City of Mason to Amend Subsection (D) to Add a New Subsection (4) to Permit the Sale of Repaired, Used Vehicles, by Special Use Permit as an Accessory Use to a Body and Paint Shop for Automobiles and Other Vehicles

MOTION by Naeyaert, second by Droscha,
to consider Ordinance No. 195 read for the first time and refer it to the Planning
Commission.
MOTION APPROVED UNANIMOUSLY

Discussion was held regarding concern that this may not be the appropriate time to consider an amendment to the Zoning Ordinance; the current review of the Master Plan revealed the need to review the Zoning Ordinance. Also, the process of referring the ordinance to the Planning Commission was discussed.

MOTION by Bruno, second by Droscha,
to table Ordinance No. 195.
Yes (6) Bruno, Clark, Droscha, Mulvany, Ferris, Naeyaert
No (1) Brown
MOTION APPROVED

Resolution No. 2013-39 – Set Public Hearing for Creation of an Obsolete Property Rehabilitation District (OPRD)

A brief discussion was held regarding the public act providing for redevelopment of obsolete properties that previously were handled as Brownfield Redevelopment properties. This is the first time the City of Mason will be creating a district for rehabilitation of obsolete property under Public Act 146 of 2000. McGinty explained that the City of Mason recently became eligible to consider Obsolete Property Rehabilitation Act districts or to grant tax abatement; Mason was added as a qualified community to do that by a bulletin issued by the State Tax Commission in 2011.

MOTION by Naeyaert, second by Droscha,
to consider Resolution No. 2013-39 read.

MOTION by Droscha, second by Naeyaert,
to amend Resolution No. 2013-39 in the NOW, THEREFORE, BE IT
RESOLVED paragraph, the second sentence, following, "7:30 p.m."
insert, "or as soon thereafter" and in the BE IT FURTHER RESOLVED
paragraph, the fourth line, following *Ingham County*, insert *Community*.
MOTION APPROVED UNANIMOUSLY

VOTE ON THE MAIN MOTION:
MOTION APPROVED UNANIMOUSLY

Resolution No. 2013-39 was introduced by Bruno, seconded by Droscha.

**CITY OF MASON
CITY COUNCIL RESOLUTION NO. 2013-39
A RESOLUTION TO SET A PUBLIC HEARING TO CONSIDER THE ESTABLISHMENT OF AN
OBSOLETE PROPERTY REHABILITATION ACT DISTRICT PURSUANT TO 2000 PA 146**

WHEREAS, the City has received a written request from the Ingham County Land Bank requesting that an "Obsolete Property Rehabilitation Act District" be established pursuant to the provisions of 2000 P.A. 146 (Act 146) on certain property owned by the Land Bank in the city of Mason described as follows:

East 2/3 of Lot 2; West 2/3 of Lot 3; and North 41 feet of Lot 9, Block 17, Section 9, T2N, R1W, City of Mason, Ingham County, Michigan.

TIN 33-19-10-09-110-021 - commonly known as 124 E. Ash Street

TIN 33-19-10-09-110-007 - commonly known as 140 E. Ash Street

TIN 33-19-10-09-110-015 - being a portion of Alley 17 of the Plat of the City of Mason

and

WHEREAS, before the City Council may consider and act on its own initiative or upon the request of the Ingham County Land Bank to establish such district, the City Council must, pursuant to section 3 of Act 146, hold a public hearing on the application and give public notice to the applicant, the City Assessor, representatives of the affected taxing units and the general public.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Mason that a public hearing shall be held on October 7, 2013, at 7:30 p.m. or as soon thereafter, in the City Council chambers for the purpose of considering and acting upon the request of the Ingham County Land Bank that an obsolete property rehabilitation act district be established pursuant to 2000 PA 146 on the property owned by the Ingham County Land Bank described above; and

BE IT FURTHER RESOLVED that the City Clerk shall provide written notice by certified mail to the owners of record of all property within the proposed Obsolete Property Rehabilitation Act District and give public notice of the public hearing by publishing notice to all residents and taxpayers of the City of such hearing in the *Ingham County Community News* not less than 10 days nor more than 30 days prior to the hearing.

RESOLUTION APPROVED UNANIMOUSLY

Resolution No. 2013-40 – Award of Hayes Park Well Rehabilitation

MOTION by Naeyaert, second by Droscha,
to consider Resolution No. 2013-40 read.

MOTION APPROVED UNANIMOUSLY

Resolution No. 2013-40 was introduced by Mulvany, seconded by Droscha.

**CITY OF MASON
CITY COUNCIL RESOLUTION NO. 2013-40
AWARD OF HAYES PARK WELL REHABILITATION
SEPTEMBER 16, 2013**

WHEREAS, it is in the best interests of the City of Mason to maintain our wells; and

WHEREAS, Hayes Park Well is in the need of rehabilitation; now

THEREFORE BE IT RESOLVED, that the Mason City Council does hereby approve the award of the Hayes Park Well rehabilitation to Layne Christensen Company in the amount of \$25,699.

RESOLUTION APPROVED UNANIMOUSLY

Resolution No. 2013-41 – Award of Hayes Park Well Rehabilitation

MOTION by Droscha, second by Brown,
to consider Resolution No. 2013-41 read.

MOTION APPROVED UNANIMOUSLY

Resolution No. 2013-41 was introduced by Droscha, seconded by Mulvany.

MOTION by Naeyaert, second by Droscha,
to defer Resolution No. 2013-41 to the October 7, 2013 meeting.
MOTION APPROVED UNANIMOUSLY

Resolution No. 2013-42 – Alley Closure to Allow BAD Brewing Company to Hold an Outdoor Event

Mr. Brian Rasdale of BAD Brewing Company stated that he is requesting that the alley between Keans Store Company and BAD Brewing Company be closed on October 5, 2013 from 5:00 p.m. to 1:00 a.m. to hold an outdoor event. The Licensing and Regulatory Affairs (LARA) requires a resolution from the local governmental unit indicating that the licensee has permission to use the municipality owned area.

MOTION by Droscha, second by Brown,
to consider Resolution No. 2013-42 read.
MOTION APPROVED UNANIMOUSLY

Resolution No. 2013-42 was introduced by Mulvany, seconded by Droscha.

**CITY OF MASON
CITY COUNCIL RESOLUTION NO. 2013-42
ALLEY CLOSURE TO ALLOW BAD BREWING COMPANY TO HOLD AN OUTDOOR EVENT
September 16, 2013**

WHEREAS, Brian Rasdale of BAD Brewing Company has requested an alley closure to hold an outdoor event on October 5, 2013; and

WHEREAS, Mr. Rasdale has requested the alley be closed between the hours of 5:00 p.m. through 1:00 a.m. to allow set up and tear down, the event is scheduled to be held between the hours of 6:00 p.m. through 12:00 a.m.;

WHEREAS, live music is planned between the hours of 6:00p.m. through 10:00 p.m., in accordance with Mason Code Section 22-36(2); now

NOW, THEREFORE BE IT RESOLVED, that the Mason City Council does hereby approve the closure of the alley between Keans Store Company and BAD Brewing Company on October 5, 2013 between the hours of 5:00 p.m. and 1:00 a.m. as shown on the diagram submitted to hold an outdoor event.

RESOLUTION APPROVED UNANIMOUSLY

UNFINISHED BUSINESS

None.

NEW BUSINESS

Councilmember Naeyaert reported that her home cable service continues to be an issue; after a two day outage, a WOW representative told her it would be a week before they could get to her home. She currently has not had service for one week.

CORRESPONDENCE

All correspondence was distributed. Clark read a note that he received from Ms. Susan K. McPhee stating opposition to trimming the City Hall landscape.

LIAISON REPORTS

- Brown informed Council regarding the Sesquicentennial Committee business
- Naeyaert informed Council regarding Planning Commission business. It was the consensus of the Council to meet Monday, September 30, 2013, for a joint meeting with the Planning Commission to review the Master Plan updates.
- Clark informed Council regarding Downtown Development Authority business

COUNCILMEMBER REPORTS

None.

ADMINISTRATOR'S REPORT

Colburn informed Council regarding City business. A brief discussion was held regarding the recent flooding of the Library basement due to a heavy rain fall.

ADJOURNMENT

The meeting adjourned at 9:05 p.m.

Deborah J. Cwierniewicz, City Clerk

Leon R. Clark, Mayor

10/04/2013 01:54 PM
 User: TF
 DB: Mason City

INVOICE APPROVAL BY INVOICE REPORT FOR CITY OF MASON

EXP CHECK RUN DATES 09/20/2013 - 10/09/2013
 BOTH JOURNALIZED AND UNJOURNALIZED
 BOTH OPEN AND PAID

COUNCIL REPORT
 MONDAY, OCTOBER 7, 2013

Vendor Code Invoice GL Number	Vendor Name Invoice Description GL Description	Invoice Date	Amount
07480	ABRAHAM & GAFFNEY, P.C.		
EL-21463	AUDIT FIELDWORK YEAR END 6/30/2013	10/04/2013	
101-101.00-807.000	AUDIT FIELDWORK YEAR END 6/30/2013		11,400.00
248-000.00-807.000	AUDIT FIELDWORK YEAR END 6/30/2013		800.00
250-691.00-807.000	AUDIT FIELDWORK YEAR END 6/30/2013		1,800.00
			14,000.00
		VENDOR TOTAL:	14,000.00
07800	BLUE CROSS BLUE SHIELD OF MICHIGAN		
GR#7029499710DIV0002	OCTOBER HEALTH INS ~ CITY EXPENSE	09/20/2013	
750-000.00-231.015	OCTOBER HEALTH INS ~ CITY EXPENSE		8,725.10
GR#7029499DIV#0001	OCTOBER RETIREES INS ~ CITY EXPENSE	09/20/2013	
101-855.00-874.001	OCTOBER RETIREES INS ~ CITY EXPENSE		6,923.39
GRP#7029499710DIV#00	OCTOBER HEALTH INS ~ CITY EXPENSE	09/20/2013	
750-000.00-231.015	OCTOBER HEALTH INS ~ CITY EXPENSE		5,484.85
			21,133.34
		VENDOR TOTAL:	21,133.34
06474	CONSUMERS ENERGY		
OCT 2013	ELECTRICITY 8/23 - 9/23/13	10/04/2013	
592-555.00-920.000	ELECTRICITY 8/23 - 9/23/13		10,826.07
OCT 2013	ELECTRICITY 8/21 - 9/19/13	10/04/2013	
592-559.00-920.000	ELECTRICITY 8/21 - 9/19/13		7,409.92
			18,235.99
		VENDOR TOTAL:	18,235.99
05016	GRANGER		
SEPT 2013	SEPT REFUSE #2280 CUSTOMERS	10/04/2013	
101-528.00-818.000	SEPT REFUSE #2280 CUSTOMERS		27,109.20
			27,109.20
		VENDOR TOTAL:	27,109.20
06174	KEAN'S STORE COMPANY, LLC		
9/27/2013	50% OF KEANS FACADE GRANT	10/04/2013	
248-000.00-955.000	50% PMT ON KEANS FACADE GRANT		5,970.39
			5,970.39
		VENDOR TOTAL:	5,970.39
06480	MICHIGAN MUNICIPAL RISK		
M0001051	2ND INSTALLMENT GENERAL FUND	10/04/2013	
101-272.00-910.000	2ND INSTALLMENT GENERAL FUND		21,810.00
			21,810.00
		VENDOR TOTAL:	21,810.00
05242	MICHIGAN STATE OF		
AP 360302	W COLUMBIA PMT #2 & LOCAL SHARE	10/04/2013	
202-451.00-970.211	W COLUMBIA PMT #2 & LOCAL SHARE		60,227.11
			60,227.11

10/04/2013 01:54 PM
User: TF
DB: Mason City

INVOICE APPROVAL BY INVOICE REPORT FOR CITY OF MASON

EXP CHECK RUN DATES 09/20/2013 - 10/09/2013
BOTH JOURNALIZED AND UNJOURNALIZED
BOTH OPEN AND PAID

COUNCIL REPORT
MONDAY, OCTOBER 7, 2013

Vendor Code Invoice GL Number	Vendor Name Invoice Description GL Description	Invoice Date	Amount
			VENDOR TOTAL: 60,227.11
07550	RIETH-RILEY CONSTRUCTION CO INC		
PAY #1	2013 LOCAL ST PAY EST 1 & 2013 TEMPLE WATER MAIN	10/04/2013	
202-451.00-970.211	2013 LOCAL STREETS PAY ESTIMATE #1		136,948.53
592-558.00-970.919	2013 TEMPLE WATER MAIN		232,086.56
			369,035.09
			VENDOR TOTAL: 369,035.09
05363	WOLVERINE ENGINEERS INC		
2130373	PROJ#13-0066 CEDAR ST SEWER REPLACEMENT	10/04/2013	
592-548.00-970.010	PROJ#13-0066 CEDAR ST SEWER REPLACEMENT		6,221.00
			VENDOR TOTAL: 6,221.00
			TOTAL - ALL VENDORS: 543,742.12

I hereby certify that I have reviewed the above bills and expenses and to the best of my knowledge and belief, they cover expenditures of City services and materials and are within current budget appropriations.


Martin A. Colburn
City Administrator

CITY OF MASON

STAFF AGENDA REPORT TO CITY COUNCIL

Meeting Date: October 7, 2013

Agenda Item: 10 (A)

AGENDA ITEMS

Ordinance No. 195 – An Ordinance To Amend Section 94-151 Of Chapter 94 – Zoning – Of The Code Of The City Of Mason To Amend Subsection (D) To Add A New Subsection (4) To Permit The Sale Of Repaired, Used Vehicles, By Special Use Permit As An Accessory Use To A Body And Paint Shop For Automobiles And Other Vehicles

EXHIBITS

- Ordinance No. 195
- City Attorney's memo of Sept. 16, 2013, including attachments and edited ordinance
- Zoning Ordinance Amendment Application – Darrel Benedict
 - Letter of authorization of September 10, 2013 – J.M.E Consultants, Inc.
 - Proposed Amendment language
 - Legal description and property information
 - Email correspondence between Consultant and Zoning Administrator of September 12, 2013

STAFF REVIEW

Zoning & Development Department

SUMMARY STATEMENT

Questions arose at the September 16, 2013 Council meeting as to why this ordinance was provided to the City Council before it was provided to the Planning Commission. The reason that staff recommended this new procedure goes back to February of this year involving a rezoning request on North Mason Street. It was staff's understanding that Council wanted to see ordinance amendments (including rezoning) prior to the Planning Commission's recommendations, so as not to be "caught off guard".

We have discussed ordinance amendment procedures with the City Attorney to evaluate the City's zoning ordinance amendment procedure to determine if we are operating consistent with state law and city ordinances. It appears that the staff's recommendation in September was not inconsistent with the City's amendment procedures as long as the ordinance is immediately deferred to the Planning Commission to hold a public hearing and subsequent recommendation. Our past practice has been to start such ordinance amendments at the Planning Commission level.

Therefore, it is staff's opinion, as supported by the City Attorney, that amendments involving the zoning ordinance may start at either the City Council or Planning Commission, but that it

must be deferred to the Planning Commission and a public hearing held in accordance with state statute.

Because this issue was tabled at the September 16 Council meeting, staff, as supported by the City Attorney, recommends that the issue be removed from the table (by majority vote) and deferred to the Planning Commission for recommendation. The Council may introduce the ordinance before deferring it to the Planning Commission if desired, but it is not necessary.

The ordinance has been reviewed by the City Attorney, who has offered several suggested changes in the ordinance which are shown in edit form on the attached ordinance.

The following is a summary as presented on September 16, 2013:

Darrell Benedict of Benedict Auto Body is proposing a text amendment to the zoning ordinance to allow the sale of repaired, used vehicles, by special use permit as an accessory to a paint and body shop. Mr. Benedict proposes to add the following subsection (4) to Section 94-151(d):

- a. *Only the sale of vehicles which have been purchased in a state of disrepair and then repaired at the premises operated as a body and paint shop pursuant to Sec. 94-151(b)(10).*
- b. *The sale of the repaired vehicles shall not exceed a total sum of eighteen (18) per calendar year.*
- c. *No advertising shall occur or be placed on the premises indicating the sale of used vehicles. This shall include no "for sale" signage on the vehicle itself unless such vehicle is located on the premises where it is not readily visible to the general public from any nearby roads.*
- d. *No "off premises" advertising of any kind or nature which would impute or imply that the premises is being used as a used car dealership. This shall not restrict newspaper or other publication advertising any individual vehicle for sale, and so long as such advertising such does not impute or imply that the business owner is primarily engaged in the business of the sale of used vehicles.*
- e. *No repaired vehicles shall be kept or stored at the front of the site or at any location on the site where they are reasonably visible to the general public from abutting roadways.*
- f. *If and to the extent that the real estate used for purposes herein abuts any residentially zoned property, the applicant shall have installed a "privacy fence" to obscure the view of the accessory use permitted herein.*
- g. *The owner maintains accurate records reflecting the following regarding each vehicle purchased for repair: date of purchase, purchase price, brief description of repairs accomplished, and sale price.*
- h. *Compliance with all other provisions of these Ordinances including the requirements for a Special Use Permit as well as Sec. 94-151(e).*

- i. The owner complies with any federal, state, or county ordinances or requirements relative to the sale of repaired vehicles, obtains all required licenses and/or permits and maintains them in good standing at all times.*
- j. For purposes of this Sec. 94-151(d), the following definitions shall apply:
 - 1. "Vehicles" shall mean and refer to automobiles, trucks, motorcycles, and similar items.*
 - 2. "State of disrepair" shall mean that the vehicle in question had such damage or necessitated repairs to its power train, chassis, other non-exterior visible items and/or body work and where the necessary repairs, at normal retail pricing would exceed twenty-five percent (25%) of the retail value of the vehicle, after repair.**
- k. The City Planning Commission shall have the responsibility of the determination of granting a Special Use Permit pursuant to this Section. The Special Use Permit granted pursuant to this Section shall be valid for a calendar year. The owner shall reapply no later than October 15th of each calendar year for a renewal of the Special Use Permit, which application shall include an affidavit from the business owner that it has complied with the terms and provisions of this Sec. 94-151(d)(4) during the previous calendar year. Renewal shall occur administratively, if there appears to have been full compliance during the existing calendar year by the applicant. If there appears to be a failure of the applicant to have complied with the requirements of this Sec. 94-151(d)(4), the matter shall be set before the Planning Commission at the earliest opportunity.*
- l. The City shall establish such reasonable fees regarding the filing of the application, and any renewals thereof.*

RECOMMENDED ACTION(S)

Move to take Ordinance No. 195 from the table.

Introduce Ordinance No. 195 and consider read for the first time and refer to the Planning Commission for recommendation.

Or

Refer to the Planning Commission to hold a public hearing and provide a recommended action.

Introduced/First Reading: September 16, 2013
Second Reading/Adoption: _____, 2013
Effective Date: _____, 2013

CITY OF MASON
ORDINANCE NO. 195

AN ORDINANCE TO AMEND SECTION 94-151 OF CHAPTER 94 – ZONING – OF THE CODE OF THE CITY OF MASON TO AMEND SUBSECTION (d) TO ADD A NEW SUBSECTION (4) TO PERMIT THE SALE OF REPAIRED, USED VEHICLES, BY SPECIAL USE PERMIT AS AN ACCESSORY USE TO A BODY AND PAINT SHOP FOR AUTOMOBILES AND OTHER VEHICLES.

THE CITY OF MASON ORDAINS:

Section 94-151 of Chapter 94 of the Mason City Code is hereby amended to read as follows:

Section 94-151. M-1: Light manufacturing district.

- (a) Intent and purpose. It is the purpose of this district to provide opportunities for a variety of industrial activities that can be generally characterized as being of low intensity, including the absence of objectionable external affects such as noise, fumes, vibrations, odors and traffic patterns, and resulting in limited demands for additional public services. Manufacturing operations in this district are generally intended to utilize previously prepared materials as opposed to the use, alteration, or manipulation of raw materials.
- (b) Uses permitted by right.
- (1) Industrial parks.
 - (2) Research, development, and prototype manufacturing facilities and offices.
 - (3) Warehousing, grain elevators, grain storage, refrigerated storage, bulk storage of petroleum products, and general storage.
 - (4) Local and regional transit and passenger transportation facilities, and trucking terminals, maintenance and service facilities.
 - (5) Laundry services.
 - (6) The manufacturing, compounding, processing or treatment of such products as bakery goods, candy, cosmetics, dairy products, and food products.
 - (7) Assembly of merchandise such as electrical appliances, and electronic or precision instruments.

- (8) Printing, lithographic, blueprinting, copying, and similar uses.
 - (9) Light manufacturing activity which, by the nature of the materials, equipment, and processes utilized, is to a considerable extent clean, quiet, and free from any objectionable or dangerous nuisance or hazard including any of the following goods or materials:
 - a. Furniture and fixtures.
 - b. Paper and paperboard products.
 - c. Jewelry, silverware and plated ware.
 - d. Musical instruments and parts.
 - e. Toys and sporting goods.
 - f. Signs, advertising displays and canvas products.
 - g. Office computing and accounting equipment.
 - h. Jobbing and repair machine shops.
 - (10) Body and paint shops for automobiles and other vehicles.
- (c) Permitted accessory uses. Accessory uses and structures as defined in this chapter.
- (d) Uses authorized by special use permit.
- (1) Day care facilities serving the principal uses in the M-1 district if the planning commission determines that the nature of the principal use and/or the relative location of the principal use or other uses to the day care facility does not pose any significant threat to the safety of children attending the day care facility (refer to section 94-192(8)).
 - (2) Public buildings for governmental utility or public service use, including storage yards, transformer stations, and substations (refer to section 94-192(8)).
 - (3) Communication towers and antennas (refer to section 94-173(d)).
 - (4) Sale of repaired, used vehicles, by special use permit as an accessory use (refer to section 94-151(c)) to a paint and body shop for automobiles and other vehicles (refer to section 94-151(b)(10)) which meets and complies with the following conditions and criteria.
 - a. Only the sale of vehicles which have been purchased in a state of disrepair and then repaired at the premises operated as a body and paint shop pursuant to section 94-151(b)(10).

- b. The sale of the repaired vehicles shall not exceed a total sum of eighteen (18) per calendar year.
- c. No advertising shall occur or be placed on the premises indicating the sale of used vehicles. This shall include no “for sale” signage on the vehicle itself unless such vehicle is located on the premises where it is not readily visible to the general public from any nearby roads.
- d. No “off premises” advertising of any kind or nature which would impute or imply that the premises is being used as a used car dealership. This shall not restrict newspaper or other publication advertising any individual vehicle for sale, and so long as such advertising does not impute or imply that the business owner is primarily engaged in the business of the sale of used vehicles.
- e. No repaired vehicles shall be kept or stored at the front of the site or at any location on the site where they are reasonably visible to the general public from abutting roadways.
- f. If and to the extent that the real estate used for purposes herein abuts any residentially zoned property, the applicant shall have installed a “privacy fence” to obscure the view of the accessory use permitted herein.
- g. The owner maintains accurate records reflecting the following regarding each vehicle purchased for repair: date of purchase, purchase price, brief description of repairs accomplished, and sale price.
- h. Compliance with all other provisions of these Ordinances including the requirements for a Special Use Permit as well as section 94-151(e).
- i. The owner complies with any federal, state, or county ordinances or requirements relative to the sale of repaired vehicles, obtains all required licenses and/or permits and maintains them in good standing at all times.
- k. For purposes of this section 94-151(d), the following definitions shall apply:
 - 1. “Vehicles” shall mean and refer to automobiles, trucks, motorcycles, and similar items.
 - 2. “State of disrepair” shall mean that the vehicle in question had such damage or necessitated repairs to its power train, chassis, other non-exterior visible items and/or body work and where the necessary repairs, at normal retail pricing would exceed twenty-five percent (25%) of the retail value of the vehicle, after repair.

I. The planning commission shall have the responsibility of the determination of granting a special use permit pursuant to this section. The special use permit granted pursuant to this section shall be valid for a calendar year. The owner shall reapply no later than October 15th of each calendar year for a renewal of the special use permit, which application shall include an affidavit from the business owner that it has complied with the terms and provisions of this section 94-151(d)(4) during the current calendar year, to date, and will continue to comply with the terms and provisions through the remaining and the next calendar year. Renewal shall occur administratively, if there appears to have been full compliance during the existing calendar year by the applicant. If there appears to be a failure of the applicant to have complied with the requirements of this section 94-151(d)(4), the matter shall be set before the planning commission at the earliest opportunity.

m. The city shall establish such reasonable fees regarding the filing of the application, and any renewals thereof.

(e) Development standards. Any use of land or structures in this district shall comply with the general development standards of section 94-121(c) of this chapter.

Effective Date. Notice of this ordinance shall be published in a newspaper of general circulation in the city within 15 days after its adoption and mailed in accordance with the requirements of MCL 125.3401. This ordinance shall take effect upon the expiration of 20 days after its adoption.

The foregoing Ordinance was moved for adoption by Council Member _____ and supported by Council Member _____ with a vote thereon being: YES () NO (), at a regular meeting of the City Council held pursuant to public notice in compliance with the Michigan Open Meetings Act, on the ___ day of _____, 2013.

Mason Codes declared adopted this ___ day of _____, 2013.

Leon Clark, Mayor

Deborah J. Cwierniewicz, City Clerk

McGINTY, HITCH, HOUSEFIELD, PERSON,
YEADON & ANDERSON, P.C.

MEMORANDUM

TO: David Haywood, Zoning & Development Director

FROM: Dennis E. McGinty, City Attorney 

RE: **PROPOSED ORDINANCE NO. 195**
SUP FOR SALE OF REPAIRED USED VEHICLES

DATE: September 16, 2013



This is in response to your memo dated September 12, 2013, requesting that I review draft Ordinance No. 195 which will add a new subsection (d)(4) to the use district regulations for the M-1: Light Manufacturing District found at section 94-151 to allow the sale of repaired used vehicles by Special Use Permit.

It is my understanding that this draft ordinance has been prepared by an attorney for a local property owner who wishes to undertake this new business in the M-1 District and it will be introduced by the City Council Monday, September 16, 2013, and referred to the Planning Commission for review and recommendation. I have made a few drafting changes which I believe are helpful to the proposed ordinance and have deleted the first sentence of new subparagraph (j) on page 4 since this is covered elsewhere in Chapter 94. My editorial changes are highlighted on the enclosed ordinance.

I also have two substantive issues with respect to the draft ordinance. My first concern is with respect to subparagraph (4)(d), which prohibits "off-premises" advertising of any kind or nature for the permitted activity. I believe that a blanket prohibition against any off-premises advertising for this permitted business would be in violation of the First Amendment as an unconstitutional infringement upon freedom of commercial speech. Similar prohibitions were once proposed by the Michigan Liquor Commission with respect to the advertising for alcoholic liquor off the licensed premises. In OAG No. 6051 (April 6, 1982) (copy attached), the Michigan Attorney General held that such regulation against off-premises advertising is unconstitutional on two grounds. First, it analyzed the rule under the due process clause. Here there must be a legitimate public purpose to be served by the regulation and the regulation itself must directly advance the public interest in a real and substantial way. Such rules must, when applied to regulate speech, also be drafted to regulate through the least restrictive means permissible. Under this analysis, the Michigan Attorney General found such a rule to be invalid as an improper exercise of the commission's police power and as an unconstitutional infringement upon the licensee's freedom of commercial speech. I have not done an exhaustive search of case law on this issue, but I am well convinced that a blanket prohibition of

“off-premises” advertising such as this would clearly be found to be an over broad and unnecessary restraint on commercial speech. I would recommend that the entire subparagraph (d) be deleted.

My second concern has to do with new subparagraph (j), which places a one-year term limit on the SUP and requires the owner to seek annual renewals thereafter. Special use permits are generally considered to create rights in the land when the use is first established which thereafter run with the land for an indefinite period of time. Michigan courts have generally not looked with favor upon efforts by local communities to place time limits on special land uses. “Conditions limiting the time duration of a special land use attached to approval of an adult foster care facility, to allow the city to see the actual affect of the use on the neighborhood were invalidated in *Room and Board Homes and Family Care Homes*, 67 Mich App 381.” ICLE, *Michigan Zoning, Planning & Land Use*, March, 2010 Update, § 3.33, p 110. However, in the case of *Whitaker and Gooding Co v Co Twp*, 122 Mich App 538 (1983), the Court did approve a five-year time limit on an SUP for a mining operation. The Court distinguished its earlier ruling in room and board on the basis that a mining operation was, by its very nature, time-limited and therefore a time limitation in the SUP was reasonably related to the use of the land.

If challenged, I believe it may be difficult to defend a time limitation here since there does not seem to be any natural time limit for such use as proposed by the amendment. Nevertheless, there is some authority for time limits and, if the Planning Commission wishes to go forward with an SUP for this use with a one-year time limit, I have made a few changes to this section which I think would make it more defensible. I have changed the language to require that the zoning official shall renew the permit administratively on an annual basis unless there is a finding that the applicant has failed to comply with the requirements of the code and permit; if not, then the matter would be referred to the Planning Commission for further review. With this change, the permit can be considered to be issued for an indefinite term, subject to administrative review by the zoning official for compliance and by the Planning Commission in the case where full compliance was not obtained. In this way, the property owner has an expectation that the permit will continue indefinitely and may plan his business affairs accordingly with the understanding that he may be reviewed annually for compliance.

Please let me know if you have any further questions regarding these changes or whether you would like us to conduct a more in-depth research and review of these two legal issues.

bks
Enclosures
cc Marty Colburn w/enc



2 of 50 DOCUMENTS

OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF MICHIGAN

Opinion No. 6051

1982 Mich. AG LEXIS 63; 1981-82 Op. Atty Gen. Mich. 607

April 6, 1982

SYLLABUS:

[*1]

ADVERTISING:

Alcoholic liquor, beer and wine -- brand advertising

CONSTITUTIONAL LAW:

First Amendment guarantee of free speech -- advertising restrictions of Liquor Control Commission

INTOXICATING LIQUORS:

Prohibition against brand advertising

LIQUOR CONTROL:

Prohibition against brand advertising

Administrative Code 1979, R 436.1309(2) and (3), R 436.1315(2) and R 436.1327(1), which prohibit advertising of alcoholic liquor, violate the First Amendment to the Constitution of the United States.

REQUESTBY:

Thomas F. Schweigert, Chairman
Liquor Control Commission
7150 Harris Drive
Lansing, Michigan 48909

OPINIONBY:

FRANK J. KELLEY
Attorney General

OPINION:

You have requested my opinion as to whether the following administrative rules promulgated by the Liquor Control Commission, all of which affect advertising, are legally valid:

Administrative Code 1979, R 436.1309(2):

"Advertising in newspapers and periodicals, by all licensees except retail licensees, shall be limited to those published not less than quarterly and having a second class mailing permit, except upon written order of the commission."

Administrative Code 1979, R 436.1309(3):

"Alcoholic liquor shall not be advertised [*2] in a publication or program for a special occasion, except upon written order of the commission 30 days in advance of the event."

Administrative Code 1979, R 436.1315(2):

"Alcoholic liquor shall not be advertised on the licensed premises by placing the alcoholic liquor or an advertisement of alcoholic liquor in a window facing outside the licensed premises."

Administrative Code 1979, R 436.1327(1):

"Advertising of a brand of alcoholic liquor shall not be placed or erected on the outside of the licensed premises of a retail licensee."

OAG 1981-1982, No 6033, p 561 (February 4, 1982, considered the constitutionality of Administrative Code 1979, R 436.1333, an administrative rule of the Liquor Control Commission which prohibited licensees of the Commission from advertising the price of alcoholic liquor off the licensed premises. The opinion concluded that the advertising ban contained in said administrative rule was invalid on two separate and distinct grounds. First, it held that the Commission's absolute ban on price advertising by its licensees was invalid as an improper exercise of the police power vested in the Commission by Const 1963, art 4, § 40 and by 1933 Ex Sess PA [*3] 8, as amended; *MCLA 436.1 et seq.*, MSA 18.971 *et seq.* Secondly, the Commission's ban on price advertising was also determined to be invalid as an unconstitutional restraint upon the freedom of commercial speech guaranteed by the First and Fourteenth Amendments to the United States Constitution and by Const 1963, art 1, § 5.

The bases for these two holdings were similar. In order for a regulation to be sustained under the police power, there must be a 'real and substantial relationship' between the regulation and the public purpose which it is to share. *Grocers Dairy Co. v. Department of Agriculture Director* 377 Mich 71, 75-76; 138 NW2d 767 (1966). A substantially similar requirement is found in the test established by *Central Hudson Gas & Electric Corp v. Public Service Commission of New York*, 447 US 557, 566; 100 S Ct 2343, 2351; 65 L Ed 2d 341, 351 (1980), for determining the validity of restrictions upon commercial speech. That test requires a four-part analysis in such cases:

"[1] At the outset, we must determine whether the expression is protected by the First Amendment. For commercial speech to come within that provision, it at [*4] least must concern lawful activity and not be misleading. [2] Next, we ask whether the asserted governmental interest is substantial. If both inquiries yield positive answers, we must determine [3] *whether the regulation directly advances the governmental interest asserted*, and [4] whether it is not more extensive than is necessary to serve that interest." [Emphasis supplied.]

The primary public purpose or governmental interest which could be asserted in support of the Commission's ban on advertising was the promotion of temperance. Because the Commission's ban on advertising not only failed to effectuate this purpose, but actually ran contrary to another express policy of this State, that of fostering commercial competition, it was concluded that Administrative Code 1979, R 436.1333 failed to satisfy the foregoing standards for either the exercise of the police power or the regulation of commercial speech.

This is not to say that the Liquor Control Commission is totally without authority to regulate advertising by its licensees. Although the United States Supreme Court has repeatedly rejected absolute bans upon price advertising, see, e.g., *Virginia State Board of Pharmacy* [*5] *v. Virginia Citizens Consumer Council, Inc.*, 425 US 748; 96 S Ct 1817; 48 L Ed 2d 346 (1976) and *Bates v. State Bar of Arizona*, 433 US 350; 97 S Ct 2691; 53 L Ed 2d 810 (1977), the Court has made it equally clear that reasonable regulations upon commercial speech, if consistent with the four-part test established by *Central Hudson*, *supra*, may be sustained. This point was most recently reaffirmed in *In re RMJ* US ; 102 S Ct 929, 939; 71 L Ed 2d 64, 76-77 (1982), a case involving state imposed restrictions upon the form and content of advertising by attorneys. Although rejecting the regulations involved in that case on the ground that they were unduly restrictive, the Court stated:

"We emphasize . . . that the States retain the authority to regulate advertising that is inherently misleading or that has proven to be misleading in practice. There may be other substantial state interests as well that will support carefully drawn restrictions. But although the states may regulate commercial speech, the First and Fourteenth Amendments re-

quire that they do so with care and in a manner no more extensive than reasonably necessary to further substantial [*6] interests. . . ."

Turning to the questions of whether the four administrative rules you have cited comply with the foregoing standards for the exercise of the police power and the regulation of commercial speech, the central factor to be considered must be the public purpose or governmental interest which is served by those rules. In order to be sustained under the Commission's police power, there must be a "real and substantial" relationship between each of these rules and that public purpose. Similarly, because each of the cited rules restricts truthful commercial speech, each rule may be sustained, under the test set forth in *Central Hudson, supra*, only if the governmental interest is substantial and is directly advanced by the rule and, finally, if the rule is no more extensive than is necessary to serve the governmental interest.

Your staff indicates that the purpose of the four administrative rules here in question is identical to that of Administrative Code 1979, R 436.1333 and that the primary purpose of these four rules was simply to implement the general ban on price advertising contained in Administrative Code 1979, R 436.1333. A review of the hearing [*7] transcripts and other documents compiled during the promulgation of these rules confirms this conclusion. Inasmuch as OAG, 1981-1982, No 6033, *supra*, has concluded that the latter rule is deficient, it must follow that these four additional rules, intended to implement and to serve the same public purpose as Administrative Code 1979, R 436.1333, are also invalid.

It is my opinion, therefore, that Administrative Code 1979, R 436.1309(2) and (3), R 436.1315(2), and R 436.1327(1) are invalid as an improper exercise of the Commission's police power and as an unconstitutional infringement upon the freedom of commercial speech.

Legal Topics:

For related research and practice materials, see the following legal topics:

Constitutional Law
 Bill of Rights
 Fundamental Freedoms
 Freedom of Speech
 Commercial Speech
 Advertising
 Constitutional Law
 Bill of Rights
 Fundamental Freedoms
 Freedom of Speech
 Commercial Speech
 Misleading Speech
 Legal Ethics
 Legal Services Marketing
 Advertising

Introduced: _____, 2013
First Reading: _____, 2013
Second Reading: _____, 2013
Adoption: _____, 2013
Effective: _____, 2013

CITY OF MASON
ORDINANCE NO. 195

AN ORDINANCE TO AMEND SECTION 94-151 OF CHAPTER 94 – ZONING – OF THE CODE OF THE CITY OF MASON TO AMEND SUBSECTION (d) TO ADD A NEW SUBSECTION (4) TO PERMIT THE SALE OF REPAIRED, USED VEHICLES, BY SPECIAL USE PERMIT AS AN ACCESSORY USE TO A BODY AND PAINT SHOP FOR AUTOMOBILES AND OTHER VEHICLES.

THE CITY OF MASON ORDAINS:

Section 94-151 of Chapter 94 of the Mason City Code is hereby amended to read as follows:

Sec. 94-151. M-1: Light manufacturing district.

- (a) Intent and purpose. It is the purpose of this district to provide opportunities for a variety of industrial activities that can be generally characterized as being of low intensity, including the absence of objectionable external affects such as noise, fumes, vibrations, odors and traffic patterns, and resulting in limited demands for additional public services. Manufacturing operations in this district are generally intended to utilize previously prepared materials as opposed to the use, alteration, or manipulation of raw materials.
- (b) Uses permitted by right.
- (1) Industrial parks.
 - (2) Research, development, and prototype manufacturing facilities and offices.
 - (3) Warehousing, grain elevators, grain storage, refrigerated storage, bulk storage of petroleum products, and general storage.
 - (4) Local and regional transit and passenger transportation facilities, and trucking terminals, maintenance and service facilities.
 - (5) Laundry services.
 - (6) The manufacturing, compounding, processing or treatment of such products as bakery goods, candy, cosmetics, dairy products, and food products.

- (7) Assembly of merchandise such as electrical appliances, and electronic or precision instruments.
 - (8) Printing, lithographic, blueprinting, copying, and similar uses.
 - (9) Light manufacturing activity which, by the nature of the materials, equipment, and processes utilized, is to a considerable extent clean, quiet, and free from any objectionable or dangerous nuisance or hazard including any of the following goods or materials:
 - a. Furniture and fixtures.
 - b. Paper and paperboard products.
 - c. Jewelry, silverware and plated ware.
 - d. Musical instruments and parts.
 - e. Toys and sporting goods.
 - f. Signs, advertising displays and canvas products.
 - g. Office computing and accounting equipment.
 - h. Jobbing and repair machine shops.
 - (10) Body and paint shops for automobiles and other vehicles.
- (c) Permitted accessory uses. Accessory uses and structures as defined in this chapter.
- (d) Uses authorized by special use permit.
- (1) Day care facilities serving the principal uses in the M-1 district if the planning commission determines that the nature of the principal use and/or the relative location of the principal use or other uses to the day care facility does not pose any significant threat to the safety of children attending the day care facility (refer to section 94-192(8)).
 - (2) Public buildings for governmental utility or public service use, including storage yards, transformer stations, and substations (refer to section 94-192(8)).
 - (3) Communication towers and antennas (refer to section 94-173(d)).
 - (4) Sale of repaired, used vehicles, by special use permit as an accessory use (refer to section 94-151(c)) to a paint and body shop for automobiles and other vehicles (refer to section 94-151(b)(10)) which meets and complies with the following conditions and criteria.

- a. Only the sale of vehicles which have been purchased in a state of disrepair and then repaired at the premises operated as a body and paint shop pursuant to Sec. 94-151(b)(10).
- b. The sale of the repaired vehicles shall not exceed a total sum of eighteen (18) per calendar year.
- c. No advertising shall occur or be placed on the premises indicating the sale of used vehicles. This shall include no "for sale" signage on the vehicle itself unless such vehicle is located on the premises where it is not readily visible to the general public from any nearby roads.
- d. ~~No "off premises" advertising of any kind or nature which would impute or imply that the premises is being used as a used car dealership. This shall not restrict newspaper or other publication advertising any individual vehicle for sale, and so long as such advertising such does not impute or imply that the business owner is primarily engaged in the business of the sale of used vehicles.~~
- e. No repaired vehicles shall be kept or stored at the front of the site or at any location on the site where they are reasonably visible to the general public from abutting roadways.
- ef. If and to the extent that the real estate used for purposes herein abuts any residentially zoned property, the applicant shall have installed a "privacy fence" to obscure the view of the accessory use permitted herein.
- fg. The owner maintains accurate records on the premises for each vehicle purchased for repair reflecting the following regarding each vehicle purchased for repair: date of purchase, purchase price, seller, a brief description of repairs accomplished, and sale price. Such records shall be made available for inspection by the zoning official upon request.
- gh. Compliance with all other provisions of these Ordinances including the requirements for a Special Use Permit as well as Sec. 94-151(e).
- hi. The owner complies with any federal, state, or county ordinances or requirements relative to the sale of repaired vehicles, obtains all required licenses and/or permits and maintains them in good standing at all times.
- ik. For purposes of this §subsec. 94-151(d)(4), the following definitions shall apply:
 - 1. "Vehicles" shall mean and refer to automobiles, trucks, motorcycles, and similar items.

2. "State of disrepair" shall mean that the vehicle in question had such damage or necessitated repairs to its power train, chassis, other non-exterior visible items and/or body work and where the necessary repairs, at normal retail pricing would exceed twenty-five percent (25%) of the retail value of the vehicle, after repair.

~~j.~~ The City Planning Commission shall have the responsibility of the determination of granting a Special Use Permit pursuant to this Section. The Special Use Permit granted pursuant to this ~~§~~subsec shall be valid for a calendar year. The owner may shall reapply no later than October 15th of each calendar year for a renewal of the Special Use Permit, which application shall include an affidavit from the business owner that it has complied with the terms and provisions of this ~~§~~subsec. 94-151(d)(4) during the previous calendar year. The zoning official shall Renewal shall occur administratively approve the application for renewal, if he finds there appears to have been full compliance during the existing calendar year by the applicant has fully complied with the requirements of this subsection and the Special Use Permit during the existing calendar year. If there appears to be a failure of the applicant to have complied with the requirements of this ~~§~~subsec. 94-151(d)(4), the matter application for renewal shall be set before the Planning Commission at the earliest opportunity.

~~k.~~ The City Council shall establish such reasonable fees regarding the filing of the application, and any renewals thereof.

(e) Development standards. Any use of land or structures in this district shall comply with the general development standards of section 94-121(c) of this chapter.

Effective Date. Notice of this ordinance shall be published in a newspaper of general circulation in the city within 15 days after its adoption and mailed in accordance with the requirements of MCL 125.3401. This ordinance shall take effect upon the expiration of 20 days after its adoption.

The foregoing Ordinance was moved for adoption by Council Member _____ and supported by Council Member _____ with a vote thereon being: YES () NO (), at a regular meeting of the City Council held pursuant to public notice in compliance with the Michigan Open Meetings Act, on the ____ day of _____, 2013.

Mason Codes declared adopted this ____ day of _____, 2013.

Leon Clark, Mayor

Deborah J. Cwierniewicz, City Clerk

APPLICATION – ZONING ORDINANCE AMENDMENT

City of Mason

Zoning & Development Department • 201 W. Ash Street, Mason, MI 48854

Phone: 517/676-9155 • Fax: 517/676-1330

www.mason.mi.us



Applicant- Please indicate the following:	
Current Zoning District(s):	
Requested Zoning District(s):	
Text Amendment	SEC. 94-151. U-2: LIGHT MANUF. DISTRICT

ZONING & DEVELOPMENT DEPT. USE ONLY	
Application Received:	Sept. 11, 2013
Tax ID:	N/A
Fee:	N/A
Receipt #:	N/A

I. APPLICANT INFORMATION

Name DARRELL BENEDICT, BY: LEE J. KLEIN, JME CONSULTANTS INC.

Organization BENEDICT AUTO BODY

Address 2958 CRESTWOOD DR., EAST LAUSING, MI 48823

Telephone Number 517-332-2388 Facsimile Number 517-332-2374

Interest in Property (owner, tenant, option, etc.) OWNER REP.

Note: If applicant is anyone other than owner, request must be accompanied by a signed letter of authorization from the owner. * ATTACHED *

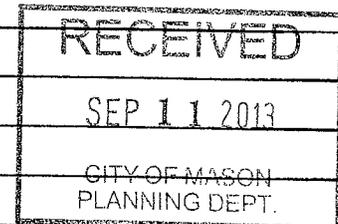
II. PROPERTY INFORMATION (for rezoning only)

Owner DARRELL BENEDICT Telephone Number 517-676-4970

Property Address 246 W. MAPLE ST., MASON, MI 48854

Legal Description: If in a Subdivision: Subdivision Name _____ Lot Number _____

If Metes and Bounds (can be provided on separate sheet): _____



APPLICANT CERTIFICATION

By execution of this application, the person signing represents that the information provided and the accompanying documentation is, to the best of his/her knowledge, true and accurate. In addition, the person signing represents that he or she is authorized and does hereby grant a right of entry to City officials for the purpose of inspecting the premises to determine compliance with the requirements of the zoning code district requested by the applicant and compliance with conditions precedent to the granting of the zoning district change/text amendment requested.

Signature Darrell Benedict

Date 9-11-13

III. **REQUEST DESCRIPTION**

A. **Text Amendment Description (if applicable, attach additional sheets as necessary)**

SEE ATTACHED.

B. **Site Area (for rezoning only)**

Indicate the size of the site subject to the request for change of zoning:

In square feet (if under one (1) acre): 8,064 sq. ft.

In acres (if over one (1) acre): _____

B. **Master Plan (for rezoning only)**

Future Land Use Designation (from Master Plan): AUTO BODY REPAIR & LIMITED REPAIRED VEHICLE SALES.
Does the proposed Zoning District conform to this designation? YES NO

C. **Available Services (for rezoning only)**

Public Water YES NO Paved Road(s) (Asphalt or Concrete) YES NO
Public Sanitary Sewer YES NO Public Storm Sewer YES NO

Note: Health Department Certification may be required where public water and/or sanitary sewer are not available

D. **Current Use (for rezoning only)**

Are there any structures currently on the property? YES NO

If so, describe the number of structures and how the structures are used (attach additional sheets, if necessary):

BODY SHOP-AUTO REPAIR AND PAINTING, PAINT BOOTH, FRAME MACHINE
BODY REPAIR WELDING WAREHOUSE FOR STORAGE

E. **Soils Data (for rezoning only)**

Has soil bearing capacity and septic suitability of the ground been tested? YES NO
If so, attach 30 copies. Note: such testing may be required if conditions warrant.

IV. **APPLICATION MATERIALS**

The following is a checklist of items that generally must be submitted with applications for Rezoning. The applicant must submit 30 copies of plans or drawings larger than 11" x 17". Incomplete applications will not be processed.

- Completed application form
- Plot Plan of area proposed for Rezoning (see "A" below)
- Legal description of area proposed for Rezoning
- Proof of ownership or owner authorization to request Rezoning
- Fee (see "B" below)
- Any other information deemed necessary

A. **Plot Plan**

The Plot Plan shall be drawn to a readable scale and shall show all of the following information:

1. Existing structures and parking areas, with setback dimensions from property lines
2. Survey pins or monuments

3. All easements on the property
4. Overhead and underground utilities
5. Floodplain and wetlands
6. Topography (where land characteristics have a bearing on the request)
7. Surface drainage, indicated by directional arrows
8. Existing zoning and use of surrounding properties

- B. **Application Fee (for rezoning only) \$300.00** All requests must be accompanied by a fee, as established by City Council.

Engineering Review Fee (for rezoning only) \$220.00 – Minimum Two-hour fee for projects increasing demand on public utilities. Actual fees incurred are billed to applicant upon completion of review.

V. **APPLICATION DEADLINES**

Complete applications must be received at least one week in advance of a City Council meeting. A public hearing will be scheduled at the next Planning Commission meeting. At that time the Planning Commission will make a recommendation to the City Council, which has the final authority to approve or deny an application for Rezoning.

Planning Commission meetings are held on the second Tuesday after the first Monday of every month. The City Council will consider recommendations from the Planning Commission at their regular meeting on the third Monday of the month. If any Monday is a City recognized holiday, the meeting is held on the following day (Tuesday).

VI. **STAFF REPORT**

The Planning Department Staff will prepare a report to the Planning Commission regarding an application for Rezoning/Text Amendment. The report will explain the request and review whether it complies with the standards in the Zoning Code and the Master Plan. Staff will present the findings of that report during the Planning Commission meeting. An applicant who wishes to obtain one (1) copy of that report, at no cost, prior to the meeting must provide a written request to the Planning Department. The report is generally complete on the Friday before the Planning Commission meeting and can be mailed to the applicant or picked up by the applicant in the Planning Department.

J.M.E. Consultants, Inc.

Business Consultants
Contract Negotiations
Real Estate Planning
Development & Financing
Property Management
Construction Management

Lee J. Klein, President
2958 Crestwood Drive
East Lansing, Michigan 48823
517-332-2388 - Telephone
517-332-2374 - Facsimile
517-490-1310 - Cellular
j.m.e@comcast.net

Projections & Pro-Formas
Sales & Acquisitions
Licensing & Zoning
Commercial Market Analysis
Business/Commercial Arbitration
Divorce Mediation

September 10, 2013

Mr. David Haywood
City of Mason
201 W. Ash Street, P.O. Box 370
Mason, MI 48854

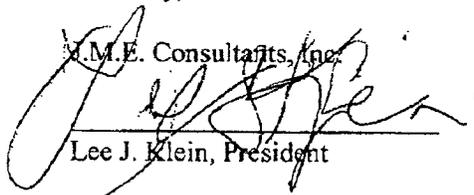
Re: *Darrell Benedict; Benedict Auto Body*
246 W. Maple Street, Mason, Michigan

Dear Mr. Haywood:

Please be advised that this office has been retained by Darrell Benedict and Benedict Auto Body to represent them in connection with the possible amendment to the City of Mason Ordinances. By signature hereon below, Darrell Benedict, individually, and as the owner of Benedict Auto Body, does hereby authorize JME Consultants, Inc. and, in particular, Lee J. Klein, President of JME Consultants, Inc, to act on his behalf and on behalf of his company in connection with all matters with the City of Mason, including, but not limited to, possible amendments to the City Ordinances and any applications for Special Use Permits.

Thank-you for your attention to this matter.

Sincerely,

J.M.E. Consultants, Inc.

Lee J. Klein, President

LJK/dss
benedict-authorization ltr-091013.wpd

I do hereby acknowledge and confirm the above authorization


Darrell L. Benedict, individually and
as Owner of Benedict Auto Body
246 W. Maple Street
Mason, Michigan 48854
Dated: September 11, 2013

**PROPOSED AMENDMENT TO MASON CODE ORDINANCE
SECTION 94-151. M-1: LIGHT MANUFACTURING DISTRICT**

The following is the proposed Amendment to Section 94-151. M-1: Light Manufacturing District and, in particular, 94-151(d) to add a new Section (4) to 94-151(d):

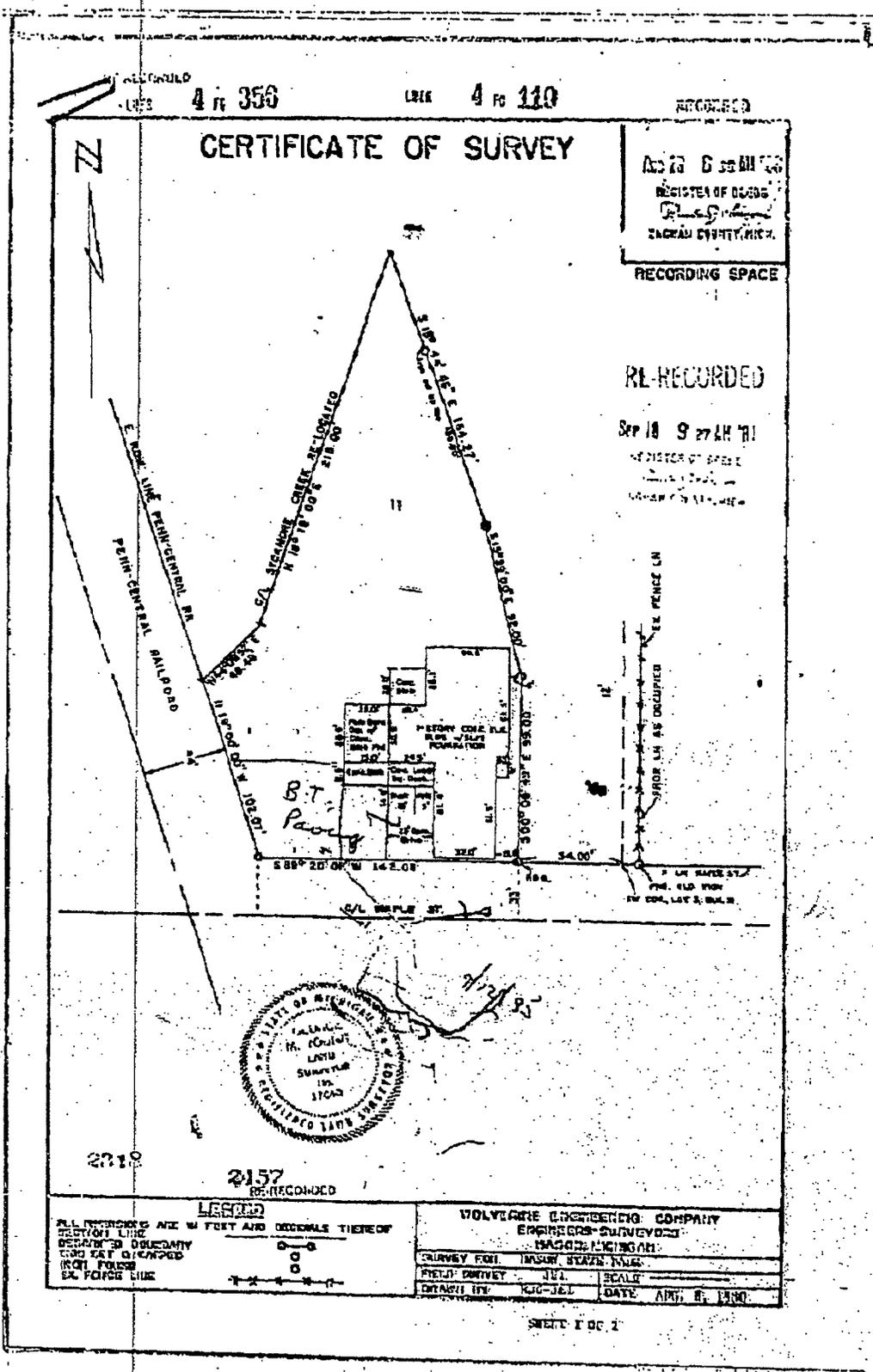
Sec. 94-151(d)(4) Sale of repaired, used vehicles, by Special Use Permit as an accessory use (refer to Sec. 94-151(c)) to a body and paint shop for automobiles and other vehicles (refer to Sec. 94-151(b)(10)) which meets and complies with the following conditions and criteria:

- (i) Only the sale of vehicles which have been purchased in a state of disrepair and then repaired at the premises operated as a body and paint shop pursuant to Sec. 94-151(b)(10).
- (ii) The sale of the repaired vehicles shall not exceed a total sum of eighteen (18) per calendar year.
- (iii) No advertising shall occur or be placed on the premises indicating the sale of used vehicles. This shall include no "for sale" signage on the vehicle itself unless such vehicle is located on the premises where it is not readily visible to the general public from any nearby roads.
- (iv) No "off premises" advertising of any kind or nature which would impute or imply that the premises is being used as a used car dealership. This shall not restrict newspaper or other publication advertising any individual vehicle for sale, and so long as such advertising such does not impute or imply that the business owner is primarily engaged in the business of the sale of used vehicles.
- (v) No repaired vehicles shall be kept or stored at the front of the site or at any location on the site where they are reasonably visible to the general public from abutting roadways.
- (vi) If and to the extent that the real estate used for purposes herein abuts any residentially zoned property, the applicant shall have installed a "privacy fence" to obscure the view of the accessory use permitted herein.
- (vii) The owner maintains accurate records reflecting the following regarding each vehicle purchased for repair: date of purchase, purchase price, brief description of repairs accomplished, and sale price.
- (viii) Compliance with all other provisions of these Ordinances including the requirements for a Special Use Permit as well as Sec. 94-151(e).
- (ix) The owner complies with any federal, state, or county ordinances or requirements relative to the sale of repaired vehicles, obtains all required licenses and/or permits and maintains them in good standing at all times.
- (x) For purposes of this Sec. 94-151(d), the following definitions shall apply:
 - (A) "Vehicles" shall mean and refer to automobiles, trucks, motorcycles, and similar items.
 - (B) "State of disrepair" shall mean that the vehicle in question had such damage or necessitated repairs to its power train, chassis, other non-exterior visible items and/or body work and where the necessary repairs, at normal retail pricing would exceed twenty-five percent (25%) of the retail value of the vehicle, after repair.

(xi) The City Planning Commission shall have the responsibility of the determination of granting a Special Use Permit pursuant to this Section. The Special Use Permit granted pursuant to this Section shall be valid for a calendar year. The owner shall reapply no later than October 15th of each calendar year for a renewal of the Special Use Permit, which application shall include an affidavit from the business owner that it has complied with the terms and provisions of this Sec. 94-151(d)(4) during the previous calendar year. Renewal shall occur administratively, if there appears to have been full compliance during the existing calendar year by the applicant. If there appears to be a failure of the applicant to have complied with the requirements of this Sec. 94-151(d)(4), the matter shall be set before the Planning Commission at the earliest opportunity.

(xii) The City shall establish such reasonable fees regarding the filing of the application, and any renewals thereof.

Legal Land description



CERTIFICATE OF SURVEY

APPROVED
 REGISTER OF DEEDS
 SACRAMENTO COUNTY, CALIF.
 RECORDING SPACE

RE-RECORDED
 Sep 18 9 27 AM '11
 REGISTER OF DEEDS
 SACRAMENTO COUNTY, CALIF.



2010
 2157
 RE-RECORDED

LEGEND
 ALL DIMENSIONS ARE IN FEET AND DECIMALS THEREOF
 SECTION LINE
 DESCRIBED QUANTITY
 NOT SET OUT
 EX. FENCE LINE

WOLVERINE ENGINEERING COMPANY
 ENGINEERS-SURVEYORS
 SACRAMENTO, CALIFORNIA

SURVEY FOR: TRANSFER SPACE VALUE
 FIELD DRIVE: 101
 DRAWN BY: JMC-JEL
 DATE: APR. 8, 1990

09:54a

Benedict Auto Body

5176769959

p.18

INGHAM COUNTY

10/11/12

OWNER/TAXPAYER/OTHER PARTY OF RECORD:

BENEDICT DARRELL L

246 W MAPLE
MASON, MI 48854

TAX YEAR	BASE TAX	TOTAL DUE IF PAID BY 11/30/12	TOTAL DUE IF PAID BY 12/31/12	TOTAL DUE IF PAID BY 01/31/13
2011	5,216.95	7,040.16	7,102.33	7,164.49
TOTAL	5,216.95	7,040.16	7,102.33	7,164.49

PARCEL INFORMATION

PARCEL NUMBER: 33-19-10-08-231-008

PARCEL ADDRESS: 246 W MAPLE
MASON MI 48854

LEGAL DESCRIPTION:

BEG AT PT 54 FT W OF SW COR LOT 5 BLOCK 51 -
S89D20'01"W 142.08 FT TO E R/W LN PENN CENTER
N190W 102.07 FT -N44D09' 52"E 48.48 FT -
N18D19'E 215 FT-S18D44'46"E 154.27 FT -S15D
29'E 92 FT -S00D06'49"E 99 FT TO POB SEC 8
T22N1W CITY OF MASON

Unpaid 2011 real property taxes were turned delinquent to the Ingham County Treasurer's Office on March 1, 2012. If the 2011 delinquent tax, interest, penalties, and fees are not paid on or before March 31, 2014, after an uncontested judgment has been entered by a circuit court judge, absolute title to the property shall vest in the foreclosing governmental unit. All redemption rights will expire on March 31, 2014.

The Ingham County Treasurer will accept partial payments for the delinquent tax. Very low income households may qualify for State or Local hardship, contact the Michigan Department of Human Services at (517) 877-9400 or visit them at 5303 S. Cedar St. in Lansing for possible State hardship assistance, or call your local assessor and request a poverty exemption application.

Payments may be made in our Lansing Office at 313 W. Kalamazoo St. in the Veterans Memorial Courthouse

PLEASE DETACH ALONG PERFORATION ABOVE. KEEP THE TOP PORTION FOR YOUR RECORDS.

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT. THANK YOU.

SEND PAYMENT TO:

ERIC SCHERTZING
INGHAM COUNTY TREASURER
PO BOX 215
341 S JEFFERSON ST.
MASON, MI 48854-0215
(517) 676-7220

TAX IS FOR PARCEL NUMBER:

33-19-10-08-231-008



****POSTMARKS WILL NOT BE ACCEPTED AS DATE OF PAYMENT****

NEW ACH Payment Option available on our website. Please visit <http://www.ingham.org/indirect> for the ACH Authorization Form link.

Due if paid by 11/30/12	7,040.16
Due if paid by 12/31/12	7,102.33
Due if paid by 01/31/13	7,164.49

PARCEL ADDRESS:
246 W MAPLE
MASON MI 48854

BENEDICT DARRELL L

246 W MAPLE
MASON, MI 48854

MAKE CHECK OR MONEY ORDER PAYABLE TO:
INGHAM COUNTY TREASURER

AMOUNT REMITTED: _____

David Haywood

From: j.m.e@comcast.net
Sent: Thursday, September 12, 2013 9:44 AM
To: David Haywood
Subject: Re: Amendment to City Ordinance Sec. 94-151 Allowing for Sale of Repaired Vehicles as Ancillary Use to Body & Paint Shop

David - Please make the following changes to the proposed Ordinance Amendment. References are to lettered section numbers.

(d) Please remove the word "such" after the word "advertising" in the second to last line.

(l) Please change the 8th line by removing the words "previous calendar year" at the end of the third sentence and put the following in its place: "...current calendar year, to date, and will continue to comply with the terms and provisions through the remaining and the next calendar year".

That covers it. Thanks for your help. Keep me posted as matters progress.

Lee

Lee J. Klein, President
JME Consultants, Inc.
2958 Crestwood Drive
East Lansing, Michigan 48823
517-332-2388 - Telephone
517-332-2374 - Facsimile
517-490-1310 - Cellular
j.m.e@comcast.net - Email

From: "David Haywood" <davidh@mason.mi.us>
To: "j m e" <j.m.e@comcast.net>
Sent: Thursday, September 12, 2013 9:17:45 AM
Subject: RE: Amendment to City Ordinance Sec. 94-151 Allowing for Sale of Repaired Vehicles as Ancillary Use to Body & Paint Shop

Lee, this is what I have proposed to go to Council. It is due to the City Clerk today, so any comments would be appreciated as soon as possible. I had to re-number your version to fit the City's outline format and some minor formatting. Otherwise it is verbatim. I cut and paste from the attachment in your email of 9/10/13.

From: j.m.e@comcast.net [<mailto:j.m.e@comcast.net>]
Sent: Tuesday, September 10, 2013 9:51 AM
To: David Haywood
Cc: autodarrell@hotmail.com
Subject: Amendment to City Ordinance Sec. 94-151 Allowing for Sale of Repaired Vehicles as Ancillary Use to Body & Paint Shop

David - I was waiting to hear back from you. I went back and looked at your last email, and realized that you were probably waiting for me to provide you with the changed language. I thought when we spoke I indicated I had no problems with those changes but now realize you needed the actual language from me. Therefore, it is attached. I have "edited" it for your convenience in reviewing the changes. Please call with any questions.

Thanks,
Lee

Lee J. Klein, President
JME Consultants, Inc.
2958 Crestwood Drive
East Lansing, Michigan 48823
517-332-2388 - Telephone
517-332-2374 - Facsimile
517-490-1310 - Cellular
j.m.e@comcast.net - Email

CONFIDENTIALITY NOTICE. The contents of this message from JME Consultants, Inc. is intended only for the individual or entity named and may be confidential and privileged. If this message has been received in error, please notify this office and destroy this message.

CIRCULAR 230 DISCLOSURE. In accordance with U.S. Treasury regulations, if this message from JME Consultants, Inc. (or any attachment) contains advice concerning one or more federal tax issues, it is not a formal legal opinion and may not be used by any person for the avoidance of federal tax penalties.

CITY OF MASON

STAFF AGENDA REPORT TO CITY COUNCIL

Meeting Date: October 7, 2013

Agenda Item: 10 (B)

AGENDA ITEM

- Resolution 2013-41—Approval to award rehabilitation and cleaning of material out of Well No. 8 to Northern Pump and Well

EXHIBITS

None

STAFF REVIEW

Department of Public Works

SUMMARY STATEMENT

In 2012, Well Number 8 was found to have a cave-in at 300 feet, which caused a loss in production. The City of Mason put out a request for bids based on time and materials and lump sum items to clean out this well and put it back in service, for which the City has a budget of \$30,000. The bid documents allow the City of Mason a per hour rate to clean out the material from the well and lump sum prices for the known work to be done. The recommendation to award the work to Northern Pump and Well is based off the bid documents and reviewing unit prices to clean the material out of the well. The quotes below are for the lump sum prices and now reflect the per hour cost to clean out the well. The bids received were:

<u>Company Name</u>	<u>Hourly Rate[^]</u>	<u>Total Bid Amount</u>
Northern Pump and Well	\$175.00	\$15,963.00
Peerless- Midwest	\$190.00	\$16,190.00
Ed Birkmeier Well Drilling	\$250.00	\$16,784.00

[^]Based on air lifting with a compressor hourly rate

RECOMMENDED ACTION

Approve Resolution 2013-41 to award the rehabilitation and cleaning of material out of Well Number 8 to Northern Pump and Well for \$15,963.00.

Introduced:
Second:

**CITY OF MASON
CITY COUNCIL RESOLUTION NO. 2013-41**

AWARD OF WELL NUMBER 8 REHABILITATION AND CLEANING

OCTOBER 7, 2013

WHEREAS, it is in the best interests of the City of Mason to maintain our wells; and

WHEREAS, Well number 8 is in the need of rehabilitation; now

THEREFORE BE IT RESOLVED, that the Mason City Council does hereby approve the award of Well number 8 rehabilitation and cleaning to Northern Pump and Well in the amount of \$15,963.00.

Yes

No

CLERK'S CERTIFICATION: I hereby certify that the foregoing is a true and accurate copy of a resolution adopted by the City Council at its regular meeting held Monday, October 7, 2013, the original of which is part of the City Council minutes.

Deborah J. Cwierniewicz, City Clerk
City of Mason
Ingham County, Michigan

CITY OF MASON
STAFF AGENDA REPORT TO CITY COUNCIL

Meeting Date: October 7, 2013

Agenda Item: 10 (C)

AGENDA ITEM

Motion - Streets Closure Request for Mason High School Homecoming Parade

EXHIBITS

- Parade Permit

STAFF REVIEW

City Clerk

SUMMARY STATEMENT

The homecoming parade is an annual event promoted through the Mason High School. The parade includes various floats, vehicles, MHS band, and horses.

RECOMMENDED ACTION

Move to approve the use of Oak, Jefferson, Maple, and Barnes Streets for the Mason High School Homecoming Parade, October 18, 2013 between 5:00 p.m. and 7:00 p.m.

CITY OF MASON

201 West Ash St.
Mason, MI 48854-0370

City Hall 517-676-9155
Fax 517-676-1330



PARADE PERMIT APPLICATION

APPLICANT

Name: Eric Haynie Phone: (517) 290 3620

Address: 5950 Patriots Way

Parade conducted for: Mason High School Homecoming

Date of Parade: Oct 18 2013

Organization's Representative and Title: Student Senate

Parade Chair: Eric Haynie Phone: (517) 290 3620

Address: 5950 Patriots Way

PARADE ROUTE

Starting Point: Oak & Jefferson St. Ending Point: MHS South parking lot

Assembly Location: Oak st between Point Jefferson Time of Assembly: 5:00

Maximum space between units: 25 ft Minimum space between units: 15 ft

Maximum speed of units: Walking Minimum speed of units: _____

Maximum length of parade in miles: 1 mi Parade start time: 6:00 Approx. end time: 6:30

ENTRIES

Number of Entries (People-Animals-Vehicles): 200 people

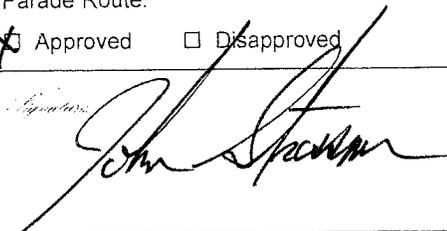
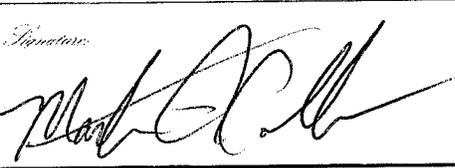
Type of Animals: _____ Description of Vehicles: Cars / Trucks / Wagons

USE OF RIGHT-OF-WAY

Parade Route (by street name): Jefferson North to Maple / East to Barnes South on Barnes to Highschool.

Name of State Trunkline Street(s) that are requested as part of route: M-36

For Office Use Only:

<p>Mason Police Department</p> <p>Parade Route:</p> <p><input checked="" type="checkbox"/> Approved <input type="checkbox"/> Disapproved</p>	<p>City Administrator</p> <p>Permit:</p> <p><input checked="" type="checkbox"/> Approved <input type="checkbox"/> Disapproved</p>	<p>Application to State for Use of Trunk Line Permit</p> <p><input type="checkbox"/> Approved <input type="checkbox"/> Disapproved</p>
<p>Signature: </p>	<p>Signature: </p>	<p>Fee: \$15.00 <input checked="" type="checkbox"/> Paid</p>

FILING REQUIREMENTS:

- Applicants for a parade permit must be at least 18 years of age.
- Applicants must file with the City a policy of liability and property damage insurance indemnifying the City against any liability to persons or property owned by the City, arising out of the parade.
- An application for a parade permit must be filed not less than 20 days, nor more than 60 days before the date on which it is proposed to conduct the parade

PLEASE NOTE: No candy or any other object(s) may be thrown or discharged from any moving vehicle, trailer, or other moving object before, during or after the parade by parade participants. Any individual(s) observed in violation will be removed from the parade and not allowed to participate. This may also mean removal of the float, trailer or moving vehicle.

PARADE CHAIRPERSON (or an identified designee/representative):

- Responsible to instruct all participants prior to the parade regarding the prohibition against throwing candy or other objects as stated above.
- Responsible for the cleaning and removal of any and all animal droppings or other refuse during the course of the parade. Failure to comply will result in billing for City services to clean up.
- must be on site and present during the parade. This representative must make themselves known, including their whereabouts during the parade and a means of contact (cellular telephone number, etc).

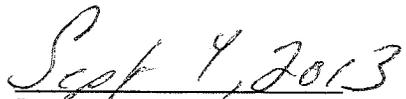
A request for the use of the City owned public address system must be made separately in writing to the City Administrator. There is a fee for the setup/take down and use of the system. The City of Mason does not provide chairs or seating accommodations. Requests for use of Ingham County owned property must be made to the Director of the Facilities Department, 131 W. Maple St., Mason, MI 48854, (517) 676-7310.

An application for a parade permit involving a school event must be signed by a school official/employee. This person must be on site, present, and available in person and by phone during the parade. This includes a request for homecoming parade.

I have read and understand the terms of the parade permit application. I agree to abide by these conditions.



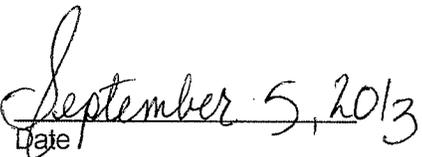
Chairperson or Representative



Date



City Official Receiving Request



Date



Mason Sycamore Creek Garden Club

**ALL TO SEE
LEST WE FORGET
THOSE WHO HELP TO KEEP US FREE**

**Thank you for participating in
our Blue Star Memorial
community project.**

What a wonderful celebration.

The Mason Sycamore Creek Garden Club

Thank again for all your support!

*Parents &
Club members*

Mason Library's 75th Anniversary Celebration

Tuesday, Oct. 15 • 6–8 p.m.



Take a stroll down memory lane at our anniversary open house! The event kicks off with a ribbon-cutting at 6 p.m., followed by these activities:

- Live jazz from "Generations"
- Mason Library Memories slideshow
- Meet & greet with Sir Read-a-Lot
- Pictures in our photo booth
- Photo frame craft
- Refreshments

Be sure to add your memories to our Mason Library Memories Scrapbook



Capital Area District

LIBRARIES MASON

Your branch, our family tree.

145 W. Ash Street, Mason
517-676-9088 | cadl.org

The Staff and Friends of the Mason Library,
a branch of Capital Area District Libraries,
invite you to help us celebrate our 75th anniversary,
Oct. 15, 6–8 p.m. at the library
145 West Ash Street, Mason.

City of Mason

201 W. Ash St.
P.O. Box 370
Mason, MI 48854-0370
www.mason.mi.us



City Hall 517 676-9155
Police 517 676-2458
Fax 517 676-1330
TDD 1-800-649-3777

MEMORANDUM

TO: Honorable Mayor and Council Members
FROM: Martin Colburn, City Administrator
DATE: October 7, 2013
RE: City Administrator's Report

Personal Property Tax Reform

Lieutenant Governor Brian Calley spoke at the annual Michigan Municipal League (MML) conference, specifically on the State's Personal Property Tax (PPT) reform plan. Their challenge was how to get money to local governments on the front end. This planning was inclusive of:

- Getting a fiscal footing and stop fighting over annual cuts
- Getting out of negative environment fiscally
- Supporting public officials who are serving during the state's most difficult time, and strategically well position the state for manufacturing and growing the economy.

Lt. Gov. Calley referenced that they hope to have a funding replacement in the near future. This would be a replacement revenue stream. The potential alternatives were the internet use sales tax, telecommunications tax, and hotel taxes. Under the current plan, he argued that the cities would receive approximately 91% of the state shared revenues previously distributed. There were inferences that these potential revenue streams ultimately will meet the majority of municipalities' replacement of the loss of personal property taxes.

The concern of many municipalities is that the small parcel exemption of up to \$40,000 wipes out the majority of commercial PPT's and the loss of this alone does fiscal harm to the majority of local governments, even if the August 2014 ballot does not support the removal of the PPT. Ultimately, there is still much angst among the vast majority of public officials regarding this issue.