



# Agenda

## Regular Meeting of the City Commission

City of Kalamazoo

Monday, July 6, 2009

7:00 p.m.

City Commission Chambers – 241 West South Street

**A. CALL TO ORDER/ROLL CALL**

**B. OPENING CEREMONY**

1. Invocation: **Pastor Milton Wells**, Open Door Ministries, COGIC
2. Pledge of Allegiance
3. Introduction of Guests
4. Proclamations
  - a. **Friends of Recreation**, July 17, 2009

**C. ADOPTION OF FORMAL AGENDA**

**D. COMMUNICATIONS**

1. The public is invited to attend the following meetings of boards and commissions:
  - a. The **Parks and Recreation Advisory Board** will meet on Tuesday, July 7, 2009 at 5:15 p.m., in the Parks and Recreation Community Room, Mayors' Riverfront Park, located at 215 Mills Street.
  - b. The **Planning Commission** will meet on the Tuesday, July 7, 2009 at 7:00 p.m., in the City Commission Chambers at City Hall.
  - c. The **Friends of Recreation** will meet on Thursday, July 9, 2009 at 9:30 a.m., in the Parks and Recreation Community Room, Mayors' Riverfront Park, located at 251 Mills Street.
  - d. The **Traffic Board** will meet on Thursday, July 9, 2009 at 2:00 p.m., in the Public Services' Conference Room, located at 415 Stockbridge Avenue.
  - e. The **Community Relations Board** will meet on the Thursday, July 9, 2009 at 5:30 p.m., in the Community Room at City Hall.

- f. The **Community Development Act Advisory Committee** will meet on the Thursday, July 9, 2009 at 6:30 p.m., in the Development Center Conference Room #1, located at 445 West Michigan Avenue.
  - g. The **Zoning Board of Appeals** will meet on Thursday, July 9, 2009 at 7:00 p.m., in the City Commission Chambers at City Hall.
  - h. The **Kalamazoo Historic Preservation District Commission** will meet on Tuesday, July 14, 2009 at 7:00 p.m., in the Third Floor Conference Room at City Hall.
  - i. The **Economic Development Corporation** will meet on the Thursday, July 16, 2009 at 7:30 a.m., in the Community Room at City Hall. The **Brownfield Redevelopment Authority** will meet immediately following.
  - j. The **Downtown Development Authority** will meet on the Monday, July 20, 2009 at 3:00 p.m., in the Community Room at City Hall.
2. The City is accepting applications for appointment to various city Commission advisory boards and commissions. Interested citizens are encouraged to contact the City Clerk's Office at 337-8792 to request an application form or to obtain additional information on board vacancies.

## **E. PUBLIC HEARINGS**

## **F. CONSENT AGENDA**

**(Action: Motion to approve items "1-7")**

1. Consideration of a recommendation to approve the '2009 portion' of a contract with Envirologic Technologies, Inc., a pre-qualified City environmental consulting firm, for Interim Response Activities at the Schippers Crossing Site in the amount of \$145,550.
2. Consideration of a recommendation to adopt a RESOLUTION accepting MDOT Grant Contract #2009-0590 for the Local Ridesharing Program for FY2009 in the amount of \$38,246.
3. Consideration of a recommendation to adopt a RESOLUTION to vacate the north portion of W. Michigan Avenue between Monroe and Stone Streets, with the following conditions:
  - a. An easement shall be provided to the city for any underground utilities in the road right-of-way to be vacated.
  - b. An adjusted fair market value for the vacated property shall be paid to the city in the amount of \$28,221.

4. Consideration of a recommendation to authorize the City Manager to sign a letter agreement to extend the existing Metro Act Right-of-Way Permit for two additional years.
5. Consideration of a recommendation to offer for first reading a proposed ORDINANCE amending Subsections D and E of Section 35-4, regarding the date for when PILOT payments are due.
6. Consideration of a recommendation to approve the sale of 2720 Wellington to Kalamazoo Neighborhood Housing Services for \$12,035.78, and authorize the City Manager to sign all documents related to the sale.
7. Consideration of a recommendation to approve the City Commission minutes from the Business Meetings on May 18 and June 1, 2009.

**G. REGULAR AGENDA**

**H. REPORTS AND LEGISLATION**

1. City Manager's Report

**I. UNFINISHED BUSINESS**

**J. POLICY ITEMS**

**K. NEW BUSINESS**

**L. CITIZEN COMMENTS**

**M. MISCELLANEOUS COMMENTS AND CONCERNS BY COMMISSIONERS**

**N. CLOSED SESSION**

**O. ADJOURNMENT**

**ADDITIONAL INFORMATION:**

Questions regarding agenda items may be answered prior to the meeting by contacting the City Manager's Office at 269.337.8047.

Persons with disabilities who need accommodations to effectively participate in City Commission meetings should contact the City Clerk's Office at 337-8792 a week in advance to request mobility, visual, hearing or other assistance.

Agendas for the regular meetings of the Kalamazoo City Commission are available on the Internet at: **[www.kalamazoocity.org](http://www.kalamazoocity.org)**

Kalamazoo City Commission meetings are held the first, third and fifth Mondays at 7:00 p.m. and are shown live on Public Media Network Channel 21. The meetings are rebroadcast on Tuesday afternoon at 2:00 p.m. on Channel 21, Saturday morning at 9:00 a.m. and Sunday evening at 8:00 p.m.

**GUIDELINES FOR PUBLIC PARTICIPATION AT CITY COMMISSION MEETINGS**

Welcome to the Kalamazoo City Commission meeting, and thank you for your participation in Kalamazoo local government. The City Commission recognizes that citizens who make the effort to attend a Commission meeting often feel passionately about an issue. The following guidelines are not meant to discourage individual expression; rather, they exist to facilitate the orderly conduct of business and to ensure that all citizens who wish to address the City Commission are able to do so in an atmosphere of civility and respect, without fear or intimidation.

1. Out of respect for business being conducted during the meeting, please turn off all cell phones and pagers prior to the start of the meeting.
2. In an effort to maintain order and to allow a respectful discussion, please do not make comments from the audience area. Audience members should also refrain from applause or other audible noise at times not formally recognized as appropriate by the meeting chair.
3. Citizens have opportunities to address the Commission at the following times during a meeting:
  - a. Consideration of Regular Agenda items. Citizens are permitted to speak to the Commission on Regular Agenda and Unfinished Business prior to the City Commission voting, except those votes setting a public hearing. (Note: The Consent Agenda is a list of items proposed for City Commission approval to be voted upon all at one time. This is a time-saving procedure as most Consent Agenda items are housekeeping measures. A citizen may request an item be removed from the Consent Agenda for individual consideration or discussion.) Comments must be germane to the specific item under consideration.
  - b. The Citizen Comment period near the end of the meeting is for comment on Agenda or Non-Agenda items.

4. To address the City Commission, please sign in at the podium near the Clerk's station and then proceed to the podium directly in front of the dais when invited by the meeting chair. Before beginning your comments, please clearly state your name for the record and whether you reside within the city limits. Comments are limited to four minutes.
5. Citizen comment periods are a time for citizens to make comments; they are not intended as a forum for debate or to engage in question-answer dialogues with the Commission or staff. Commissioners are encouraged not to directly respond to speakers during citizen comment periods. At the conclusion of a speaker's remarks, the Mayor or individual Commissioners may refer a question to City staff, if appropriate. Also, individual Commissioners may choose to respond to speakers during "Miscellaneous Comments and Concerns of Commissioners."
6. Signs, placards and banners are permitted in Chambers during open meetings but only along the perimeter of the room (side and back walls) and only if they do not obstruct the vision of others.

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If you have any questions, please feel free to contact the City Clerk's Office at 269.337.8792

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# Commission Agenda Report

City of Kalamazoo

Date: **07/06/09**

Item **F1**

**TO:** Mayor Hopewell, Vice Mayor McKinney, and City Commissioners

**FROM:** Kenneth P. Collard, City Manager, ICMA-CM, P.E.  
Reviewed By: Bob Wass, Public Services Deputy Director  
Prepared By: Carolyn Rutland, Environmental Scientist

A handwritten signature in black ink, appearing to read "C. Rutland".

**DATE:** May 19, 2009

**SUBJECT:** Interim Response Activities at the Schippers Crossing Site, Kalamazoo, MI

## RECOMMENDATION

It is recommended that the City Commission approve the '2009 portion' of a contract with Envirollogic Technologies, Inc. (Envirollogic), a pre-qualified City environmental consulting firm, for Interim Response Activities at the Schippers Crossing Site in the amount of \$145,550.

The contract total is \$220,150; the remainder of the contract, \$74,600, will be completed in 2010.

## BACKGROUND

In the mid-1960s, the City acquired the parcels that make up the Schippers Crossing site and briefly used part of the site as sewage sludge disposal lagoons. In later decades parts of the site were also used for Public Safety training and various Public Services activities. Site soils are contaminated as a result of the City's site use. Groundwater contamination has also been found at the site, but the contamination has not been clearly linked to any City activity and does not appear to be migrating off site.

In the late 1990s, consultants for the City proposed an extensive remedial action plan to obtain environmental closure from the Michigan Department of Environmental Quality (MDEQ). After further analysis, the City contracted with Conestoga-Rovers & Associates (CRA) to complete a plan for an alternative, less expensive remediation. Nearly concurrently with CRA's efforts, the City made the decision to locate the Public Safety's Training Center at the site. Consequently, plans have been made to integrate site remediation with development of the Training Center.

In May 2008 the City submitted the site Interim Response Activity Plan prepared by CRA. The MDEQ agrees in principle with the plan after several meetings with MDEQ representatives, the Department of Public Safety, the Department of Public Services, and Envirologic personnel.

The next step is to authorize Envirologic to implement the proposed remedial activities, which include, but are not limited to, establishing a groundwater monitoring network and program, site controls (a fence and institutional controls), burial of contaminated soils beneath the Public Safety Driving Range pavement at the site, and excavation oversight.

### **COMMUNITY RESOURCES CONSULTED**

Input from the Michigan Department of Environmental Quality (MDEQ) has been obtained regarding both remediation plans for the site and the use of the site for the Public Safety Training Center. The MDEQ's suggestions have been incorporated into the plans. The Environmental Concerns Committee has been kept apprised of plans and progress on the Public Safety Training Center, which is located at the Schippers Crossing Site.

### **FISCAL IMPACT**

Funds for the '2009 portion' of the remediation of the Schippers Crossing Site (\$145,550) have been budgeted for in the 2009 Wastewater CIP. The remainder of the contract will be included in the 2010 budget.

### **ALTERNATIVES**

The alternative is to not remediate the site; however, the Public Safety Training Center has been located at the site and the associated construction activities will generate waste that must be properly managed. Furthermore, remediation activities have been anticipated in the construction plans for the Training Center

Another alternative would be to re-bid this project in hopes of obtaining a better price. This is not recommended as it would add considerable time to the project and could result in construction delays for the Public Safety Training Center.

### **ATTACHMENTS**

Bid Results Summary

## BID RESULTS SUMMARY

**PROJECT:** Environmental Consulting Services  
Pre-Qualifications

**DATE:** June 24, 2009

**BIDDERS SOLICITED:** 51

**BIDDERS RESPONDED:** 22

**MBE/WBE BIDS SOLICITED:** 13

**MBE/WBE BIDDERS RESPONDED:** 4

**BID REFERENCE NO:** 906-48-019/NL

**MBE/WBE AWARDED:** No

**APPROVAL REQUIRED:** City Commission

**FUNDED BY:** City

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<u>BIDDERS</u>	<u>AMOUNT BID</u>	<u>LOCATION</u>
Envirologic Technologies, Inc.	\$ 145,550.00	Kalamazoo County
Conestoga-Rovers Associates	pre-qualified	City
DLZ of Michigan (MBE)	pre-qualified	City
Environmental Consulting & Technology	pre-qualified	Brighton, MI
Fishbeck, Thompson, Carr & Huber	pre-qualified	City
ATC Associates	not pre-qualified	Grand Rapids, MI
DeLisle Associates (WBE)	not pre-qualified	Kalamazoo County
Fleis & VanderBrink Engineering	not pre-qualified	City
Goldes Associates	not pre-qualified	Lansing, MI
Horizon Environmental	not pre-qualified	Grand Rapids, MI
Hull & Associates	not pre-qualified	Toledo, OH
Innovative Environmental Solution	not pre-qualified	Brighton, MI
Landmark Technologies	not pre-qualified	Benton Harbor, MI
Limno-Tech	not pre-qualified	City
MACTEC Engineering and Consulting	not pre-qualified	Alpharetta, GA
Malcolm Pirnie	not pre-qualified	East Lansing, MI
Materials Testing Consultants (WBE)	not pre-qualified	Grand Rapids, MI
Soil and Materials Engineers	not pre-qualified	City
Superior Environmental	not pre-qualified	Marne, MI
URS Corporation	not pre-qualified	Grand Rapids, MI
Villa Environmental Consultants (MBE)	not pre-qualified	Benton Harbor, MI
Wilcox Professional Services	not pre-qualified	Cadillac, MI

Purchasing procedures have been followed, contractor chosen through qualifications based selection process, and City Attorney has reviewed as to form.



Nicholas Lam, CPPO

Purchasing Director



# Commission Agenda Report

City of Kalamazoo

Date: **07/06/09**

Item **F2**

**TO:** Mayor Hopewell, Vice Mayor McKinney, and City Commissioners

**FROM:** Kenneth P. Collard, City Manager, ICMA-CM, P.E.  
Reviewed by: William J. Schomisch, Executive Director  
Prepared by: Carmine Lewis, Assistant Transportation Director

**DATE:** June 25, 2009

**SUBJECT:** Acceptance of MDOT 2009 Local Ridesharing Program Grant

## RECOMMENDATION

It is recommended that the City Commission adopt a resolution accepting MDOT Grant Contract #2009-0590 in the amount of \$38,246 for the Local Ridesharing Program for FY2009.

## BACKGROUND

The Michigan Department of Transportation (MDOT) has offered a \$38,246 grant contract for performing ridesharing activities for the Kalamazoo metropolitan area for the period of June 1, 2009 through June 1, 2010. Although this program year has already commenced, the City just received the MDOT grant contract for formal action.

The local vanpool and ridesharing activities are performed by the Kalamazoo Department of Transportation staff and include conducting employee surveys, advertising and promotion of ridesharing programs, maintenance of a ridesharing information line, and ride-matching services for commuters. The Kalamazoo Area Transportation Study (KATS) formerly carried out this program; however, by mutual agreement, it was moved to the Transportation Department in 2002. The program is completely funded by MDOT and compliments other Transportation services provided by the Department in its role as "mobility managers".

## COMMUNITY RESOURCES CONSULTED

Per the Working Agreement between the Transit Authority Board and the City of Kalamazoo, the Board is not required to review this MDOT Grant Contract. As an information item, the Board were advised of this matter at their regularly scheduled meeting on June 26, 2009.

The Ridesharing Program is included in the Kalamazoo Metro Transit's 2009 Operating and Capital Budget.

### **FISCAL IMPACT**

As this program is funded with both State and federal transportation funds, there will be no City of Kalamazoo funds expended on this project.

### **ALTERNATIVES**

The Ridesharing Program relies solely on MDOT and FHWA/FTA dollars and, as such, no other funding alternatives exist.

### **ATTACHMENTS**

Resolution

**AUTHORIZATION RESOLUTION**

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

**A RESOLUTION BY THE CITY OF KALAMAZOO ACCEPTING MDOT GRANT CONTRACT 2008-0266 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT ON BEHALF OF THE CITY OF KALAMAZOO**

**WHEREAS**, the State of Michigan - Department of Transportation has provided MDOT Grant Contract 2009-0590 for a Local Ridesharing Program; and

**WHEREAS**, the grant has been made available in the amount of \$38,246 for the purpose of providing ridesharing coordination activities within the Kalamazoo metropolitan area; and

**NOW, THEREFORE, BE IT RESOLVED** that the City of Kalamazoo hereby accepts MDOT Grant Contract 2009-0590; and

**BE IT FURTHER RESOLVED** Kenneth Collard, City Manager of the City of Kalamazoo, is authorized to execute MDOT Grant Contract 2009-0590.

The above resolution was offered by \_\_\_\_\_, and supported by \_\_\_\_\_.

**AYES:**

**NAYS:**

**ABSTAIN:**

**Resolution declared adopted.**

**CERTIFICATION**

*I, Scott Borling, City Clerk for the City of Kalamazoo, Kalamazoo, Michigan, having custody of the records and proceedings, do hereby certify that I have compared this resolution adopted by The City of Kalamazoo at the meeting of \_\_\_\_\_, with the original minutes now on file and of record in the office and that this resolution is true and correct.*

\_\_\_\_\_  
*Scott Borling, City Clerk*



# Commission Agenda Report

City of Kalamazoo

Date: **07/06/09**

Item **F3**

**TO:** Mayor Hopewell, Vice Mayor McKinney, and City Commissioners

**FROM:** Kenneth Collard, City Manager, ICMA-CM, P.E.  
Reviewed By: Keith Hernandez, City Planner/Deputy Director  
Prepared By: Robert H. Bauckham, Assistant City Planner

**DATE:** June 19, 2009

**SUBJECT:** Vacate the north portion of W. Michigan Avenue between Monroe and Stone Streets

## RECOMMENDATION

It is recommended that the City Commission adopt a resolution to vacate the north portion of W. Michigan Avenue between Monroe and Stone Streets, with the following conditions:

1. An easement shall be provided to the city for any underground utilities in the road right-of-way to be vacated.
2. An adjusted fair market value for the vacated property shall be paid to the city in the amount of \$28,221.

## BACKGROUND

This request is to vacate the northern approximately 60 feet of the right-of-way for W. Michigan Avenue between Monroe Street and Stone Street, and combine it with the parcels at 1332 and 1350 W. Michigan Avenue. The University Roadhouse restaurant is located on the two parcels. The area of land proposed for the vacation encompasses 0.2 acres, and is currently part of the restaurant's parking lot.

An unsafe roadway intersection formerly existed for W. Michigan Avenue and Stadium Drive that required a dangerous crossing over railroad tracks. In 2007, the city and MDOT closed the intersection and relocated it further to the west to create a safer intersection for the two streets. The new intersection begins directly south of the two University Roadhouse restaurant parcels, and the street was reconfigured and now curves to the south away from the restaurant. Prior to this change, W. Michigan Avenue was aligned much closer to the south side of the restaurant.

The City of Kalamazoo has jurisdiction over W. Michigan Avenue in this area. When the intersection construction project started, MDOT requested to be able to use a portion of the restaurant parking lot for staging of their equipment. In exchange, MDOT offered to

construct a new parking lot for the restaurant on the unused right-of-way for the street. The intersection work was completed and the new parking lot constructed. The purpose of this request is to vacate the right-of-way that contains the newly-constructed parking lot. This will allow the owners of the restaurant to own the new parking lot. Only the portion of the right-of-way that has been developed with the parking lot is requested for the vacation.

The city's Street Vacation Policy indicates all roads, alleys, and rights-of-way that are approved for vacation are normally split down the middle, and each half offered to the abutting property owners. For this request, the abutting land on the south side is part of the new intersection for W. Michigan Avenue and Stadium Drive, and is owned by the city. The city does not need any portion of this land. Therefore, it is recommended that the entire area of land requested for the vacation be combined with the restaurant parcels, and vacated to the owners of the restaurant.

For most street vacation requests, the applicant is required to pay to the city the fair market value of the land that is vacated. The fair market value of the subject property has been calculated by the city Assessor's office to be \$33,351. When the new intersection and parking lot was completed, the owner of the restaurant paid \$5,130 for the repair of damage to his property caused by the construction equipment. Therefore, it is proposed that if the vacation request is approved, the applicant be asked to pay the fair market value less the damage repair costs; or \$28,221.

Review Criteria:

All street vacation requests are subject to the requirements of the city's Street Vacation Policy, which was adopted in 1992. The Planning Commission is required to hold a public hearing to review each street vacation request, and then provide a recommendation to the City Commission. The City Commission issues the final decision on all such requests. The applicant has submitted all necessary forms and support documents for the request.

The city Engineering Division, Public Safety Department, and Public Works Department have been contacted regarding this request. No objections were raised by staff from these offices. An easement to access any remaining utilities under the street was requested.

Planning Commission Action

At their regular meeting held on June 4, 2009, the Planning Commission voted unanimously to recommend to the City Commission to approve the vacation of the street property, with two conditions. The conditions are listed in the "Recommendation" section of this report. There were no comments offered by the public during the hearing.

## **COMMUNITY RESOURCES CONSULTED**

Property owners and occupants within a 300-foot radius of the street segment proposed for the vacation were mailed notices detailing the request and encouraging their attendance at the public hearing that was held by the Planning Commission on June 4, 2009. The public hearing notice was also published in the *Kalamazoo Gazette* for that meeting. A notice was also mailed to the West Main Hill Neighborhood Association. According to the Street Vacation Policy, the City Commission is not required to hold a public hearing on street right-of-way vacation requests, so no such noticing will be conducted for the City Commission meeting.

## **FISCAL IMPACT**

The street vacation will not impact City staff. If vacated, the right-of-way will be combined with the restaurant parcels and will become taxable land. It is not currently taxed. It is estimated that the property will generate approximately \$700 annually in additional tax revenue for the city.

## **ALTERNATIVES**

The City Commission has the option of not vacating the property to the applicant. This section of the right-of-way is no longer needed by the city, and a parking lot has been constructed over it that is primarily used by the patrons and employees of the restaurant. It is recommended that the City Commission approve the vacation of the property as requested with the two conditions specified by the Planning Commission.

## **ATTACHMENTS**

Resolution  
Planning Commission meeting minutes from June 4, 2009  
Aerial photograph

**CITY OF KALAMAZOO, MICHIGAN**

**RESOLUTION NO.**

**A RESOLUTION VACATING A PORTION OF W. MICHIGAN AVENUE BETWEEN  
MONROE STREET AND STONE STREET IN THE CITY OF KALAMAZOO,  
MICHIGAN**

Minutes of a regular meeting of the City Commission of the City held on \_\_\_\_\_, 2009,  
at 7:00 o'clock p.m., local time at the City Hall.

**PRESENT**, Commissioners:

**ABSENT**, Commissioners:

**WHEREAS**, the City of Kalamazoo is empowered with the authority to vacate a street pursuant to City Charter Sections 150 and 171, the Constitution of the State of Michigan 1963, Article VII, Section 29, and the Land Division Act, MCL 560.256; and

**WHEREAS**, notice of the Public Hearing before the Planning Commission on vacating a portion of the W. Michigan Avenue right-of-way between Monroe Street and Stone Street was published by the City Clerk with a personal notice of the hearing mailed via first class mail to all listed homeowners and/or property owners owning and occupying parcels of land abutting such right-of-way as well as within a distance of three hundred (300) feet from any point on the boundary line of such right-of-way; and

**WHEREAS**, a public hearing was held on June 4, 2009, by the Planning Commission where the public was able to provide testimony pertaining to the vacation of the above street right-of-way; and

**WHEREAS**, the Planning Commission has made a recommendation to the City Commission to vacate the street right-of-way with the following conditions: 1) an easement shall be provided to the city for any underground utilities in the right-of-way to be vacated; and, 2) an adjusted fair market value for the vacated property shall be paid to the city in the amount of \$28,221; and

**WHEREAS**, the Planning Commission has also recommended that the entire street right-of-way for this request be vacated and combined with the parcels at 1332 and 1350 W. Michigan Avenue; and

**WHEREAS**, a parking lot has been constructed over the street right-of-way for the vacation that is primarily used by the patrons and employees of the adjacent business; and

**WHEREAS**, the City Commission of the City of Kalamazoo finds that the street right-of-way recommended for vacation has been determined not to be needed by the city Department of Public Services, Department of Public Works, and Public Safety Department; and

**WHEREAS**, if the vacation of the street right-of-way is approved, the applicant agrees to pay the adjusted fair market value to the city; and

**WHEREAS**, the City Commission has determined that it is necessary and in the best interest of the health, welfare, comfort and safety of the citizens of Kalamazoo to discontinue the above street right-of-way as set forth in this resolution;

**NOW, THEREFORE, BE IT RESOLVED THAT** the north portion of W. Michigan Avenue, between Monroe Street and Stone Street, as depicted in the attached map, is hereby vacated and discontinued as a public street with the two conditions issued by the Planning Commission.

**IT IS FURTHER RESOLVED THAT** the City Clerk of the City of Kalamazoo shall record certified copies of this resolution with the Kalamazoo County Register of Deeds and the State Treasurer.

The above resolution was offered by Commissioner\_\_\_\_\_and supported by Commissioner

**AYES, Commissioners:**

**NAYS, Commissioners:**

**RESOLUTION DECLARED ADOPTED.**

**CERTIFICATE**

The foregoing is a true and complete copy of a resolution adopted by the City Commission of the City of Kalamazoo at a regular meeting held on \_\_\_\_\_, 2009. Public notice was given and the meeting was conducted in full compliance with the Michigan Open Meetings Act (PA 267, 1976). Minutes of the meeting will be available as required by said Act.

\_\_\_\_\_  
Scott A. Borling, City Clerk

**PLANNING COMMISSION**  
**Minutes**  
**June 4, 2009**  
***DRAFT***

City Commission Chambers  
2<sup>nd</sup> Floor, City Hall  
241 W. South St., Kalamazoo, MI 49007

Members Present: Terry Kuseske, Chair; Sonja Dean, Vice Chair; Mark Fricke; James Kneen; Merilee Mishall; Linda Wienir; Reed Youngs

Members Excused: Casey Fawley; Bertha Stewart

City Staff: Keith Hernandez, Deputy Director, City Planner, Community Planning and Development; Robert Bauckham, Assistant City Planner; John Kneas, Assistant City Attorney; Amy Thomas, Recording Secretary

**A. CALL TO ORDER**

Commissioner Kuseske called the meeting to order at 7:00 p.m.

**B. ROLL CALL**

Planner Hernandez completed roll call and determined that the aforementioned members were present.

**C. ADOPTION OF FORMAL AGENDA (June 4, 2009)**

Commissioner Wienir requested that approval of the Minutes be moved to after the public hearings and before item G on the agenda.

**Commissioner Kneen, supported by Commissioner Dean, moved approval of the June 4, 2009 Planning Commission agenda as amended. With a voice vote, the motion carried unanimously.**

**E. COMMUNICATIONS AND ANNOUNCEMENTS**

Planner Hernandez requested that the Planning Commission consider moving the Thursday, July 2<sup>nd</sup> Planning Commission meeting to Tuesday, July 7<sup>th</sup>.

## **F. PUBLIC HEARINGS**

### **1. P.C. #2009.02: Consideration of a request from Housler Restaurants, Inc. to vacate the northern portion of the W. Michigan Avenue right-of-way located between Monroe Street and Stone Street.**

Planner Bauckham gave the staff report, which is incorporated in these minutes by reference hereto. The subject property is part of the right-of-way for W. Michigan Ave. The property for the vacation is currently a parking lot. In 2007, the City of Kalamazoo and MDOT (Michigan Department of Transportation) closed a dangerous intersection between Stadium Drive and W. Michigan Ave. further to the east, and adjacent to the Jimmy John's Restaurant. At that time, a new intersection was created further to the west and directly across from the University Roadhouse restaurant. The new intersection is considered to be safer for pedestrian and vehicle traffic because it provides more separation between the intersection and the Amtrak railroad line.

Prior to the creation of the new intersection, W. Michigan Ave. was very close to the south property line of the restaurant. When the intersection was created, W. Michigan Ave. was curved to the south and away from the restaurant. That left a piece of property, about 60 feet at its greatest width, between the restaurant and the intersection. During the construction, MDOT asked to be able to stage some of their equipment and materials on the restaurant site. In exchange, MDOT offered to create this parking lot for the use of the restaurant when the project was done. The restaurant owner approved the offer.

Since the new parking lot was built over the old street in the right-of-way, it is still city property. Therefore, it needs to be vacated and combined with the restaurant property. Normally, when property is vacated, it is split down the middle and half is given to each of the abutting properties. In this case, the south side of the property to be vacated is in the new intersection. City staff is recommending that the entire property be combined with the restaurant property.

The city's Engineering Department, Public Works Department, and Public Safety Department have raised no objections to the request. The Engineering Department requested that an easement be provided to them to allow access to any remaining utilities under the subject property. The fair market value of the property to be vacated is estimated to be \$33,351. The property owner was required to make repairs to his property in the amount of \$5,130 due to damage during the construction project. City staff is recommending that if the vacation is approved, the property owner pay the fair market value minus the cost of repairs, for a total cost of \$28,221. If the property is abandoned and combined with the applicant's land, it will become taxable land.

City staff is recommending that the Planning Commission recommend to the City Commission approval of the request, with the condition that an easement be provided to

the city to access any remaining utilities under the parking lot, and to allow an adjusted fair market value of \$28,221 to be paid by the applicant.

Commissioner Mishall inquired as to why the restaurant owner was required to pay for the damage caused by the construction equipment. Planner Bauckham stated that the applicant's business was limited during the construction. In an effort to maintain his customer base, the applicant took responsibility for making the repairs so he could reopen the business as soon as possible.

Commissioner Fricke inquired if there was any data available regarding the success of the intersection change relating to safety and traffic accidents. Planner Bauckham advised that there were a number of incidents with the former intersection, including some fatalities. He was not aware of any such incidents with the new intersection.

The applicant was present, but did not add any further comments.

### **Public Hearing**

No one spoke at the public hearing.

**Commissioner, Kneen, supported by Commissioner Dean, moved to close the public hearing regarding P.C. #2009.02. With a voice vote, the motion carried unanimously.**

**Commissioner Kneen, supported by Commissioner Fricke, moved to recommend to the City Commission approval of P.C. #2009.02, the request from Housler Restaurants, Inc. to vacate the northern portion of the W. Michigan Avenue right-of-way located between Monroe Street and Stone Street, with the conditions recommended by city staff. With a roll call vote, the motion carried unanimously.**

### **2. P.C. #2009.06: Consideration of a request from MetroPCS Michigan, Inc. for a special use permit to allow the co-location of telecommunication antennas and equipment on the roof of the apartment building at 1004 Douglas Avenue.**

Planner Bauckham gave the staff report, which is included in these minutes by reference hereto. Planner Bauckham advised that the subject property is on Douglas Avenue south of Alamo in the Northside Neighborhood. The site contains the seven-story Northwinds Apartment building. Metro PCS would like to install their antennas and equipment on the top of the building and the penthouse. The site is in the RM-15 zoning district and such uses are only allowed by special use permit.

The applicant is proposing to install two antennas on the north side of the penthouse and four on the south side of the penthouse. The antennas would be pole-mounted and they

would extend 18 feet above the roof of the penthouse. Also, a 240 square foot area on the main roof would be used for the support equipment, including two equipment cabinets and a power protection cabinet that would all be enclosed by a 3 ½ foot tall steel rail. The equipment would be painted to blend in with the roof and other equipment on the roof. In this district, telecommunication antennas cannot extend above the building height allowed in the district or 18 feet above the roof, whichever is less. The existing building already exceeds the height limit in the district, which is 35 feet. The building was constructed prior to this regulation.

The applicant is requesting that the Planning Commission waive the antenna height limitation to allow them to have the antennas 18 feet above the penthouse roof. The antennas need to be at this height to best serve their customers in terms of coverage. Cell towers are not allowed in this zoning district, except on government land and facilities. Therefore, building-mounted equipment is the only viable option for this area. Also, most existing cell towers in the city are at least 100 feet tall. City staff is supporting the height-waiver request.

The city's Site Plan Review Committee met on May 19<sup>th</sup>, and they are recommending approval of the request with the following conditions: #1. A key box must be provided to allow access to the building and the roof for emergency services personnel. #2. Emergency contact information must be placed on or adjacent to the equipment. #3. Screening of the roof equipment must be provided if it is readily visible from the ground.

City staff feels that the request meets the criteria for a special use permit, and staff is recommending approval of the request with the three conditions from the Site Plan Review Committee, and with the recommendation that the antennas on the penthouse be allowed to extend 18 feet above the roof.

Upon request of Commissioner Mishall, Planner Bauckham restated the conditions requested by the Site Plan Review Committee as previously mentioned.

The applicant was present, but didn't add any further comments.

### **Public Hearing**

No one spoke at the public hearing

**Commissioner Kneen, supported by Commissioner Dean, moved to close the public hearing on P.C. #2009.06. With a voice vote, the motion carried unanimously.**

Commissioner Youngs mentioned that the subject building is tax exempt. He inquired if the equipment being placed on the building is taxable, personal property. City staff responded in the affirmative.

**Commissioner Mishall, supported by Commissioner Kneen, moved approval of P.C. #2009.06, consideration of a request from MetroPCS Michigan, Inc. for a special use permit to allow the co-location of telecommunication antennas and equipment on the roof of the apartment building at 1004 Douglas Avenue, with the conditions recommended by city staff.**

Attorney Kneas suggested that the waiver of the height requirement also be included in the motion.

**Commissioner Mishall, supported by Commissioner Kneen, amended the motion to include a waiver of the height requirement for the antennas. With a roll call vote, the motion carried unanimously.**

Commissioner Fricke commented that the height waiver was not part of the recommended action. He inquired as to why it was not part of the staff recommendation if it was to be reviewed by the Planning Commission. Planner Bauckham advised that the zoning ordinance allows the Planning Commission the right to waive some of the standards for telecommunication facilities; the recommendation regarding height is one of the standards that can be waived. Commissioner Fricke inquired as to why it was not part of the recommended action that was listed in the staff report. Planner Bauckham stated that it was inadvertently omitted.

Commissioner Kuseske mentioned that the information in the packet mentioned only one condition, but three conditions were stated by staff during the meeting.

**3. P.C. #2009.08: Consideration of a request from the SAE Financial & Housing Corporation for a special use permit to allow a fraternity use in the exiting building at 3315 W. Michigan Avenue.**

Planner Bauckham gave the staff report, which is included in these minutes by reference hereto. Planner Bauckham advised that the subject property is located between Kenbrooke Court and Fraternity Village Drive. The property contains a building at the northeast portion that has been used for fraternities in the past; the building is currently vacant. The SAE fraternity is in the process of purchasing the property and they would like to move the fraternity from the current location at 919 Short Rd. to the subject property, which is in the RM-15 zoning district. Such uses are only allowed in the RM-15 district with a special use permit.

Previously, fraternities and sororities were permitted uses in the RM-15 zone and special use permits were not required. However, the ordinance was amended in 1972 and such new uses required special use permits in residential zones after that point. Since the building was used as a fraternity at the time of the amendment, the fraternity use was grandfathered in and was allowed to remain as long as the use was continuous. Since the property has been vacant for a period of time, they have lost the grandfathering

status so a new special use permit is required. No building additions or new buildings are being planned for the site at this time. If an addition is requested in the future, the applicant will need to return for another special use permit.

There is a 25-space parking lot to the north and west of the building. The building has five bedrooms and will have 12 beds. The fraternity currently maintains 45 members, most of whom will live off site. The southern portion of the site is wooded and undeveloped. There are other fraternities, sororities and student apartment uses adjacent to the subject property. The city administration supports the congregating of these types of uses, particularly in close proximity to the university. If the special use permit is approved, a site plan will need to be reviewed and approved by the Site Plan Review Committee prior to occupancy.

City staff believes the request meets the criteria for a special use permit. Staff is recommending that the Planning Commission approve the special use permit with the condition that a final site plan be reviewed and approved by the Site Plan Review Committee.

Commissioner Mishall inquired if this was the same fraternity the Planning Commission discussed several months ago. Planner Bauckham confirmed that there have been previous discussions about this fraternity at the Planning Commission. There are two fraternities on Short Rd. that the Planning Commission and city administration have discussed.

The applicant was present, but didn't add any further comments.

Commissioner Kneen inquired if the Planning Commission could approve the special use permit based on the applicant's adherence to certain conditions. Planner Hernandez advised that certain conditions have been placed on the fraternity by the university.

### **Public Hearing**

No one spoke at the public hearing.

**Commissioner Dean, supported by Commissioner Kneen, moved to close the public hearing on P.C. #2009.08. With a voice vote, the motion carried unanimously.**

**Commissioner Kneen, supported by Commissioner Mishall, moved approval of P.C. #2009.08, the request from the SAE Financial & Housing Corporation for a special use permit to allow a fraternity use in the exiting building at 3315 W. Michigan Avenue, with the condition recommended by city staff. With a roll call vote, the motion carried unanimously.**

Commissioner Fricke inquired what the city is gaining by allowing the fraternity to relocate to the subject property. Planner Hernandez advised that it is his understanding

that there is a desire to mass fraternities and sororities in a general area. Many years ago, the subject property was designated as part of that general area. The subject property is not part of fraternity village, but is very close to that area. The fraternity cannot be forced to move to the new location, they have volunteered to move.

**4. P.C. #2009.09: Consideration of a request from the Community Planning and Development Department for a text amendment to the zoning ordinance to revise the definition for murals in Section 12.3 and to add Section 7.6 to provide standards for murals.**

Planner Bauckham provided the staff report, which is included in these minutes by reference hereto. The current definition of murals in the zoning ordinance states that murals can only be drawn or painted on a surface or a structure. It does not allow a banner-type mural to be affixed to a wall or structure. There is some interest in the downtown area in having banner-type murals, particularly on the south-facing side of the Radisson parking structure, which is a very large blank wall. Over the years, there have been some painted images on that wall, which is now deteriorating. The owners are interested in having a banner-type mural on that wall. The proposed amendment would allow banner-type murals to be affixed to a structure or a wall.

The second amendment section, is to provide standards for such murals. The standards state that murals with 1,000 square feet or less would be allowed in all zoning districts. Larger murals would only be allowed in the CCBD district or in the manufacturing districts. Written approval would be required from the building owner to apply a mural, if that owner is not an occupant of the building. A permit would be needed for murals that are larger than 200 square feet in area. The permit could be obtained through the office of Community Planning and Development. Murals could not cover windows, doors or other architectural features of a building. Public liability insurance would be required for murals that are over 1,000 square feet in area. Murals cannot contain any advertising for a business, product, service, place, activity, person, institution or solicitation. The banners would be considered art work. City staff is recommending that that the Planning Commission recommend to the City Commission approval of the text amendments to the zoning ordinance.

Commissioner Kneen inquired if a billboard is considered to be a mural. Planner Bauckham stated that a billboard is not considered to be a mural unless it fits the criteria of having no advertising. A billboard could have a mural that is a painting or a feel-good statement, but it could not advertise anything. Discussion followed as to the definition of "advertising." Commissioner Fricke suggested that any call to action would be considered advertising.

Commissioner Mishall inquired as to the rationale behind the proposed ordinance amendment. Planner Bauckham advised that some downtown property owners have asked to put banner-type murals on some of their facilities. The current ordinance does not allow that. There have been attempts by some property owners to install murals, and

city staff felt that it was time to have regulations in place to allow mural-type banners, but to also place conditions on the murals.

Commissioner Mishall inquired if the number of banner-type murals will be restricted. Planner Bauckham advised that there would be no restriction on the number of murals but they would have to meet the criteria specified.

Commissioner Mishall inquired as to what would ensure that the banner/mural won't fall or flap in the wind, etc. Mr. Bauckham stated that banners/murals over 200 square feet would need a permit through the Department of Community Planning and Development. The applicants would have to show what type of anchoring mechanisms they intend to use. Wear and tear and maintenance provisions are built into the permitting process for banners and murals as they are for signs.

Commissioner Fricke commented that he had questions about this application. He inquired as to how many spaces there are in the downtown area that might be appropriate for such banners/murals, and who owns those spaces. Commissioner Fricke expressed concern regarding the many competing interests in the downtown area including political, social, and commercial. He stated that he didn't have a problem with the Radisson Hotel using that space for a mural. However, the proposed zoning ordinance change would allow other entities to use that space, and that may be cause for concern.

Commissioner Wienir inquired if there are cities that have similar regulations in their zoning ordinances. Is Kalamazoo modeling their zoning ordinance on what other city's are doing, or are they creating their own ordinance? Attorney Kneas advised that almost every city has regulations on murals and banners and their size, location, and structure. The proposed update is a compilation of other zoning ordinances that city staff reviewed. One of the objectives was to keep the language as simple as possible. The murals will not contain advertising. The proposed update for Kalamazoo may be different with respect to the size of the mural being allowed. Some ordinances limit murals to a lesser size. There are existing murals in the City of Kalamazoo that are close to 2,000 square feet in size. Murals which are works of art or an inspirational quote can add to the vitality of a city. The proposed ordinance change for murals was written to preclude any language that defines a sign.

Commissioner Fricke inquired if banners are not currently allowed. Attorney Kneas advised that certain banners are allowed, but there is a difference in size and district. A banner is a sign and that is the distinction.

Commissioner Kuseske inquired if there is a definition for murals. Attorney Kneas stated that the current ordinance allows for a mural to be painted or affixed to a building; it could be drawn on or painted on. The current ordinance does not allow for a mural to be produced off site and then put on the building, but the amendment will allow that. The change is being proposed as a response to requests from downtown business owners.

Commissioner Kneen inquired if a mural could currently be painted on a building, and Attorney Kneas responded in the affirmative. The thought is that with a structurally sound framework, the mural could be changed periodically, rather than having something that is painted on the building. Commissioner Kneen inquired if this would be considered artwork or an activity? The example mural that was provided seems to fall under the definition of what is not permitted. Attorney Kneas commented that the zoning staff would have to review each request for a mural to make sure that it wouldn't fit the definition of a sign.

Commissioner Youngs referred to the mural definition, which states, "..... does not direct attention to a product, service, place, activity, person, institution, business or solicitation." Does that cover everything that shouldn't be in the mural, and is the definition flexible enough or strict enough to allow the appropriate amount of control? Attorney Kneas commented that it may not be possible to draft language in the ordinance that would prevent someone from trying to push the envelope. The intent was to take the existing definition of a sign, and state that a mural does not fit the definition of a sign.

Commissioner Youngs commented that the process for obtaining a mural, according to the proposed definition, will probably involve substantial expense for the applicant. Attorney Kneas advised that if someone wants a 2,000 square foot mural, it would be expensive. He was uncertain as to the exact cost.

Commissioner Fricke stated that he would like to have the request tabled to allow time for city staff to answer additional questions. He wanted to know the potential sites in the downtown area that could have such a mural. Attorney Kneas advised that murals over 1,000 square feet would be limited to certain zoning districts. The planning staff could provide the Planning Commission with locations in those two zoning districts that could be potential sites for such murals. Commissioner Fricke requested that information regarding potential locations for murals be included in site plan review. Therefore, if any new construction or changes to a building make it possible for such murals to be installed, the Planning Commission would be aware of that possibility.

Commissioner Kuseske suggested keeping the comments to technical questions for staff at this point.

Commissioner Dean inquired as to how the determination was made for larger size murals to only be done in certain districts. For instance, what if Edison Main Street wanted to put a mural on the side of a commercial structure? Commissioner Dean advised that she was having difficulties trying to visualize the scale of murals that would be allowed. Attorney Kneas advised that the scale of the proposed murals was considered when determining the districts in which they would be allowed, so there would be less impact.

Commissioner Mishall inquired if it would be possible to restrict the number of murals that would be allowed in the specific zoning districts. Attorney Kneas stated that it may

be self-restricting because of the limitations that would be placed on the murals. For instance, the murals would not be allowed to cover any window or door; they would only be allowed on a completely blank wall. The intent is to avoid any issues during emergency situations.

Commissioner Mishall expressed concern about cluttering the downtown area with murals. Attorney Kneas advised that there are not many sites where a mural that size could be placed. He suggested asking the planning staff for further clarification regarding the number of potential sites.

### **Public Hearing**

There were no public comments.

**Commissioner Youngs, supported by Commissioner Kneen, moved to close the public hearing on P.C. #2009.09. With a voice vote, the motion carried unanimously.**

**Commissioner Fricke, supported by Commissioner Mishall, moved to postpone the decision regarding P.C. #2009.09, the request from the Community Planning and Development Department for a text amendment to the zoning ordinance to revise the definition for murals in Section 12.3 and to add Section 7.6 to provide standards for murals, in order to allow city staff time to provide additional information. With a roll call vote, the motion failed by a majority vote.**

**Ayes: Fricke**

**Nays: Kuseske, Dean, Wienir, Youngs, Kneen, Mishall**

Planner Hernandez inquired as to the exact information needed from city staff and how that would help with the decision-making process. Commissioner Fricke stated that he would like to know the number of current structures that would qualify to have such banners, and where they are located. He also would like to know the potential for including that information in the site plans for any future developments. Discussion followed with regard to possible sites for murals.

Planner Bauckham requested further clarification about Mr. Fricke's request. Murals can be very small in size and could be placed on many facilities. Discussion followed as to the requested changes and whether they affected murals or banners. Commissioner Kuseske stated that the requested change to the zoning ordinance would further define what a mural is. It expands the current definition to include murals that are created off site and then placed on a building. The technology has changed so that creating a mural off site is now possible and that needs to be addressed.

Commissioner Kneen inquired if there are currently any restrictions on painting murals, and Planner Bauckham advised that there are not. Currently, there is no limit in the

zoning ordinance with regard to the size of a mural. Commissioner Dean advised that the proposed amendment to the zoning ordinance would require approval from city staff for murals over 1,000 square feet, whether they are painted or affixed.

Attorney Kneas advised that a permit is not currently required for a painted or drawn mural. That would remain the same under the new ordinance. The new ordinance has three parts. The third part states that a mural is a design or representation that is either painted, drawn or produced off site and affixed in a structurally sound and workman-like manner. Attorney Kneas advised that a permit would only be required for the third component of a mural, which pertains to construction of the mural off-site. The concern pertains to safety issues and that will be addressed through the permit process. If something is painted or drawn on a wall, the same safety issues would not exist.

Planner Hernandez advised that there was also discussion about whether or not the proposed artwork might be subject to personal taste. The decision by the Planning Commission should not take into consideration whether or not the public art would be to their pleasing. City staff can control the message on the mural. Attorney Kneas advised that content on a mural would be carefully considered due to the potential for issues with the first amendment to the constitution.

Commissioner Fricke commented that he is concerned with the potential for clutter, rather than with issues of censoring the content of proposed murals. He stated that he would like more information about the potential number of murals that could be installed if the amendment to the zoning ordinance is approved. Planner Hernandez advised that murals can be installed under the current zoning ordinance. The vinyl banners/murals can be expensive, which would limit the number of them being requested. Attorney Kneas commented that the cost of the vinyl banners/murals may be self-regulating. Also, public liability insurance will be required for those types of installations.

Commissioner Mishall inquired as to how much time, research and work will go into reviewing the location, size, message, and number of banners/murals allowed. Attorney Kneas stated that part of the review process may involve building and engineering staff who would review how the sign will be affixed. Planner Bauckham advised that the new process for approval of banners/murals will probably be similar to review of a sign permit. The applicant is required to provide a depiction to city staff of what they are proposing. City staff cannot regulate what a sign says, but they can regulate size, illumination and location of the sign. The process for murals that need a permit will be similar.

Commissioner Kneen inquired if the proposed zoning ordinance amendment could be retracted if there is a proliferation of banners/murals in the City of Kalamazoo. Attorney Kneas advised that the ordinance amendment would stay in effect unless it is repealed. If the amendment were repealed, the existing banners/murals would be allowed to remain as legally non-conforming.

Commissioner Dean inquired as to the demand for installation of mega-murals. Planner Bauckham advised that the demand has not been substantial. Banners of a larger size have been requested for the Radisson Hotel, the Kalamazoo Valley Museum and Monaco Bay Restaurant. Commissioner Dean referred to the painted mural on the side of the People's Food Co-op, which appears to be about 1,000 square feet. That mural extends down the entire side of the building but it is only 10 feet high. Attorney Kneas advised that if there were a building with a 10,000-square-foot blank wall, someone could put a mural on it under the current zoning regulations. The proposed amendment more clearly defines what a mural can be, and more provides specific standards.

**Commissioner Youngs, supported by Commissioner Kneen, moved to recommend to the City Commission, approval of P.C. #2009.09, the request from the Community Planning and Development Department for a text amendment to the zoning ordinance to revise the definition of murals in Section 12.3 and to add Section 7.6 to provide standards for murals. With a roll call vote, the motion carried unanimously.**

Planner Hernandez advised that city staff would be happy to answer any questions the Planning Commission has regarding this request. City staff has been working on the proposed amendment since February of 2009.

Planner Bauckham advised that city staff, DKI (Downtown Kalamazoo, Inc.) and downtown property owners are interested in preventing the downtown area from becoming cluttered with murals. There is a certain standard of vibrancy the city is trying to reach without the area looking cluttered. Adjustments could be made to the ordinance in the future if problems occur.

#### **D. APPROVAL OF MINUTES (May 7, 2009)**

Commissioner Wienir referred to page 6 of the minutes, paragraph 2, second sentence, and requested changing "meet" to "met." Page 6, paragraph 3, "Picadilly" should be "Piccadilly." Page 6, paragraph 4 refers to future development being unlikely but still possible. Commissioner Wienir suggested that sentence should be clarified in the minutes. Commissioner Kneen commented that he thought the applicant's statement referred to development for non-senior housing related uses. That would be unlikely because it will be a HUD mortgage. Therefore, future development would be difficult, but still possible. Planner Hernandez advised that there is room for more development on that property, but it is not likely that the proposed senior housing complex would expand. The entire parcel is included in the contract so any future development on that parcel would have to be for senior housing. The applicant stated that future development was unlikely. Commissioner Kuseske advised that it was his understanding that future development was unlikely because of the wooded area on the property. The general consensus from the Planning Commission was that further clarification in the minutes with regard to the possibility of future development was not necessary.

Commissioner Wienir referred to the format of the minutes, which show the discussion occurring after the vote. The recording secretary stated that she had been advised to change the minutes to that format. There were no objections from the Planning Commission regarding the current format of the minutes. Commissioner Wienir referred to page 10, paragraph 1, third sentence, "overnight" should be one word. On page 12, first paragraph under the public hearing, last sentence, change "affect" to "effect." On page 12, second paragraph under the public hearing, the minutes refer to Pleasant Ave. as being a "cut-through" from Westnedge to Kilgore. Commissioner Wienir advised that people go from Pleasant to Kilgore or they go to Whites Road. She inquired if clarification was needed regarding that sentence. Commissioner Kneen suggested adding the phrase, "via Duke St." for clarification. The sentence should read, "Pleasant is a cut-through from Westnedge to Kilgore to Whites Road via Duke Street."

Commissioner Fricke referred to page 7, Tony "Good" should be "Goode." On page 12, the correct spelling of the names of the public speakers are as follows: "Luchies" and "Strzelecki."

Commissioner Youngs noted that although he was not in attendance at the May Planning Commission meeting, he had been assigned to a sub-committee.

**Commissioner Kneen, supported by Commissioner Dean, moved approval of the amended minutes for the May 7, 2009 Planning Commission meeting. With a voice vote, the motion carried unanimously.**

#### **G. CITIZENS' COMMENTS ON NON-AGENDA ITEMS**

None

#### **H. OLD BUSINESS**

None

#### **I. NEW BUSINESS**

None

#### **J. CITIZENS' COMMENTS**

None

#### **K. CITY PLANNER'S REPORT**

Planner Hernandez requested that the Planning Commission approve rescheduling of the July Planning Commission meeting from Thursday, July 2<sup>nd</sup> to Tuesday, July 7<sup>th</sup>, same time and place.

Commissioner Kneen advised that he might not be able to attend the Planning Commission meeting if it is moved to July 7<sup>th</sup>. There were no objections from the rest of the Planning Commissioners with regard to moving the meeting to July 7<sup>th</sup>.

Planner Hernandez advised that most of the Planning Commissioners were contacted with regard to their assignments to subcommittees for the Master Plan working groups. Planner Hernandez mentioned that Commissioner Mishall works out of town and the meetings are during the day. In order to avoid conflict with Commissioner Mishall's schedule, city staff is requesting that she attend the public input meetings, which are held in the evening. The public input meetings will be held on July 21<sup>st</sup> and July 28<sup>th</sup>. One will be from 4 p.m. to 6 p.m., the other one will be held from 6 p.m. to 8 p.m. The locations for the meetings have not been determined at this point. The working groups will have their first meetings during the second week of June. Discussion for the working group meetings will include refining of questions to be asked at the public meetings regarding the four topics to be covered, which are: #1. Infrastructure and Transportation; #2. Regional Economic Development; #3. Neighborhood and Housing; and #4. Quality of Life. After information is gathered from the public meetings, it will be synthesized and presented to the public again in October for further comment. The objective for the work groups will be to compile a list of goals to be implemented. City staff will formulate a strategy to implement the community's goals.

Commissioner Fricke commented that there have been challenges with getting people to attend public meetings. He inquired if there has been any thought with regard to having a Face Book page or similar coverage for this project. Planner Hernandez advised that Plan-Kalamazoo is on facebook. Updates will be provided on facebook with regard to meeting dates and times. Public input will also be encouraged through this venue as a means of reaching a larger audience. City staff are trying to implement such suggestions as assisting with transportation, and providing child care and food to encourage the maximum level of participation at public meetings.

Planner Bauckham advised of the following tentative agenda items for the July Planning Commission meeting: Proposed amendments to the DDRC guidelines, and a possible telecommunication issue for a special use permit.

#### **L. MISCELLANEOUS COMMENTS BY PLANNING COMMISSIONERS**

None

#### **M. ADJOURNMENT**

**Commissioner Kneen, supported by Commissioner Mishall, moved to adjourn the June 4, 2009 Planning Commission meeting. With a voice vote, the motion carried unanimously.**

The meeting adjourned at 8:25 p.m.

Planning Commission Minutes

June 4, 2009

Page 15 of 15

Respectfully submitted,

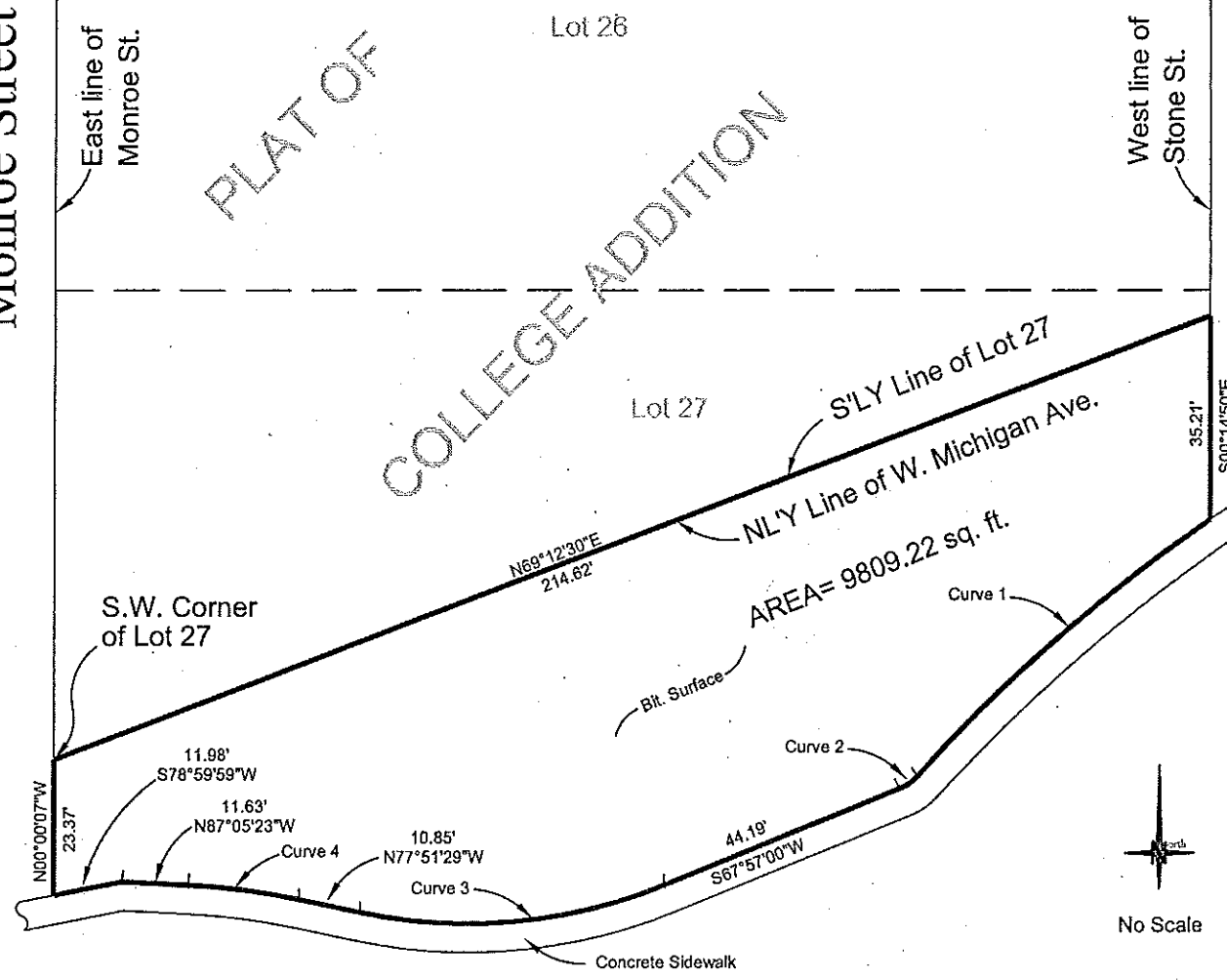
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Keith Hernandez, AICP  
Deputy Director/City Planner  
Community Planning and Development

Monroe Street

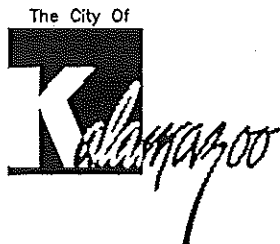
Stone Street

PLAT OF COLLEGE ADDITION



Curve Data

- |  |  |
|--|--|
| ① Arc=67.54<br>R.=291.02<br>Ch. Br.=S48°58'50"W<br>Chord=67.39 | ③ Arc=54.04<br>R.=90.50<br>Ch. Br.=S85°01'48"W<br>Chord=53.24  |
| ② Arc=3.58<br>R.=8.00<br>Ch. Br.=S55°07'57"W<br>Chord=3.55     | ④ Arc=19.25<br>R.=119.50<br>Ch. Br.=N82°52'08"W<br>Chord=19.19 |



Public Services Department  
Engineering Division  
415 Stockbridge Avenue  
Kalamazoo, Michigan 49001


Property Description

DRAWN BY: GS	CHECKED BY: BG	SHEET NO. _____ OF _____
SCALE: None	PROJ. NO.	DATE 5/21/07

## Description

A parcel of land located in the City of Kalamazoo, Kalamazoo County, Michigan, being more particularly described as:  
 Beginning at the southwest corner of Lot 27 of the recorded plat of "College Addition" as recorded in liber 4 on page 01 in the register of deeds office for Kalamazoo County; running thence N69°12'30"E, along the southerly line of said lot, said line also being the northerly line of West Michigan Avenue, 214.62 feet to the west line of Stone street, thence S00°14'50"E, along said west line, 35.21 feet; thence 67.54 feet, along the arc of a curve to the left, whose radius is 291.02 feet and whose chord bears S48°58'50"W, 67.39 feet; thence 3.58 feet along the arc of a curve to the right whose radius is 8.00 feet and whose chord bears S55°07'57"W, 3.55 feet; thence S67°57'00"W, 44.19 feet; thence 54.04 feet along the arc of a curve to the right whose radius is 90.50 feet and whose chord bears S85°01'48"W, 53.24 feet; thence N77°51'29"W, 10.85 feet; thence 19.25 feet along the arc of a curve to the left whose radius is 119.50 feet and whose chord bears N82°52'08"W, 19.19 feet; thence N87°05'23"W, 11.63 feet; thence S78°59'59"W, 11.98 feet to a point on the southerly extension of the east line of Monroe Street; thence N00°00'07"W, along said southerly extension, 23.37 feet to the place of beginning.

Containing 9809.22 sq. ft. of land more or less.

<p>The City Of</p>  <p>Public Services Department          Engineering Division          415 Stockbridge Avenue          Kalamazoo, Michigan 49001</p>	<h3>Property Description</h3>	
DRAWN BY: GS	CHECKED BY: BG	SHEET NO. _____ OF _____
SCALE: None	PROJ. NO. _____	DATE 5/21/07



# Commission Agenda Report

City of Kalamazoo

Date: **07/06/09**

Item **F4**

**TO:** Mayor Hopewell, Vice Mayor McKinney, and City Commissioners

**FROM:** Clyde J. Robinson, City Attorney  
Prepared by: Randall S. Schau, Deputy City Attorney

**SUBJECT:** Extension of Metro Act Right-of-Way Permit for Michigan Bell, dba SBC Michigan

**DATE:** June 26, 2009

## RECOMMENDATION

It is recommended that the City Commission authorize the City Manager to sign a letter agreement to extend the existing Metro Act Right-of-Way Permit for two additional years.

## BACKGROUND

State law allows telecommunication operations to obtain right-of-way permits from municipalities. Michigan Bell (dba SBC Michigan) obtained such a permit in August, 2004. That permit had a five-year term, meaning that it is due to expire on August 30, 2009. As permitted by State law, Michigan Bell has submitted to the City a one-page letter agreement which would extend the existing permit by two years (August 30, 2011). All of the other terms and conditions found within the 2004 permit remain unchanged. Michigan Bell is seeking similar two-year extensions from virtually all of the municipalities across the State.

## FISCAL IMPACT

Michigan Bell will continue to pay a per-foot charge to the State. That money will go into the Metro pool, from which the City of Kalamazoo receives its share.

## COMMUNITY RESOURCES.

None.

## **ALTERNATIVES**

The City Commission could decline to authorize the City Manager to execute the extension, but Michigan Bell would then be entitled to appeal the matter to the State. For a denial that was deemed wrongful, the State could order the City to pay Michigan Bell's attorneys' fees incurred in the appeal.

## **ATTACHMENT**

Metro Act Right-of-Way Permit Extension



Judy K. Klimek  
METRO Act Administrator  
54 N. Mill Street, Box 30  
Pontiac, MI 48342  
(248) 456-0855

June 15, 2009

Mr. Scott Borling, Clerk  
City of Kalamazoo  
241 West South Street, Room 104  
Kalamazoo, MI 49007

**METRO ACT RIGHT OF WAY PERMIT EXTENSION**

Dear Mr. Borling,

This is a letter agreement which extends the existing METRO Act Permit issued by the City of Kalamazoo to Michigan Bell Telephone Company formerly d/b/a SBC Michigan, now d/b/a AT&T Michigan ("AT&T") which expires on August 30, 2009. The extension is for a term to end on August 30, 2011.

If this is agreeable, please sign both copies of the extension letter agreement in the place provided below and return to AT&T Michigan at the above listed address. Upon receipt AT&T will acknowledge and return one copy for your files.

Additional information regarding this renewal request may be found at <http://www.michigan.gov/mpsc>. Please click on Telecommunications, Metro Act-Right of Way, and AT&T Michigan 2 Year Permit Extension.

We would appreciate return of the signed copies within 30 days of receiving this request. Your cooperation is appreciated.

If you have any questions feel free to contact Judy Klimek at 248.456.0855.

Agreed to by and on behalf of  
City of Kalamazoo

**Michigan Bell Telephone d/b/a**

**AT&T** acknowledges receipt of  
this Permit Extension granted by  
the municipality.

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Its: METRO Act Administrator  
Date: \_\_\_\_\_



# Commission Agenda Report

City of Kalamazoo

Date: **07/06/09**

Item **F5**

**TO:** Mayor Hopewell, Vice Mayor McKinney, and City Commissioners

**FROM:** Clyde J. Robinson, City Attorney  
Prepared By: Randall S. Schau, Deputy City Attorney

**DATE:** June 22, 2009

**SUBJECT:** Amendment to the PILOT (Payment in Lieu of Taxes) Ordinance (35-4)

## RECOMMENDATION

It is recommended that the City Commission offer for first reading a proposed ordinance amending Subsections D and E of Section 35-4, regarding the date for when PILOT payments are due.

## BACKGROUND

City Ordinance Section 35-4 currently requires that PILOT payments be paid on or before April 30 of each year. This works well for those entities that have a calendar year fiscal year, but does not for the projects that have other fiscal years (such as July 1 to June 30).

The PILOT payments are based on shelter rents received. Those rents must be presented to the City Treasurer in the form of an audited statement. Audited statements are typically done for fiscal years. Accordingly, it would be best for all concerned if the due date for the PILOT payment came after the end of each entity's fiscal year. Because of the time it sometimes takes to create the audited statement, 120 days is deemed reasonable.

The proposed change is recommended by both the City Treasurer and Community Planning and Development.

## COMMUNITY RESOURCES CONSULTED

None.

## FISCAL IMPACT

Other than the timing of when payments will be made, there will be no fiscal impact.

## **ALTERNATIVES**

The City Commission could decline to adopt the amendment, but that would mean that non-profits would have to make a payment by April 30 that would cover shelter rents for different fiscal years. This is not a desired scenario.

## **ATTACHMENTS**

Proposed Ordinance.

**CITY OF KALAMAZOO, MICHIGAN**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE TO AMEND SUBSECTIONS D AND E OF  
KALAMAZOO CITY CODE OF ORDINANCES SECTION 35-4**

**THE CITY OF KALAMAZOO ORDAINS:**

**Section 1.** Section 35-4, Subsections D and E, of the Kalamazoo City Code are hereby amended to read as follows:

**“Sec. 35-4. Tax exemption for projects financed under State Housing Development Act.**

D. Manner of payment in lieu of taxes. Except as provided in Subsection E, the annual payment in lieu of taxes shall be based on the annual shelter rents for the preceding calendar year based on the audited financial report for that year as provided by the sponsor to the City. The annual payment in lieu of taxes shall be paid to the City on or before 120 days after the close of the owner’s fiscal year. Any annual payment in lieu of taxes or any portion of the annual payment remaining unpaid after 120 days after the close of the owner’s fiscal year shall have interest of 1% per month, together with a penalty fee of 4% added to them; provided that the total penalty fee shall not exceed 4% of the total payment in lieu of taxes due and payable. The annual payment in lieu of taxes shall be accompanied by an estimate of the shelter rents for the current calendar year and a certified annual audit of the gross rentals and utility costs of the project for the preceding calendar year along with documentation regarding how the sponsor has calculated the amount of the PILOT payment it is submitting to the City. The sponsor shall also provide the City with any other audited financial statements or other documentation as may be necessary to establish compliance with this section.

E. Duration and tax-exempt status revocation. Unless indicated otherwise in the resolution adopted by the City Commission, the property tax exemption provided under this section shall commence at the beginning of the tax year immediately after the property has satisfied all the requirements under the Act. If, at the inception of the exemption provided by this section, the property does not generate any annual shelter rents during one or more calendar years, the PILOT payment shall equal the amount of regular ad valorem taxes that would have been paid for the property until the property begins to generate annual shelter rents. Unless indicated otherwise in the resolution adopted by the City Commission, the property tax exemption provided under this section shall continue so long as the Authority-aided or federally aided mortgage loan remains outstanding and unpaid or HUD or the Authority has any interest in the property (including but not limited to a use restriction, lien, or regulatory agreement) and as long as the payment in lieu of taxes is made as provided herein, provided that construction or rehabilitation of the housing

development commences within one year from the effective date of the resolution; provided, however, if a housing project fails to timely pay its annual payment in lieu of taxes, the City Commission, by resolution, may revoke the tax-exempt status of the housing project. The City Commission shall provide notice to the sponsor or owners or operators of the housing project, in writing by certified mail, at least 10 days prior to the date that it shall consider the revocation of the tax-exempt status of the housing project. If the tax-exempt status of the housing project is revoked, the housing project shall then be placed on the tax rolls on the next December 31 following the revocation of the tax-exempt status of the project. If a housing project is added to the tax rolls for failing to make its payment in lieu of taxes, and the payment remains unpaid at the time the housing project is added to the tax rolls, the City officials in charge of the collection thereof may certify to the tax assessing officer of the City the fact of such delinquency, whereupon such charge, together with any accumulated interest and penalty fees, shall be entered upon the tax rolls as a charge against such premises and shall be collected and the lien thereof enforced in the same manner as general City taxes against such premises.

**Section 2. Repealer.**

All former ordinances or parts of ordinances conflicting or inconsistent with the provisions of this ordinance are hereby repealed.

**Section 3. Severability.**

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, said portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.

**Section 4. Effective Date.**

Pursuant to Section 13(a) of the City Charter, this ordinance shall take effect from and after 10 days from the date of its passage.

CERTIFICATE

The foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Kalamazoo at a regular meeting held on \_\_\_\_\_, 2009. Public notice was given and the meeting was conducted in full compliance with the Open Meetings Act, (PA 267, 1976). Minutes of the meeting will be available as required by the Act, and the ordinance was duly recorded, posted and authenticated by the Mayor and City Clerk as required by the Charter of said City.

\_\_\_\_\_  
Bobby J. Hopewell, Mayor

\_\_\_\_\_  
Scott A. Borling, City Clerk

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6/22/09

**CITY OF KALAMAZOO, MICHIGAN**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE TO AMEND SUBSECTIONS D AND E OF  
KALAMAZOO CITY CODE OF ORDINANCES SECTION 35-4**

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D. Manner of payment in lieu of taxes. Except as provided in Subsection E, the annual payment in lieu of taxes shall be based on the annual shelter rents for the preceding calendar year based on the audited financial report for that year as provided by the sponsor to the City. The annual payment in lieu of taxes shall be paid to the City on or before ~~April 30.~~ **120 days after the close of the owner’s fiscal year.** Any annual payment in lieu of taxes or any portion of the annual payment remaining unpaid after ~~April 30.~~ **120 days after the close of the owner’s fiscal year** shall have interest of 1% per month, together with a penalty fee of 4% added to them; provided that the total penalty fee shall not exceed 4% of the total payment in lieu of taxes due and payable. ~~by April 30.~~ The annual payment in lieu of taxes shall be accompanied by an estimate of the shelter rents for the current calendar year and a certified annual audit of the gross rentals and utility costs of the project for the preceding calendar year along with documentation regarding how the sponsor has calculated the amount of the PILOT payment it is submitting to the City. The sponsor shall also provide the City with any other audited financial statements or other documentation as may be necessary to establish compliance with this section.

E. Duration and tax-exempt status revocation. Unless indicated otherwise in the resolution adopted by the City Commission, the property tax exemption provided under this section shall commence at the beginning of the tax year immediately after the property has satisfied all the requirements under the Act. If, at the inception of the exemption provided by this section, the property does not generate any annual shelter rents during one or more calendar years, the PILOT payment shall equal the amount of regular ad valorem taxes that would have been paid for the property until the property begins to generate annual shelter rents. Unless indicated otherwise in the resolution adopted by the City Commission, the property tax exemption provided under this section shall continue so long as the Authority-aided or federally aided mortgage loan remains outstanding and unpaid or HUD or the Authority has any interest in the property (including but not limited to a use restriction, lien, or regulatory agreement) and as long as the payment in lieu of taxes is made

as provided herein, provided that construction or rehabilitation of the housing development commences within one year from the effective date of the resolution; provided, however, if a housing project fails to **timely** pay its annual payment in lieu of taxes, ~~by April 30~~, the City Commission, by resolution, may revoke the tax-exempt status of the housing project. The City Commission shall provide notice to the sponsor or owners or operators of the housing project, in writing by certified mail, at least 10 days prior to the date that it shall consider the revocation of the tax-exempt status of the housing project. If the tax-exempt status of the housing project is revoked, the housing project shall then be placed on the tax rolls on the next December 31 following the revocation of the tax-exempt status of the project. If a housing project is added to the tax rolls for failing to make its payment in lieu of taxes, and the payment remains unpaid at the time the housing project is added to the tax rolls, the City officials in charge of the collection thereof may certify to the tax assessing officer of the City the fact of such delinquency, whereupon such charge, together with any accumulated interest and penalty fees, shall be entered upon the tax rolls as a charge against such premises and shall be collected and the lien thereof enforced in the same manner as general City taxes against such premises.

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\_\_\_\_\_  
Bobby J. Hopewell, Mayor

\_\_\_\_\_  
Scott A. Borling, City Clerk

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6/22/09



# Commission Agenda Report

Date: **07/06/09**

Item **F6**

City of Kalamazoo

**TO:** Mayor Hopewell, Vice Mayor McKinney, and City Commissioners

**FROM:** Kenneth P. Collard, City Manager, ICMA-CM, P.E.  
Prepared By: Jeffrey D. Chamberlain, Community Planning & Development  
Department Director

**DATE:** June 19, 2009

**SUBJECT:** A+ Neighborhoods: Sale of 2720 Wellington Drive

## RECOMMENDATION

It is recommended that the City Commission approve the sale of 2720 Wellington to Kalamazoo Neighborhood Housing Services for \$12,035.78, and authorize the City Manager to sign all documents related to the sale.

## BACKGROUND

On October 1, 2007, the Community Planning & Development Department opened its Property Sale Program – an initiative to move city-owned properties from public ownership back to the private sector. To date, the City Commission has approved the sale of 15 vacant properties through this program.

As part of the A+ Neighborhoods Program, the city also owns a small stock of houses that are not rehabbed and not slated for demolition. The current request begins the process of dispensing of these properties. 2720 Wellington came to the city via the tax foreclosure process in 2008, and the city has been incurring various costs, including taxes and general maintenance, since that date.

The proposed buyer is Kalamazoo Neighborhood Housing Services, Inc. (KNHS). If this sale is approved by the City Commission, KNHS will purchase the property from the city and use the property as part of its homeownership program. They have committed to using any future proceeds from the sale of this home for foreclosure prevention programs. They have also agreed to pay the city \$12,036.78 for the property. This amount is the combined total of the city's original purchase price and the back taxes

## COMMUNITY RESOURCES CONSULTED

The launch of the Property Sales Program was first shared with the community at the A+ Neighborhoods "Shaping Our Neighborhoods' Futures" workshops on September 17 and 18, 2007, and was announced through local media outlets that same week. No additional

public input was necessary for the sale of this property.

### **FISCAL IMPACT**

This property will eventually be returned to the private sector and will be placed back on the tax rolls.

### **ALTERNATIVES**

If the City Commission does not approve this property sale, the City will continue to own and maintain the property at 2720 Wellington Drive. It is recommended that the sale be approved as presented.

### **ATTACHMENTS**

There are no attachments accompanying this recommendation.

A regular meeting of the Kalamazoo City Commission was held on Monday, May 18, 2009 at 7:00 p.m. in the City Commission Chambers at City Hall.

## Roll Call

## COMMISSIONERS PRESENT:

Mayor Bobby J. Hopewell  
 Vice Mayor Hannah McKinney  
 David Anderson  
 Don Cooney  
 Sean McCann  
 Barbara Miller  
 Stephanie Moore

## COMMISSIONERS ABSENT:

None

Also present were City Manager Ken Collard, City Attorney Clyde Robinson, and City Clerk Scott Borling.

## Invocation

The invocation, given by Pastor Valerie Cunningham, Greater Faith Ministries, was followed by the Pledge of Allegiance.

Introduction of  
Guests

Mr. Greg Rosine, Vice Chair of the Kalamazoo County Transportation Authority, thanked City Commissioners and City staff for their support of the countywide transportation millage passed by voters on May 5<sup>th</sup>. Mr. Rosine distributed a document entitled *KCTA... Visioning for the Future*.

## Proclamation

Mayor Hopewell proclaimed May 2009 "National Preservation Month." Peter Carroll, Vice Chair of the Historic Preservation Commission, received the proclamation.

Adoption of the  
Agenda

By unanimous consent the City Commission adopted its meeting agenda with the following change:

City Clerk Borling requested that a resolution revising the dates and times of the closure of Edwards Street for Sky Bar, Inc. be added to the Consent Agenda.

## Communications

City Manager Collard invited the public to attend meetings of various boards and commissions.

Public Hearing re:  
a Tax Abatement  
for Fabri-Kal, Inc.  
in IDD No. 57

At 7:13 p.m. Mayor Hopewell opened a public hearing regarding a recommendation to adopt a RESOLUTION to approve the application from Fabri-Kal Corporation for a PA 198 Industrial Facilities Exemption Certificate for four years (with a four-year extension) for personal property valued at \$5,755,000 in existing Industrial Development District No. 57 located at 4141 Manchester Road.

Gary Galia, non-resident and Executive VP/CFO for Fabri-Kal Corporation, spoke in support of the proposed resolution and indicated this was the first of several tax abatement requests Fabri-Kal would submit to the City. Mr. Galia presented the City Commission with "Greenware" disposable drinking cups that had been made on the new production line.

In response to a question from Commissioner Cooney, Mr. Galia explained that "Greenware" was made from biodegradable corn starch and would return to its natural state after 50-60 days in a composting center.

At 7:19 p.m. Mayor Hopewell closed the public hearing.

Resolution 09-31  
Approving a Tax  
Abatement for  
Fabri-Kal, Inc. in  
IDD No. 57

Commissioner McCann, seconded by Commissioner Miller, moved to adopt a **RESOLUTION** to approve the application from Fabri-Kal Corporation for a PA 198 Industrial Facilities Exemption Certificate for four years (with a four-year extension) for personal property valued at \$5,755,000 in existing Industrial Development District No. 57 located at 4141 Manchester Road.

With a roll call vote this motion passed.

AYES: Commissioners Anderson, Cooney, McCann, Miller, Moore, Vice Mayor McKinney, Mayor Hopewell

NAYS: None

Consent Agenda

Consent Agenda items were presented as follows with a recommendation to approve the items with authorization for the City Manager to sign on behalf of the city:

- approval of a six-month contract extension to purchase powdered activated carbon from Calgon Carbon Corporation in the amount of \$821,304.
- approval of an agreement with the Michigan Department of Transportation for the resurfacing of Lovell Street from Michigan Avenue to Rose Street and Bronson Boulevard from Kilgore Road to Alta Vista Avenue, in which the City receives \$901,000 in Federal Surface Transportation Funds, including approving a purchase order in the amount of \$301,700 to cover the City's share of the project.

Resolution 09-32

- adoption of a **RESOLUTION** authorizing the issuance of Capital Improvement Bonds in an amount not to exceed \$4,585,000.

Resolution 09-33

- adoption of a **RESOLUTION** granting a Payment in Lieu of Taxes to Housing Resources, Inc. and its affiliate, the Rickman House Preservation Limited Dividend Housing Association Limited Partnership for a 49-unit affordable housing rehabilitation project located at 345 N. Burdick Street, pursuant to Section 35-4 of the Kalamazoo City Code.

Resolution 09-34

- adoption of a **RESOLUTION** authorizing the City Manager to sign a MERS Health Care Savings Program Participation Agreement and to authorize the City Manager to execute any and all other documents pertaining to the plan.

- Resolution 09-35 - adoption of a Michigan Department of Consumer & Industry Services, Liquor Control Commission **RESOLUTION** to transfer ownership of a Class C liquor license from LeMonde Bistro, LLC. to JJ McKenna, LLC and a new entertainment permit and official permit (food).
- Resolution 09-36 - adoption of a **RESOLUTION** approving the use and location of an outdoor café for The Wine Loft along East Michigan Avenue, approving an amendment to the Grant of License for Encroachment upon Public Alley and authorizing the City Manager to sign the amendment.
- Resolution 09-37 - adoption of a **RESOLUTION** authorizing the City Manager to sign all documents necessary to acquire land from the Tabernacle Church of God in Christ for the Virginia Avenue Sanitary Sewage Lift Station Improvements in the amount of \$800.00 and authorize the City Manager to sign two associated easement documents in the amount of \$1.00 each.
- Resolution 09-38 - adoption of a **RESOLUTION** to: a) approve the proposed loan to the Kalamazoo Municipal Golf Association; b) waive the general EOF guidelines; and, c) authorize the transfer of \$225,000 from the Economic Initiative Fund to the Economic Opportunity Fund to expand and improve the clubhouse at the Eastern Hills municipal golf course and to purchase a Class C liquor license.
- Resolution 09-39 - adoption of a **RESOLUTION** that acknowledges and encourages the City's involvement in the Southwest Michigan Sustainability Regional Covenant and authorizes the Mayor to sign the Covenant on behalf of the City of Kalamazoo.
- approval of the following actions related to the 1986 Amended Wastewater Service Agreement with the Upjohn Company:
- acceptance of three installment payments for a total amount not to exceed \$4,856,000 from Pharmacia Upjohn Company, L.L.C. a subsidiary of Pfizer, Inc. as full and complete payment of their obligations under the 1986 Amended Wastewater Service Agreement with the Upjohn Company; and
  - approval of the Wastewater Service Agreement Amendment revision which outlines the specific payment schedule of the \$4,856,000 from Pharmacia & Upjohn Company L.L.C. and provides for future wastewater services per the amended revision.
- approval of a Service Agreement between the Kalamazoo County Transportation Authority, the City of Kalamazoo, and the Kalamazoo Transit Authority Board for CY2009.

Consent Agenda  
(cont'd)

- authorization for the City Manager to execute an Easement Agreement with National Railroad Passenger Corporation ("Amtrak") to allow the City to discharge water onto the railroad's property.
- authorization for the City Manager to sign a proposed Temporary Access Agreement granting Delta Consultants, Inc. temporary access to perform environmental testing on the city's right-of-way.
- approval of a request from the Kalamazoo Kings to publicly display fireworks at Mayors' Riverfront Park on the following dates for the 2009 baseball season: May 22, June 5, June 19, July 4, July 10, July 31, and August 14.

Resolution 09-40

- adoption of a **RESOLUTION** that rescinds Resolution 09-29 and declares Edwards Street to be closed and a special event area permitted for the sale and consumption of alcoholic beverages.

Commissioner Moore, seconded by Commissioner Anderson, moved to approve the consent agenda requests.

With a roll call vote this motion passed.

AYES: Commissioners Anderson, Cooney, McCann, Miller, Moore, Vice Mayor McKinney, Mayor Hopewell

NAYS: None

Regular Agenda

Regular Agenda Items were considered next.

Acceptance of  
Neighborhood  
Stabilization Grant

Commissioner Moore, seconded by Vice Mayor McKinney, moved to accept a grant from the Michigan State Housing Development Authority in the amount of \$770,000 for a Neighborhood Stabilization Program, and authorize the City Manager to sign and submit all appropriate documents required by MSHDA and execute all contracts with subrecipients of funding received under this program.

With a roll call vote this motion passed.

AYES: Commissioners Anderson, Cooney, McCann, Miller, Moore, Vice Mayor McKinney, Mayor Hopewell

NAYS: None

Adoption of the  
Downtown  
Comprehensive  
Plan

Keith Hernandez, City Planner and Deputy Director of the Community Planning and Development Department, provided an overview of the process used to develop the Downtown Comprehensive Plan.

Ken Nacci, Executive Director of Downtown Kalamazoo Incorporated, presented highlights of the Downtown Comprehensive Plan and thanked City staff and volunteers for their work on the Plan.

Commissioner Cooney thanked Mr. Nacci for designing an open process for developing the Downtown Plan.

Adoption of the  
Downtown  
Comprehensive  
Plan (cont'd)

In response to a question from Vice Mayor McKinney, Mr. Nacci described elements of the Five-Year Parking Plan, which would commence in 2010.

Commissioner McCann, seconded by Commissioner Miller, moved to adopt the Downtown Comprehensive Plan as an amendment to the city's Master Plan and to direct the Downtown Development Authority to undertake the necessary feasibility studies and fundraising to implement the recommendations of the plan.

Prior to a vote on the motion, Commissioner Miller thanked City staff, DKI staff and volunteers for their work on the Plan.

Vice Mayor McKinney noted this plan was a natural extension of the 1996 Downtown Plan and stated the success of the Plan would depend on the dedication of people to see through the implementation of the Plan over time. Vice Mayor McKinney expressed frustration that the completion of the planning process was occurring when Michigan was entering a challenging period for public finance, and she urged the stakeholders involved to be patient over the next few years as it would be difficult to fund implementation of the plan in the near term.

Mayor Hopewell thanked volunteers for their work on the Plan and for their work to make Downtown the vibrant place.

With a roll call vote this motion passed.

AYES: Commissioners Anderson, Cooney, McCann, Miller, Moore, Vice Mayor McKinney, Mayor Hopewell

NAYS: None

Commissioner Moore, seconded by Commissioner Anderson, moved to take the following actions regarding the Housing Code

Ordinance 1852  
Amending  
Sections of the  
Housing Code

- adopt an **ORDINANCE** amending sections of Chapter 17, Housing Code for necessary changes to the building code and other initiatives related to residential cooperatives and certificate length.

Resolution 09-41  
re: Qualifications  
of Registered  
Local Agents

- adopt a **RESOLUTION** repealing Resolution No. 02-115 and replacing it with a new resolution regarding the qualifications of Registered Agents of rental property within the city of Kalamazoo; and

Resolution 09-42  
re: Administrative  
Rules for Housing  
Inspections

- adopt a **RESOLUTION** repealing Resolution No. 04-10 and replacing it with a new resolution and new Administrative Rules regarding the length of a Certificate of Compliance for rental property and specifications for inspections for residential cooperatives.

With a roll call vote this motion passed.

AYES: Commissioners Anderson, Cooney, McCann, Miller, Moore, Vice Mayor McKinney, Mayor Hopewell

NAYS: None

City Manger's Report

City Manager Collard reported the following items:

- Departmental Reports and Project Updates
- CITYLink Newsletter dated April, 2009
- Kalamazoo Communities in Schools Newsletter dated May, 2009
- 1<sup>st</sup> Quarter, 2009 Employment Activity Report
- April, 2009 Purchasing Report

Citizen Comments

When given a final opportunity for citizen comments, the following citizens addressed the City Commission:

Rex Bruggemann, City resident, spoke in support of a bike path that was in the site plan for the new Arboretum Parkway through the Arcadia Neighborhood. Mr. Bruggemann requested a status report on the construction of the bike path and urged the City be diligent in the design and construction of the path.

Frank Warner, City resident, invited City Commissioners to Memorial Day services at Fort Custer National Cemetery on Sunday, May 24<sup>th</sup>. Mr. Warner also commented on the Eastwood Recovery House and parking problems on Lynn Avenue near Paramount Charter Academy.

Olivia McFadden, City resident, expressed concern about the condition of a vacant building at the corner of North Pitcher and East Frank Streets.

Lisa Densmore, City resident, requested support for a proposed Juneteeth commemoration event. Correspondence submitted by Ms. Densmore was filed with the papers for this meeting.

City Commissioner Comments

Next, an opportunity was given for miscellaneous comments and concerns of City Commissioners.

Commissioner Moore offered comments on the following topics: the beginning of the seasons for the Kalamazoo Outlaws and Kalamazoo Kings; Rev. Addis Moore's 14 years of service at Mt. Zion Baptist Church; a youth development funding opportunity from the United Way for organizations working with young girls; an upcoming NAACP meeting at the Family Health Center; youth employment opportunities with Youth Opportunities Unlimited and local neighborhood associations; an upcoming workshop on "How to Get a Job in the Healthcare Industry"; the Michigan Works! host site at the offices of the Northside Association for Community Development; the 3<sup>rd</sup> Annual Mothers of Hope Ultimate Family Reunion; and the Memorial Day holiday.

Commissioner Miller announced the 13<sup>th</sup> Annual Friends of Recreation Golf Classic would take place on July 17<sup>th</sup> at Eastern Hills Golf Course.

City Commissioner  
Comments (cont'd)

Commissioner Anderson highlighted the following items that were on this meeting's agenda: the issuance of Capital Improvement Project Bonds; the acceptance of Neighborhood Stabilization Grant funds; and the portion of the City Manager's report regarding the number and value of building permits issued through April.

Commissioner Cooney thanked Chief Hadley for organizing a forum on the public health model for preventing youth violence, and he urged the community to develop a public health plan for young people.

Vice Mayor McKinney remarked on recent planning efforts by the Edison Neighborhood Association and the Downtown Development Authority but expressed concern that a disconnect between peoples' expectations for project funding and the actual availability of funds to implement these plans would turn to anger and frustration. Vice Mayor McKinney urged community stakeholders to not turn on each other but to realize the existence of unfunded projects was due to the lack of funds rather than a choice to withhold funding.

Mayor Hopewell stated the City needed to be the guardian of relationships between community stakeholders during these difficult economic times. Mayor Hopewell congratulated Second Baptist Church on its 155<sup>th</sup> anniversary and St. Monica's School on its 50<sup>th</sup> anniversary. Mayor Hopewell thanked the City Commission for approving the Southwest Michigan Regional Sustainability Covenant and noted there would be a signing ceremony on Wednesday, May 20<sup>th</sup>. Mayor Hopewell encouraged citizens to celebrate Memorial Day and wished Public Safety Chief Jeff Hadley "happy birthday."

Adjournment

The meeting adjourned at 8:17 p.m.

Respectfully submitted,

Scott A. Borling  
City Clerk

For City Commission approval on July 6, 2009

Approved by: \_\_\_\_\_  
Bobby J. Hopewell, Mayor  
Dated: July 6, 2009

A regular meeting of the Kalamazoo City Commission was held on Monday, June 1, 2009 at 7:00 p.m. in the City Commission Chambers at City Hall.

## Roll Call

## COMMISSIONERS PRESENT:

Mayor Bobby J. Hopewell  
 Vice Mayor Hannah McKinney  
 David Anderson  
 Don Cooney  
 Sean McCann  
 Barbara Miller  
 Stephanie Moore

## COMMISSIONERS ABSENT:

None

Also present were City Manager Ken Collard, City Attorney Clyde Robinson, and City Clerk Scott Borling.

## Invocation

The invocation, given by Pastor Bobette Hampton, Fresh Fire African Methodist Episcopal Church, was followed by the Pledge of Allegiance.

Introduction of  
Guests

City Manager Collard introduced Tony Wright, newly elected President of the Kalamazoo Municipal Employees' Association (KMEA). Mr. Wright introduced the KMEA officers and board of directors.

## Proclamation

Commissioner Cooney, on behalf of Mayor Hopewell, read a proclamation *Celebrating the 17<sup>th</sup> Year Anniversary of Metropolitan Kalamazoo ACT-SO Program*. Noah Kramer was present to receive the proclamation.

Adoption of the  
Agenda

By unanimous consent the City Commission adopted its meeting agenda as presented.

## Communications

City Manager Collard invited the public to attend meetings of various boards and commissions.

Public Hearing re:  
The Kalamazoo  
Mall Maintenance  
Assessment

At 7:10 p.m. Mayor Hopewell opened a public hearing regarding a recommendation to adopt RESOLUTION #4 approving the 2008 Kalamazoo Mall Sidewalk Maintenance Assessment at a per front foot cost of \$14.336.

At 7:11 p.m. Mayor Hopewell closed the public hearing.

Resolution 09-43  
Approving the  
2008 Kalamazoo  
Mall Maintenance  
Assessment

Commissioner McCann, seconded by Commissioner Miller, moved to adopt to adopt **RESOLUTION #4** approving the 2008 Kalamazoo Mall Sidewalk Maintenance Assessment at a per front foot cost of \$14.336.

With a roll call vote this motion passed.

AYES: Commissioners Anderson, Cooney, McCann, Miller, Moore, Vice Mayor McKinney, Mayor Hopewell

NAYS: None

## Consent Agenda

Consent Agenda items were presented as follows with a recommendation to approve the items with authorization for the City Manager to sign on behalf of the city:

## Resolution 09-44

- adoption of a Michigan Department of Consumer & Industry Services, Liquor Control Commission **RESOLUTION** to transfer a Class C-SDM License at the business located at 1332 West Michigan Avenue (University Road House) to a new building at the same location with the same address.

## Resolution 09-45

- adopt a **RESOLUTION** to accept an education grant from the Michigan State Historic Preservation Office Certified Local Governments Grant Program in the amount of \$35,171 to be used to plan and implement a Window Rehabilitation Training Workshop in July 2009 and to authorize the City Manager to sign all documents on behalf of the City of Kalamazoo.
- first reading of an ORDINANCE to rezone 214 and 230 S. Sage Street from Zone CO (Commercial, Office District) to Zone RM-24 (Residential, Multi-Dwelling District) under the contract zoning provision of the State of Michigan; and, schedule a public hearing for June 15, 2009.
- authorization for the City Manager to sign a proposed Temporary Access Agreement granting Groundwater and Environmental Services, Inc., on behalf of ExxonMobil Oil Corporation, temporary access to perform environmental testing activities on the city's right-of-way.
- acceptance of a grant from the Mayors' Riverfront Endowment Fund for \$20,000 to help fund the general operations at Mayors' Riverfront Park.
- acceptance of donations to help fund the Milham Park/Blanche Hull Master Plan capital improvement project from: a) the Friends of Recreation for \$7,520; b) John and Carol Booden for \$200; c) Donald VanderKooy for \$100; and d) Donald C. Meitz for \$25 and to increase the project budget in this amount for a total budget of \$27,845.
- approval of the minutes from the following City Commission Meetings: the Neighborhood Meetings on March 16 and April 20, 2009; the Special Meeting on March 27, 2009; and the Business Meetings on March 2, March 16, April 6, and April 20, 2009.

Commissioner Moore, seconded by Commissioner Anderson, moved to approve the consent agenda requests.

With a roll call vote this motion passed.

AYES: Commissioners Anderson, Cooney, McCann, Miller, Moore, Vice Mayor McKinney, Mayor Hopewell

NAYS: None

## City Clerk's Report

City Clerk Borling reported the following items:

- The following lawsuits had been received and referred to the City Attorney's Office:

- G.R.I.N., L.L.C. v City of Kalamazoo

- Lester Moore, pro per v City of Kalamazoo and Kalamazoo County

- The City Commission has received as informational minutes of the following advisory boards and commissions:

Community Development Act Advisory Committee

- Thursday, February 12, 2009
- Thursday, March 12, 2009
- Thursday, April 02, 2009
- Thursday, April 30, 2009

Community Relations Board

- Thursday, February 12, 2009

Dangerous Buildings Board

- Thursday, February 05, 2009
- Thursday, March 05, 2009

Employee Retirement System Board of Trustees

- Wednesday, February 25, 2009

Environmental Concerns Committee

- Wednesday, February 18, 2009
- Wednesday, March 18, 2009
- Wednesday, April 15, 2009

Friends of Recreation Board

- Monday, January 19, 2009
- Monday, February 16, 2009
- Thursday, March 12, 2009

Kalamazoo Historic District Commission

- Tuesday, February 17, 2009
- Tuesday, March 17, 2009

Kalamazoo Historic Preservation Commission

- Tuesday, January 13, 2009
- Tuesday, February 10, 2009
- Tuesday, April 14, 2009

Kalamazoo Municipal Golf Association

- Tuesday, February 17, 2009
- Thursday, March 12, 2009

Kalamazoo Transit Authority Board

- Friday, January 09, 2009

City Clerk's Report  
(cont'd)

- Friday, February 06, 2009
- Friday, March 27, 2009
  
- Parks and Recreation Advisory Board
  - Tuesday, February 03, 2009
  - Tuesday, March 03, 2009
  - Tuesday, April 07, 2009
  - Tuesday, May 05, 2009
  
- Planning Commission
  - Thursday, February 05, 2009
  - Thursday, March 05, 2009
  - Thursday, April 02, 2009
  
- Zoning Board of Appeals
  - Thursday, February 12, 2009
  - Thursday, March 12, 2009
  
- The City Commission had received as informational, 2008 Annual Reports from the following advisory boards and commissions:
  - The Civil Service Board
  - The Community Development Act Advisory Committee
  - The Community Relations Board
  - The Downtown Development Authority
  - The Environmental Concerns Committee
  - The Friends of Recreation Board
  - The Historic District Commission
  - The Historic Preservation Commission
  - The Investment Committee of the Retirement System
  - The Parks and Recreation Advisory Board
  - The Pension Board
  - The Zoning Board of Appeals
  
- The following Special Event requests were approved in the month of May:
  - a request from the Kalamazoo Gay Lesbian Resource Center & WMU's Office of Lesbian, Bisexual, Gay & Transgender Students to use Milham Park on May 9, 2009 from 3:00 - 7:00 p.m. for the Kalamazoo Pride Dog Show.
  - a request from the Kalamazoo Public Library to use Bronson Park on May 27, 2009 from 8:00 a.m. to 12:00 p.m. for the Party in the Park reading event.
  - a request from Kalamazoo Institute of Arts to use Bronson Park and City Streets from June 5, 2009 at 8:00 a.m. to June 6, 2009 at 5:00 p.m. for the Kia Art Fair.
  - a request from the Fraternal Order of Police to use Bronson Park on June 12, 2009 from 11:30 a.m. to 1:30 p.m. for a Fallen Officers Memorial Service.

- a request from Galilee Baptist Church to use LaCrone Park on July 23, 2009 from 2:00 to 10:00 p.m. for a Family Vacation Bible School Celebration Night.
- a request from the West Main Hill Neighborhood Association to use Henderson Park and City Streets on August 11, 2009 from 12:00 to 9:30 p.m. for the West Main Hill/USTA Picnic.
- a request from the American Foundation for Suicide Prevention to use Bronson Park and City sidewalks on September 12, 2009 from 10:00 a.m. to 3:00 p.m. for the 2009 Out Of The Darkness Community Walk.
- a request from The Alzheimer's Association, Michigan Great Lakes Chapter, to use Bronson Park and City sidewalks on September 19, 2009 from 8:00 to 11:00 a.m. for the annual Memory Walk.
- a request from Gazelle Sports to use Milham Park on September 26, 2009 from 6:00 a.m. to 8:00 p.m. for the 2009 Metro Trek event.
- a request from The Children's Hospital at Bronson to use City sidewalks on October 4, 2009 from 1:00 to 3:00 p.m. for the Walk Across Kalamazoo fundraising event.

## Citizen Comments

When given a final opportunity for comments, the following citizens addressed the City Commission:

Monica Westover, non-resident, spoke regarding allegations of wrongdoing by current and past City and County officials. Documents submitted by Ms. Westover were filed with the papers for this meeting.

Fred Lawrence, City resident, spoke about general economic conditions, the movement of production facilities to other countries, executive compensation, capitalism, pension systems, and the proposed construction of an arena in downtown Kalamazoo.

Dustin Harback, non-resident, expressed support for the construction of an arena in downtown Kalamazoo.

Derek Byrd, City resident, spoke regarding festivals that were being organized by Sky Productions. Mr. Byrd stated the festivals were scheduled to be held during the summer at 417 Forest Street.

Nicholas Clarkson, City resident, described the festivals being organized by Sky Productions and Sky Festivals. Mr. Clarkson distributed information regarding a zoning variance necessary for these festivals to be held at 417 Forest Street.

Citizen Comments  
(cont'd)

Mark Cornell, non-resident, asked the City Commission to assist his employer.

Caldin Street, City resident, expressed concern about the closing of the Felpausch grocery store and the large number of blighted properties in the community.

Eddie Anderson, City resident, spoke regarding the summer music festivals being organized by Sky Productions.

City Commissioner  
Comments

Next, an opportunity was given for miscellaneous comments and concerns of City Commissioners.

Commissioner Moore suggested the City Commission adopt a resolution of support for the location of a grocery store in the Northside Neighborhood, and she expressed support for the festivals being organized by Sky Productions. Commissioner Moore also congratulated the 2009 high school graduates.

Commissioner Cooney thanked the representatives from Sky Productions for their efforts to help young people and enhance the Vine Neighborhood. Commissioner Cooney spoke about the economy and the need for business leaders to focus on social and environmental sustainability, and not just the financial health of their businesses.

Mayor Hopewell reported he and the City Manager had met with the leadership of the Northside Association for Community Development about a grocery store in the Northside Neighborhood, and he had met with representatives from Sky Productions. Mayor Hopewell also reported he had participated in a conference call with the White House regarding health care.

Adjournment

The meeting adjourned at 7:51 p.m.

Respectfully submitted,

Scott A. Borling  
City Clerk

For City Commission approval on July 6, 2009

Approved by: \_\_\_\_\_  
Bobby J. Hopewell, Mayor  
Dated: July 6, 2009