

AGENDA
City Commission Meeting
City Hall, 222 Meigs Street
5:00 p.m.

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MONDAY, APRIL 28, 2008

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Invocation
Pledge of Allegiance
Meeting Called to Order
Roll Call – DW, DK, CS, DM, BF, BC, JF
Minutes – April 14th & April 21st

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Charter Officers – Matthew Kline, City Manager, Don Icsman, Law Director, Edward Widman, Finance Director, and B. Joyce Brown, Clerk of the City Commission

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Audience Participation – Agenda Items Listed Below Only (3 minute limit)

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PRESENTATIONS

- WWTTP Phase II Expansion Project by Jones & Henry – brief update
- Jeff Krabill – A Reality Today – Regreening Historic Sandusky

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PROCLAMATION – American Business Women’s Association – May 12th

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PROCLAMATION – Building Safety Week – May 5th – May 11th

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PREVIOUS BUSINESS

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PASSED AT FIRST READING AT MEETING OF APRIL 14TH.

ITEM #1 – Communication - Kathryn K. McKillips, Director of Engineering Services

BUDGETARY INFORMATION: There is no budgetary impact.

ORDINANCE NO. _____ Amending Part Nine – Streets, Utilities, and Public Services Code, Title Three – Utilities, by the addition of Chapter 935 – Comprehensive Storm Water Management, in the manner and way specifically set forth hereinbelow.

ORDINANCE NO. _____ Amending Part Nine – Streets, Utilities, and Public Services Code, Title Three – Utilities, by the addition of Chapter 937 – Erosion and Sediment Control, in the manner and way specifically set forth hereinbelow.

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CURRENT BUSINESS

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ITEM #2 - Communication – Rosanne Bodner, Public Transit Administrator

BUDGETARY INFORMATION: The state grant, if awarded, will allow Sandusky Transit System to increase services to our residents. The project will have no impact on the City’s budget as all moneys for the additional service will be provided through State of Ohio JARC Grant Funding and matching local sources.

RESOLUTION NO. _____ Filing of a Grant Application with the Ohio Department of Transportation through the US DOT Federal Transit Administration (FTA) for a Job Access Reverse Commute (JARC) Program Grant for the Sandusky Transit System. **Request passed under suspension of rules in full accordance of Section 14 of the City Charter.**

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ITEM #3 – Communication – Michael R. Meinzer, Fire Chief

BUDGETARY INFORMATION: No general fund money will be required for this project. This purchase has been budgeted in the Vehicle Equipment Replacement Fund and sufficient funds are available to purchase the vehicle. The cost is as follows: Fire Apparatus - \$484,447.00; Required Ancillary Equipment - \$32,870.00; Grand Total - \$517,317.00.

ORDINANCE NO. _____ Purchase one (1) 2008 Pierce Class “A” Triple Combination Fire Pumping Engine from Pierce Manufacturing, Inc. of Appleton, Wisconsin, through the State of Ohio Cooperative Purchasing Program. **Request passed under suspension of rules in full accordance of Section 14 of the City Charter.**

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ITEM #4 - Communication – Michele Hall, Recreation Program Supervisor

BUDGETARY INFORMATION: The agreements will not result in any additional budgetary expenses. The City will benefit from the agreed upon cash payment to be made by the league to assist with the expenses of the Kiwanis Park Field.

ORDINANCE NO. _____ Enter into a one (1) year License Agreement with the Northwest Ohio United States Specialty Sports Association Baseball League for priority use of the Kiwanis Park Ball Field located at 2227 First Street, Sandusky, Ohio, for the Northwest Ohio USSSA Baseball League Program (April 30 through July 31) beginning April 30, 2008. **Request passed under suspension of rules in full accordance of Section 14 of the City Charter.**

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ITEM #5 - Communication – Carrie R. Handy, Chief Planner

ORDINANCE NO. _____ Amending Part Eleven – Planning and Zoning Code, Title Three – Zoning Districts and Regulations, Chapter 1129 – Residential Districts and Chapter 1133 – Business Districts, Title Five – Additional Zoning Requirements, Chapter 1153 – Land Use Intensity and Chapter 1155 – Planned Unit Development. **Request passed under suspension of rules in full accordance of Section 13 of the City Charter.**

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ITEM #6 - Communication – Jeffrey W. Rosekelly, P.E., Project Engineer

BUDGETARY INFORMATION: The total estimated project cost including engineering, inspection, advertising and miscellaneous expenses is \$600,149.72. The estimated private assessment cost is \$125,009.01. The City portion of the project cost is \$279,800.71. The Water Funds expense will be \$138,223.37, the Sewer Fund expense will be \$8,776.25, the \$5.00 Fee Fund will be \$132,801.09 and the Ohio Public Works Grant expense will be \$195,340.00.

ORDINANCE NO. _____ Determining to proceed with the improvement of Monroe Street between certain termini by grading, paving, resurfacing, constructing curbs, gutters, sidewalks, driveway approaches and curb ramps, adjusting manholes, catch basins and a water valve box to grade, and installing a waterline between certain termini, all together with the necessary appurtenances thereto. **Request passed under suspension of rules in full accordance of Section 14 of the City Charter.**

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City Manager’s Report

Old Business

New Business

Audience Participation – open discussion on any item (5 minute limit)

Press Question/Answers

Executive Session

Adjournment

To: Matthew D. Kline, City Manager
From: Kathryn K. McKillips, Director of Engineering Services
Date: March 24, 2008
Subject: Commission Agenda Item

ITEM FOR CONSIDERATION: Adoption of new Ordinances for the Management of Stormwater within the City of Sandusky.

The City of Sandusky is considered an MS4 (Municipal Separate Storm Sewer System) as it pertains to the National Pollutant Discharge Elimination System (NPDES) for Phase II permitting. The Phase II Permit requires that six (6) minimum control measures be in place for separated sewer systems. Even though the City's sewer system is combined for the most part, the City is required to have legislation in place to address stormwater quantity and quality issues, and to manage stormwater that enters Ohio's waterways. Although the proposed ordinance is only required to be enforced in the separated areas of the City, it is the intent of the Department of Engineering Services to promote the use of Best Management Practices (BMP's) throughout the entire City. The following is the list of the six (6) minimum control measures that are required by the Phase II Permit:

1. **Public Education and Outreach Program** on the impacts of storm water on surface water and possible steps to reduce storm water pollution. The program must be targeted at both the general community and commercial, industrial and institutional dischargers.
2. **Public Involvement and Participation** in developing and implementing the Storm Water Management Plan.
3. **Elimination of Illicit Discharges** to the MS4.
4. **Construction Site Storm Water Runoff Ordinance** that requires the use of appropriate BMPs, pre-construction review of Storm Water Pollution Prevention Plans (SWP3s), site inspections during construction for compliance with the SWP3, and penalties for non-compliance.
5. **Post-Construction Storm Water Management Ordinance** that requires the implementation of structural and non-structural BMPs within new development and redevelopment areas, including assurances of the long-term operation of these BMPs.
6. **Pollution Prevention and Good Housekeeping** for municipal operations such as efforts to reduce storm water pollution from the maintenance of open space, parks and vehicle fleets.

These Ordinances address measures #4 and #5 above. The City's current Sewer Ordinance (Ch. 933) addresses illegal discharge, measure #3, into the City's sanitary sewer system. Erie County's agencies provide services for measures #1 Public Education and Outreach Program and #2 Public Involvement and Participation. City Sewer Maintenance and Traffic Division staff perform tasks to meet the requirements for measure #6, Pollution Prevention and Good Housekeeping.

The Stormwater Management Plan will require that any construction/development project that disturbs more than one acre of ground to submit a Stormwater Management Plan for Post-Construction Stormwater Management. In addition to the post-construction requirements, an Erosion and Sediment Control Plan (or Stormwater Pollution Prevention Plan (SWPPP)) will also be required during construction. The contractor/developer will be required to submit applications for plan reviews and permits. These requirements are in addition to the Ohio EPA's requirement for permits, but the Stormwater and Erosion Control plans may be able to meet both City and EPA's requirements.

The City of Sandusky is in partnership with Erie County and surrounding communities for our Phase II Permit in an effort to reduce duplication and provide the residents of the City and Erie County an efficient way to meet our stormwater management requirements. Erie County's technical design criteria will be used for the Stormwater Ordinance.

The NPDES Phase II Permit for stormwater compliance with the Ohio EPA will soon be renewed for the Erie County Urbanized Area which includes the City of Sandusky. The next five years will allow the City and County to refine our programs for optimum efficiency and effectiveness. New BMP's will be introduced as technology progresses. New products that homeowners can use, like rain barrels, will hopefully "catch on".

The City is required by the Ohio EPA to have these ordinances in place by April 2008.

BUDGETARY INFORMATION: There is no budgetary impact.

ACTION REQUESTED: It is recommended that the legislation for Stormwater Management be approved and that the necessary legislation be passed in order not to delay the implementation of the Ordinance. A presentation will take place in April at the introduction of this ordinance.

Kathryn K. McKillips, P.E.
Director of Engineering Services

I concur with this recommendation:

Matthew D. Kline
City Manager

KKM/cal

cc: Joyce B. Brown, City Commission Clerk
Ed Widman, Finance Director

ORDINANCE NO. _____

AN ORDINANCE AMENDING PART NINE - STREETS, UTILITIES, AND PUBLIC SERVICES CODE, TITLE THREE - UTILITIES, BY THE ADDITION OF CHAPTER 935 - COMPREHENSIVE STORM WATER MANAGEMENT, IN THE MANNER AND WAY SPECIFICALLY SET FORTH HEREINBELOW.

WHEREAS, flooding is a significant threat to property and public health and safety and storm water management lessens flood damage by reducing and holding runoff and releasing it slowly; and

WHEREAS, streambank erosion is a significant threat to property and public health and safety and storm water management slows runoff and reduces its erosive force; and

WHEREAS, insufficient control of storm water can result in significant damage to receiving water resources, impairing the capacity of these areas to sustain aquatic systems and their associated aquatic life use designations; and

WHEREAS, land development projects and associated increases in impervious cover alter the hydrologic response of local watersheds and increase storm water runoff rates and volumes, flooding, stream channel erosion, and sediment transport and deposition; and

WHEREAS, storm water runoff contributes to increased quantities of pollutants to water resources; and,

WHEREAS, storm water runoff, stream channel erosion, and nonpoint source pollution can be controlled and minimized through the regulation of runoff from land development projects; and

WHEREAS, there are watershed-wide efforts to reduce flooding, erosion, and water quality problems in the Pipe Creek and to protect and enhance the water resources of the Sandusky Bay and Lake Erie; and

WHEREAS, the City of Sandusky finds that the lands and waters within its borders are finite natural resources and that their quality is of primary importance in promoting and maintaining public health and safety within its borders; and

WHEREAS, the City of Sandusky desires to establish standards, principles, and procedures for the regulation of soil disturbing activities that may increase flooding and erosion and may cause adverse impacts to water resources, resulting from storm water runoff; and

WHEREAS, 40 C.F.R. Parts 9, 122, 123, and 124, and Ohio Administrative Code 3745-39 require designated communities, including the City of Sandusky to develop a Storm Water Management Program that, among other components, requires the City of Sandusky to implement standards, principles, and procedures to regulate the quality of storm water runoff during and after soil disturbing activities; and

WHEREAS, Article XVIII, Section 3 of the Ohio Constitution grants municipalities the legal authority to exercise all powers of local self-government and to adopt and enforce within their limits such local police, sanitary, and other similar regulations, as are not in conflict with general laws; and

WHEREAS, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of Municipal Departments of the City of Sandusky, Ohio and, NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO,

THAT:

Section 1. Part Nine - Streets, Utilities, And Public Services Code, Title Three - Utilities, be amended by the addition of Chapter 935 - Comprehensive Storm Water Management as follows:

**NEW LANGUAGE APPEARS IN BOLD PRINT
LANGUAGE TO BE STRICKEN APPEARS WITH A STRIKE THROUGH IT
LANGUAGE TO REMAIN UNCHANGED APPEARS IN REGULAR PRINT**

**NEW CHAPTER 935
COMPREHENSIVE STORM WATER MANAGEMENT**

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|---------------|---|---------------|---|
| 935.01 | Purpose And Scope. | 935.07 | Compliance With State And Federal Regulations. |
| 935.02 | Definitions. | 935.08 | Comprehensive Storm Water Management Plans. |
| 935.03 | Disclaimer Of Liability. | 935.09 | Performance Standards. |
| 935.04 | Conflicts, Severability, Nuisances And Responsibility. | 935.10 | Maintenance of Storm Water Management Practices. |
| 935.05 | Development Of Comprehensive Storm Water Management Plans. | 935.11 | Bond and Permit. |
| 935.06 | Application Procedures. | 935.12 | Violations. |
| | | 935.99 | Penalty. |

CROSS REFERENCES

**Health, Safety and Sanitation - see Section 521.05 notice to fill lots, remove putrid substances.
Flood Control - see Chapter 1157.
Lot Drainage - see Chapter 1335.**

935.01 PURPOSE AND SCOPE.

- (a) The purpose of this Chapter is to establish technically feasible and economically reasonable storm water management standards to achieve a level of storm water quality and quantity control that will minimize damage to property and degradation of water resources and will promote and maintain the health, safety, and welfare of the citizens of the City of Sandusky.**
- (b) This Chapter requires owners who develop or re-develop their property within the City of Sandusky to:**
 - (1) Control storm water runoff from their property and ensure that all storm water management practices are properly designed, constructed, and maintained.**
 - (2) Reduce water quality impacts to receiving water resources that may be caused by new development or redevelopment activities.**
 - (3) Control the volume, rate, and quality of storm water runoff originating from their property so that surface water and ground water are protected and flooding and erosion potential are not increased.**
 - (4) Minimize the need to construct, repair, and replace subsurface storm drain systems.**

- (5) Incorporate storm water quality and quantity controls into site planning and design at the earliest possible stage in the development process.
 - (6) Reduce the expense of remedial projects needed to address problems caused by inadequate storm water management.
 - (7) Maximize use of storm water management practices that serve multiple purposes including, but not limited to, flood control, erosion control, fire protection, water quality protection, recreation, and habitat preservation.
 - (8) Maintain, promote, and re-establish conditions necessary for naturally occurring stream processes that assimilate pollutants, attenuate flood flows, and provide a healthy water resource.
- (c) This Chapter shall apply to all parcels used or being developed, either wholly or partially, for new or relocated projects involving highways and roads; subdivisions or larger common plans of development; industrial, commercial, institutional, or residential projects; building activities on farms; redevelopment activities; grading; and all other uses that are not specifically exempted in Section 935.01.
 - (d) Public entities, including the State of Ohio, Erie County, and the City of Sandusky shall comply with this Chapter for roadway projects initiated after April 30, 2008 and, to the maximum extent practicable, for projects initiated before that time.
 - (e) This Chapter does not apply to activities regulated by, and in compliance with, the Ohio Agricultural Sediment Pollution Abatement Rules.
 - (f) This Chapter does not require a Comprehensive Storm Water Management Plan for linear construction projects, such as pipeline or utility line installation, that do not result in the installation of impervious surface as determined by the Director of Engineering Services. Such projects must be designed to minimize the number of stream crossings and the width of disturbance. Linear construction projects must comply with the requirements of Chapter 937 Erosion and Sediment Control.

935.02 DEFINITIONS.

For the purpose of this Chapter, the following terms shall have the meaning herein indicated:

- (a) **ACRE:** A measurement of area equaling 43,560 square feet.
- (b) **AS-BUILT SURVEY:** A survey shown on a plan or drawing prepared by a Registered Surveyor indicating the actual dimensions, elevations, and locations of any structures, underground utilities, swales, detention facilities, and sewage treatment facilities after construction has been completed.
- (c) **BEST MANAGEMENT PRACTICES (BMPs):** Structural or nonstructural facilities or activities that control soil erosion and/or storm water runoff at a development site. Schedule of activities, prohibitions of practices, operation and maintenance procedures, treatment requirements, and other practices to reduce the pollution of water resources and to control storm water volume and rate.
- (d) **CHANNEL:** A natural bed that conveys water or a ditch excavated for the flow of water.
- (e) **CLEAN WATER ACT:** Pub. L. 92-500, as amended Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483, Pub. L. 97-117, and Pub. L. 100-4, 33 U.S.C. 1251 et. seq. Referred to as the Federal Water Pollution Control Act or the Federal Water Pollution Control Act Amendments of 1972.
- (f) **COMMUNITY:** The City of Sandusky, its designated representatives, boards, or commissions.
- (g) **COMPREHENSIVE STORM WATER MANAGEMENT PLAN:** The written document and plans meeting the requirements of this Chapter that sets

forth the plans and practices to minimize storm water runoff from a development area, to safely convey or temporarily store and release post-development runoff at an allowable rate to minimize flooding and stream bank erosion, and to protect or improve storm water quality and stream channels.

- (h) **CRITICAL STORM:** A storm that is calculated by means of the percentage increase in volume of runoff by a proposed development area. The critical storm is used to calculate the maximum allowable storm water discharge rate from a developed site.
- (i) **CUT:** An excavation that reduces an existing elevation, as in road or foundation construction.
- (j) **DETENTION FACILITY:** A basin, pond, oversized pipe, or other structure that reduces the peak flow rate of storm water leaving the facility by temporarily storing a portion of the storm water entering the facility.
- (k) **DEVELOPMENT AREA:** A parcel or contiguous parcels owned by one person or persons, or operated as one development unit, and used or being developed for commercial, industrial, residential, institutional, or other construction or alteration that changes runoff characteristics.
- (l) **DEVELOPMENT DRAINAGE AREA:** A combination of each hydraulically unique watershed with individual outlet points on the development area.
- (m) **DISTURBED AREA:** An area of land subject to erosion due to the removal of vegetative cover and/or soil disturbing activities.
- (n) **DITCH:** An open channel, either human made or natural, for the purpose of drainage or irrigation with intermittent flow.
- (o) **DRAINAGE:** The removal of excess surface water or groundwater from land by surface or subsurface drains.
- (p) **EROSION:** The process by which the land surface is worn away by the action of wind, water, ice, gravity, or any combination of those forces.
- (q) **EXTENDED CONVEYANCE:** A storm water management practice that replaces and/or enhances traditional open or closed storm drainage conduits by retarding flow, promoting percolation of runoff into the soil, and filtering pollutants during the storm water quality event.
- (r) **EXTENDED DETENTION:** A storm water management practice that replaces and/or enhances traditional detention facilities by releasing the runoff collected during the storm water quality event over at least 24 to 48 hours, retarding flow and allowing pollutants to settle within the facility.
- (s) **FINAL STABILIZATION:** All soil disturbing activities at the site have been completed and a uniform perennial vegetative cover with a density of at least 80% coverage for the area has been established or equivalent stabilization practices, such as the use of mulches or geotextiles, have been employed.
- (t) **GRADING:** The process in which the topography of the land is altered to a new slope.
- (u) **IMPERVIOUS COVER:** Any surface that cannot effectively absorb or infiltrate water. This may include roads, streets, parking lots, rooftops, sidewalks, and other areas not covered by vegetation.
- (v) **INFILTRATION:** A storm water management practice that does not discharge to a water resource during the storm water quality event, requiring collected runoff to either infiltrate into the groundwater and/or be consumed by evapotranspiration, thereby retaining storm water pollutants in the facility.
- (w) **LARGER COMMON PLAN OF DEVELOPMENT:** A contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan.
- (x) **MAXIMUM EXTENT PRACTICABLE:** The level of pollutant reduction that operators of small municipal separate storm sewer systems regulated under 40 C.F.R. Parts 9, 122, 123, and 124, referred to as NPDES Storm Water Phase II, must meet.

- (y) **NPDES: National Pollutant Discharge Elimination System.** A regulatory program in the Federal Clean Water Act that prohibits the discharge of pollutants into surface waters of the United States without a permit.
- (z) **NONSTRUCTURAL STORM WATER MANAGEMENT PRACTICE:** Storm water runoff control and treatment techniques that use natural practices to control runoff and/or reduce pollution levels.
- (aa) **POST-DEVELOPMENT:** The conditions that exist following the completion of soil disturbing activity in terms of topography, vegetation, land use, and the rate, volume, quality, or direction of storm water runoff.
- (bb) **PRE-CONSTRUCTION MEETING:** Meeting prior to construction between all parties associated with the construction of the project including government agencies, contractors and owners to review agency requirements and plans as approved and submitted.
- (cc) **PRE-DEVELOPMENT:** The conditions that exist prior to the initiation of soil disturbing activity in terms of topography, vegetation, land use, and the rate, volume, quality, or direction of storm water runoff.
- (dd) **PROFESSIONAL ENGINEER:** A Professional Engineer registered in the State of Ohio with specific education and experience in water resources engineering, acting in conformance with the Code of Ethics of the Ohio State Board of Registration for Engineers and Surveyors.
- (ee) **REDEVELOPMENT:** A change to previously existing, improved real estate, including but not limited to the demolition or building of structures, fillings, grading, paving, or excavating.
- (ff) **RIPARIAN AREA:** Naturally vegetated land adjacent to any brook, creek, river, or stream having a defined bed and bank that, if appropriately sized, helps to stabilize stream banks, limit erosion, reduce flood size flows, and/or filter and settle out runoff pollutants, or performs other functions consistent with the purposes of this Chapter.
- (gg) **RIPARIAN AND WETLAND SETBACK:** A designated transition area around water resources left in a natural, usually vegetated, state so as to protect the water resources from runoff pollution.
- (hh) **RUNOFF:** The portion of rainfall, melted snow, or irrigation water that flows across the ground surface and is eventually returned to water resources.
- (ii) **SEDIMENT:** The soils or other surface materials that can be transported or deposited by the action of wind, water, ice, or gravity as a product of erosion.
- (jj) **SEDIMENTATION:** The deposition of sediment in water resources.
- (kk) **SITE OWNER/OPERATOR:** Any individual, corporation, firm, trust, commission, board, public or private partnership, joint venture, agency, unincorporated association, municipal corporation, county or state agency, the federal government, other legal entity, or an agent thereof that is responsible for the overall construction site.
- (ll) **SOIL DISTURBING ACTIVITY:** Clearing, grading, excavating, filling, or other alteration of the earth's surface where natural or human made ground cover is destroyed and that may result in, or contribute to, increased storm water quantity and/or decreased storm water quality.
- (mm) **STABILIZATION:** The use of Best Management Practices that reduce or prevent soil erosion by storm water runoff, trench dewatering, wind, ice, gravity, or a combination thereof.
- (nn) **STRUCTURAL STORM WATER MANAGEMENT PRACTICE:** Any constructed facility, structure, or device that provides storage, conveyance, and/or treatment of storm water runoff.
- (oo) **WATER QUALITY VOLUME.** The volume of runoff from a contributing watershed that must be captured and treated, equivalent to the maximized capture volume as defined in the American Society of Civil Engineers (ASCE) Manual and Report on Engineering Practice No. 87 and Water Environment Federation Manual of Practice No. 23 titled *Urban Runoff Quality Management*.

- (pp) WATER RESOURCE:** Any public or private body of water; including wetlands; the area within the ordinary high water level of lakes and ponds; as well as the area within the ordinary high water level of any brook, creek, river, or stream having a defined bed and bank (either natural or artificial) which confines and conducts continuous or intermittent flow.
- (qq) WATER RESOURCE CROSSING:** Any bridge, box, arch, culvert, truss, or other type of structure intended to convey people, animals, vehicles, or materials from one side of a watercourse to another. This does not include private, non-commercial footbridges or pole mounted aerial electric or telecommunication lines, nor does it include below grade utility lines.
- (rr) WATERSHED:** The total drainage area contributing storm water runoff to a single point.
- (ss) WETLAND:** Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas (40 CFR 232, as amended).

935.03 DISCLAIMER OF LIABILITY.

- (a)** Compliance with the provisions of this Chapter shall not relieve any person from responsibility for damage to any person otherwise imposed by law. The provisions of this Chapter are promulgated to promote the health, safety, and welfare of the public and are not designed for the benefit of any individual or any particular parcel of property.
- (b)** By approving a Comprehensive Storm Water Management Plan under this Chapter, the City of Sandusky does not accept responsibility for the design, installation, and operation and maintenance of storm water management practices.

935.04 CONFLICTS, SEVERABILITY, NUISANCES & RESPONSIBILITY.

- (a)** Where this Chapter is in conflict with other provisions of law or ordinances, the most restrictive provisions, as determined by the Director of Engineering Services, shall prevail.
- (b)** If any clause, section, or provision of this Chapter is declared invalid or unconstitutional by a court of competent jurisdiction, the validity of the remainder shall not be affected thereby.
- (c)** This Chapter shall not be construed as authorizing any person to maintain a nuisance on their property, and compliance with the provisions of this Chapter shall not be a defense in any action to abate such a nuisance.
- (D)** Failure of the City of Sandusky to observe or recognize hazardous or unsightly conditions or to recommend corrective measures shall not relieve the site owner from the responsibility for the condition or damage resulting there from, and shall not result in the City of Sandusky, its officers, employees, or agents being responsible for any condition or damage resulting there from.

935.05 DEVELOPMENT OF COMPREHENSIVE STORM WATER MANAGEMENT PLANS.

- (a)** This Chapter requires that a Comprehensive Storm Water Management Plan be developed and implemented for soil disturbing activities disturbing one (1) or more acres of total land, or less than one (1) acre if part of a larger common plan of development or sale disturbing one (1) or more acres of total land, and on which any regulated activity of Section 935.01 (C) is proposed.
- (b)** The City of Sandusky shall administer this Chapter, shall be responsible for determination of compliance with this Chapter, and shall issue notices and

orders as may be necessary. The City of Sandusky may consult with Erie County, private engineers, storm water districts, or other technical experts in reviewing the Comprehensive Storm Water Management Plan.

935.06 APPLICATION PROCEDURES.

- (a) **Pre-Application Meeting:** The applicant may attend a Pre-Application Meeting with the Director of Engineering Services or designated representative to discuss the proposed project, review the requirements of this Chapter, identify unique aspects of the project that must be addressed during the review process, and establish a preliminary review and approval schedule.
- (b) **Preliminary Comprehensive Storm Water Management Plan:** The applicant shall submit two (2) sets of a Preliminary Comprehensive Storm Water Management Plan (Preliminary Plan) and the applicable fees to the Department of Engineering Services, if required by the Director of Engineering Services. The Preliminary Plan shall show the proposed property boundaries, setbacks, dedicated open space, public roads, water resources, storm water control facilities, and easements in sufficient detail and engineering analysis to allow the Director of Engineering Services to determine if the site is laid out in a manner that meets the intent of this Chapter and if the proposed storm water management practices are capable of controlling runoff from the site in compliance with this Chapter. The applicant shall submit two (2) sets of the Preliminary Plan and applicable fees as follows:
 - (1) For subdivisions: In conjunction with the submission of the preliminary subdivision plan.
 - (2) For other construction projects: In conjunction with the application for a building permit or site plan approval.
 - (3) For general clearing projects: In conjunction with the application for a building permit, site plan or zoning approval.
- (c) **Final Comprehensive Storm Water Management Plan:** The applicant shall submit two (2) sets of a Final Comprehensive Storm Water Management Plan (Final Plan) and the applicable fees to the Director of Engineering Services in conjunction with the submittal of the final plat, improvement plans, or application for a building or zoning permit for the site. The Final Plan shall meet the requirements of Section 935.08 and shall be approved by the Director of Engineering Services prior to approval of the final plat and/or before issuance of a floodplain development permit by the Director of Engineering Services or building permit by the Building Inspection Division.
- (d) **Review and Comment:** The Director of Engineering Services shall review the Preliminary and Final Plans submitted, and shall approve or return for revisions with comments and recommendations for revisions. A Preliminary or Final Plan rejected because of deficiencies shall receive a narrative report stating specific problems and the procedures for filing a revised Preliminary or Final Plan.
- (e) **Approval Necessary:** Land clearing and soil-disturbing activities shall not begin and zoning and/or building permits shall not be issued without an approved Comprehensive Storm Water Management Plan.
- (f) **Sublots Will Not Proceed:** Comprehensive Storm Water Management Plans for individual sublots in a subdivision will not be approved and building permits will not be issued unless the larger common plan of development or sale containing the subplot is in compliance with this Chapter.
- (g) **Valid for Two Years:** Approvals issued in accordance with this Chapter shall remain valid for two (2) years from the date of approval.

935.07 COMPLIANCE WITH STATE AND FEDERAL REGULATIONS.

Approvals issued in accordance with this Chapter do not relieve the applicant of responsibility for obtaining all other necessary permits and/or approvals from other federal, state, and/or county agencies. If requirements vary, the most restrictive shall prevail. These permits may include, but are not limited to, those listed below. Applicants are required to show proof of compliance with any applicable, additional State and Federal regulations before the City of Sandusky will issue a building or floodplain development permit.

- (a) Ohio EPA NPDES Permits authorizing storm water discharges associated with construction activity or the most current version thereof: Proof of compliance with these requirements shall be the applicant's Notice of Intent (NOI) number from Ohio EPA, a copy of the Ohio EPA Director's Authorization Letter for the NPDES Permit, or a letter from the site owner certifying and explaining why the NPDES Permit is not applicable.
- (b) Section 401 of the Clean Water Act: Proof of compliance shall be a copy of the Ohio EPA Water Quality Certification application tracking number, public notice, project approval, or a letter from the site owner certifying that a qualified professional has surveyed the site and determined that Section 401 of the Clean Water Act is not applicable. Wetlands, and other waters of the United States, shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time of application of this Chapter.
- (c) Ohio EPA Isolated Wetland Permit: Proof of compliance shall be a copy of Ohio EPA's Isolated Wetland Permit application tracking number, public notice, project approval, or a letter from the site owner certifying that a qualified professional has surveyed the site and determined that Ohio EPA's Isolated Wetlands Permit is not applicable. Isolated wetlands shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time of application of this Chapter.
- (d) Section 404 of the Clean Water Act: Proof of compliance shall be a copy of the U.S. Army Corps of Engineers Individual Permit application, public notice, or project approval, if an Individual Permit is required for the development project. If an Individual Permit is not required, the site owner shall submit proof of compliance with the U.S. Army Corps of Engineer's Nationwide Permit Program. This shall include one of the following:
 - (1) A letter from the site owner certifying that a qualified professional has surveyed the site and determined that Section 404 of the Clean Water Act is not applicable.
 - (2) A site plan showing that any proposed fill of waters of the United States conforms to the general and special conditions specified in the applicable Nationwide Permit. Wetlands, and other waters of the United States, shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time of application of this Chapter.
- (e) Ohio Dam Safety Law: Proof of compliance shall be a copy of the ODNR Division of Water permit application tracking number, a copy of the project approval letter from the ODNR Division of Water, or a letter from the site owner certifying and explaining why the Ohio Dam Safety Law is not applicable.

935.08 COMPREHENSIVE STORM WATER MANAGEMENT PLANS.

- (a) Comprehensive Storm Water Management Plan Required: The applicant shall develop a Comprehensive Storm Water Management Plan describing how the quantity and quality of storm water will be managed after construction is complete for every discharge from the site and/or into a water resource. The Plan will illustrate the type, location, and dimensions of every structural and non-structural storm water management practice incorporated into the site design, and the rationale for their selection. The

rationale must address how these storm water management practices will address flooding within the site as well as flooding that may be caused by the development upstream and downstream of the site. The rationale will also describe how the storm water management practices minimize impacts to the physical, chemical, and biological characteristics of on-site and downstream water resources and, if necessary, correct current degradation of water resources that is occurring or take measures to prevent predictable degradation of water resources.

- (b) **Preparation by Professional Engineer:** The Comprehensive Storm Water Management Plan shall be prepared by a registered professional engineer and include supporting calculations, plan sheets, and design details. To the extent necessary, as determined by the Director of Engineering Services, a site survey shall be performed by a Registered Professional Surveyor to establish boundary lines, measurements, or land surfaces.
- (c) **Community Procedures:** The Director of Engineering Services shall prepare and maintain procedures providing specific criteria and guidance to be followed when designing the storm water management system for the site. These procedures may be updated from time to time, at the discretion of the Director of Engineering Services based on improvements in engineering, science, monitoring, and local maintenance experience. The Director of Engineering Services shall make the final determination of whether the practices proposed in the Comprehensive Storm Water Management Plan meet the requirements of this Chapter. The Director of Engineering Services may also maintain a list of acceptable Best Management Practices that meet the criteria of this ordinance to be used in the City of Sandusky.
- (d) **Contents of Comprehensive Storm Water Management Plan:** The Comprehensive Storm Water Management Plan shall incorporate measures as recommended by the most current edition of *Rainwater and Land Development* or other recognized design manuals approved by the Director of Engineering Services, and shall include the following information:
 - (1) A project description including the type and purpose of soil disturbing activities and a description of the larger common plan of development if applicable.
 - (2) A vicinity sketch locating the site, and the larger common plan of development if applicable, and all pertinent surrounding features within 200 feet of the site including wetlands, streams, steep slopes, and other sensitive areas receiving runoff from the development area.
 - (3) The name and location of the immediate receiving water resource and the first subsequent named receiving water resource and the major watershed(s) in which project is located.
 - (4) The existing and proposed topography shown in 1' contour intervals for flat areas and 2' contour intervals in steeper areas.
 - (5) The location and description of existing and proposed drainage patterns and storm water management practices, including any related storm water management practices beyond the development area and the larger common development area. Drainage patterns during major phases of construction shall also be shown as appropriate.
 - (6) The types and locations of soils within or affected by the development area, including unstable soils as determined by the most recent edition of the Erie County Soil Survey and/or field investigations performed by Natural Resources Conservation Service or Soil and Water District personnel, a professional engineer, or a professional soil scientist.
 - (7) The scheduling, phasing, and coordination of construction operations and erosion and sediment control practices, including

vegetative plantings and mulch.

- (8) Storm water management practices to be employed on the development area both during and after soil disturbing activities, including:
- A. Their location and size, including detail drawings, maintenance requirements during and after construction, and design calculations. A narrative report shall be provided detailing the following: drainage sub areas and description of cover; pre and post development runoff and allowable runoff rates; stage-storage-discharge relationships for every control structure; a summary table of results, including basin maximum water surface elevation; and other supporting information as applicable or as required by the reviewing authority.
 - B. Limits of clearing and of soil disturbing activities.
 - C. The name, address, and contact information of the person responsible for the continued operation and maintenance of storm water management practices.
 - D. A calculation of the percent impervious cover for both the pre-development and post-development site conditions.
 - E. Final site conditions including storm water inlets and permanent nonstructural and structural storm water management practices. Details of storm water management basins shall be drawn to scale and shall show volumes and sizes of contributing drainage areas.
 - F. Any other structural and/or non-structural storm water management practices necessary to meet the design criteria in this Chapter.
 - G. Description of maintenance procedures needed to assure the continued performance of storm water management practices as required in this Chapter.
 - H. All other runoff information or supporting information required to conform with the storm water management design criteria detailed in this Chapter.

935.09 PERFORMANCE STANDARDS.

- (a) Storm Water Management Plans required by this Chapter shall meet the following design criteria:
- (1) Storm water management practices shall be designed for the ultimate use of the site and to function safely and with minimal maintenance.
 - (2) To the extent that site characteristics allow, proposed redevelopment project designs shall include nonstructural and structural storm water management practices that are designed to result in an improvement of water quality and/or a reduction of storm water runoff from the site.
 - A. "Redevelopment" refers to alterations of a property that change the footprint of a site or building which results in greater than 1 acre of land disturbance. This does not include activities that are not expected to negatively impact storm water quality or quantity and offer no new opportunities for storm water management practices, all as determined by the Director of Engineering Services.
 - B. When possible, all practical alternatives permitted above shall be implemented within the drainage area of the proposed redevelopment project.
 - (3) All storm water management practices shall have easements

- sufficient to provide access to the City for municipal purposes.
- (4) When developing a Storm Water Management Plan, a combination of nonstructural and structural storm water management practices shall be used to control storm water quantity and protect water quality. In meeting this requirement, the following shall apply:
- A. Nonstructural storm water management practices shall be used to the maximum extent practicable.
 - B. Nonstructural and structural storm water management practices shall be designed in accordance with the most recent version of the *Rainwater and Land Development Manual*, as specified within this Chapter, and/or in accordance with specifications provided by the Director of Engineering Services.
 - C. Nonstructural storm water management practices shall be recorded on all property deeds and shall remain unaltered by subsequent property owners.
 - D. In designing storm water basins, properly designed retention basins with water quality benefits shall be used to the maximum extent practicable. Retention basins shall not be constructed in streams. The applicant must demonstrate the water quality benefits achieved to the Director of Engineering Services.
- (5) Calculation Methods.
- A. The engineer selecting the calculation method and/or performing the calculations shall do so with full knowledge of the method's limitations, applicable conditions, and degree of accuracy and shall state these in the calculations submitted to the Director of Engineering Services for review.
 - B. The Director of Engineering Services may reject any calculation method he/she deems inappropriate for the given situation.
 - C. The Rational Method shall be the minimum design.

935.10 MAINTENANCE OF STORM WATER MANAGEMENT PRACTICES.

- (a) Maintenance of Storm Water Management Practices
- (1) The Director of Engineering Services and Law Director shall approve an inspection and maintenance agreement binding on all subsequent owners of land served by the planned storm water management practices before the City accepts the final plat of the proposed project.
 - (2) All inspection and maintenance agreements shall do the following:
 - A. Designate the party responsible for maintenance of structural and nonstructural storm water management practices including mowing and ensuring outlet structures are clear and in good repair. Unless otherwise approved by the City, this shall be an entity of common ownership within the proposed subdivision or the owner of an industrial or commercial site.
 - B. Prohibit unauthorized alterations of structural and nonstructural storm water management practices.
 - C. Provide easements for access to storm water management practices for inspection by the City to document the condition of the practices.
 - (3) Whenever feasible, the location, dimensions, and bearing (including the depth of capacity) of all storm water management practices shall be incorporated on the final plat, prior to approval by the City, and reference thereon shall be made to the entity or individual(s) responsible for maintenance.

- (4) An as-built survey must be completed by qualified registered engineer or surveyor and submitted to the City showing the location, detention volume (include depth and capacity) of all storm water practices.

(b) Inspection of Storm Water Management Practices

- (1) The City may inspect storm water management practices periodically.
- (2) Upon finding a malfunction or other need for maintenance, the City shall notify the responsible party of the need for maintenance.
- (3) Upon notification, the responsible party shall have five (5) working days, or other time stipulated by the City, to make repairs.
- (4) Should repairs not be made within this time, or a plan approved by the City for these repairs not be in place, the City may undertake necessary repairs and assess the responsible party.

935.11 BOND AND PERMIT.

No project subject to this Chapter shall commence without a Storm Water Management Plan approved by the Director of Engineering Services.

935.12 VIOLATIONS.

No person shall violate or cause or knowingly permit to be violated any of the provisions of this Chapter, or fail to comply with any of such provisions or with any lawful requirements of any public authority made pursuant to this Chapter, or knowingly use or cause or permit the use of any lands in violation of this Chapter or in violation of any permit granted under this Chapter.

935.99 PENALTY.

- (a) Whoever violates or fails to comply with any provision of this Chapter is guilty of a misdemeanor of the third degree for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.
- (b) Upon notice from the Director of Engineering Services, or designated representative, that work is being done contrary to this Chapter, such work shall immediately stop. Such notice shall be in writing and shall be given to the owner or operator, and shall state the conditions under which such work may resume; provided, however, in instances where immediate action is deemed necessary for the public safety or the public interest, the Director of Engineering Services may require that work be stopped upon verbal order pending issuance of the written order.

Section 3. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 4. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in

an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 5. That for the reasons set forth in the preamble hereto, this Ordinance shall take effect at the earliest time allowed by Law.

DENNIS E. MURRAY, JR.
PRESIDENT OF THE CITY COMMISSION

ATTEST: _____
B. JOYCE BROWN
CLERK OF THE CITY COMMISSION

Passed:

ORDINANCE NO. _____

AN ORDINANCE AMENDING PART NINE - STREETS, UTILITIES, AND PUBLIC SERVICES CODE, TITLE THREE - UTILITIES, BY THE ADDITION OF CHAPTER 937 - EROSION AND SEDIMENT CONTROL, IN THE MANNER AND WAY SPECIFICALLY SET FORTH HEREINBELOW.

WHEREAS, soil is most vulnerable to erosion by wind and water during soil disturbing activities and this eroded soil necessitates repair of sewers and ditches and dredging of rivers, harbors, and lakes; accelerates downstream bank erosion and damage to public and private property; damages water resources and wetlands by reducing water quality; and causes the siltation of aquatic habitat; and

WHEREAS, communities throughout the watershed(s) in which the *City of Sandusky* is located have experienced and continue to experience costs associated with inadequate erosion and sediment control and increased State and Federal regulation; and

WHEREAS, 40 C.F.R. Parts 9, 122, 123 and 124, referred to as NPDES Storm Water Phase II, require designated communities, including the City of Sandusky, to develop and implement a Storm Water Management Program to address, among other components, erosion and sediment control during soil disturbing activities; and

WHEREAS, Article XVIII, Section 3 of the Ohio Constitution grants municipalities the legal authority to adopt rules to abate soil erosion and water pollution by soil sediments; and

WHEREAS, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of Municipal Departments of the City of Sandusky, Ohio and, NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. Part Nine - Streets, Utilities, And Public Services Code, Title Three - Utilities, be amended by the addition of Chapter 937 - Erosion and Sediment Control as follows:

**NEW LANGUAGE APPEARS IN BOLD PRINT
LANGUAGE TO BE STRICKEN APPEARS WITH A STRIKE THROUGH IT
LANGUAGE TO REMAIN UNCHANGED APPEARS IN REGULAR PRINT**

**NEW CHAPTER 937
EROSION AND SEDIMENT CONTROL**

| | | | |
|---------------|---|---------------|---|
| 937.01 | Purpose And Scope. | 937.08 | Storm Water Pollution Prevention Plan. |
| 937.02 | Definitions. | 937.09 | Performance Standards. |
| 937.03 | Disclaimer Of Liability. | 937.10 | Abbreviated Storm Water Pollution Prevention Plan. |
| 937.04 | Conflicts, Severability, Nuisances And Responsibility. | 937.11 | Fees. |
| 937.05 | Development Of Storm Water Pollution Prevention Plans. | 937.12 | Permit. |
| 937.06 | Application Procedures. | 937.13 | Enforcement. |
| 937.07 | Compliance With State And Federal Regulations. | 937.14 | Violations. |
| | | 937.99 | Penalty. |

937.01 PURPOSE AND SCOPE.

- (a) The purpose of this Chapter is to establish technically feasible and economically reasonable standards to achieve a level of erosion and sediment control that will minimize damage to property and degradation of water resources and wetlands, and will promote and maintain the health and safety of the citizens of City of Sandusky:
- (b) This Chapter will:
 - (1) Allow development while minimizing increases in erosion and sedimentation.
 - (2) Reduce water quality impacts to receiving water resources and wetlands that may be caused by new development or redevelopment activities.
- (c) This Chapter applies to all parcels used or being developed, either wholly or partially, for new or relocated projects involving highways, underground cables, or pipelines; subdivisions or larger common plans of development; industrial, commercial, institutional, or residential projects; building activities on farms; redevelopment activities; general clearing; and all other uses that are not specifically exempted in Section 937.01 (d).
- (d) This Chapter does not apply to activities regulated by, and in compliance with, the Ohio Agricultural Sediment Pollution Abatement Rules.

937.02 DEFINITIONS.

For purpose of this Chapter, the following terms shall have the meaning herein indicated:

- (a) **ABBREVIATED STORM WATER POLLUTION PREVENTION PLAN (ABBREVIATED SWP3):** The written document that sets forth the plans and practices to be used to meet the requirements of this Chapter.
- (b) **ACRE:** A measurement of area equaling 43,560 square feet.
- (c) **BEST MANAGEMENT PRACTICES (BMPs):** Schedule of activities, prohibitions of practices, maintenance procedures, and other management practices (both structural and non-structural) to prevent or reduce the pollution of water resources and wetlands. BMPs also include treatment requirements, operating procedures, and practices to control facility and/or construction site runoff, spillage, or leaks; sludge or waste disposal; or drainage from raw material storage.
- (d) **COMMUNITY:** Throughout this Chapter, this shall refer to City of Sandusky, its designated representatives, boards, or commissions.
- (e) **CONSTRUCTION ENTRANCE:** The permitted points of ingress and egress to development areas regulated under this Chapter.
- (f) **DEVELOPMENT AREA:** A parcel or contiguous parcels owned by one person or persons, or operated as one development unit, and used or being developed for commercial, industrial, residential, institutional, or other construction or alteration that changes runoff characteristics.
- (g) **DISTURBED AREA:** An area of land subject to erosion due to the removal of vegetative cover and/or soil disturbing activities.
- (h) **DRAINAGE:** (1) The area of land contributing surface water to a specific point. (2) The removal of excess surface water or groundwater from land by surface or subsurface drains.
- (i) **EROSION:** The process by which the land surface is worn away by the action of wind, water, ice, gravity, or any combination of those forces.
- (j) **EROSION AND SEDIMENT CONTROL:** The control of soil, both mineral and organic, to minimize the removal of soil from the land surface and to prevent its transport from a disturbed area by means of wind, water, ice, gravity, or any combination of those forces.
- (k) **FINAL STABILIZATION:** All soil disturbing activities at the site have been completed and a uniform perennial vegetative cover with a density of at

least 80% coverage for the area has been established or equivalent stabilization measures, such as the use of mulches or geotextiles, have been employed.

- (l) **LANDSCAPE ARCHITECT:** A Professional Landscape Architect registered in the State of Ohio.
- (m) **LARGER COMMON PLAN OF DEVELOPMENT OR SALE:** A contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan.
- (n) **MAXIMUM EXTENT PRACTICABLE:** The level of pollutant reduction that site owners of small municipal separate storm sewer systems regulated under 40 C.F.R. Parts 9, 122, 123, and 124, referred to as NPDES Storm Water Phase II, must meet.
- (o) **NPDES:** National Pollutant Discharge Elimination System. A regulatory program in the Federal Clean Water Act that prohibits the discharge of pollutants into surface waters of the United States without a permit.
- (p) **PARCEL:** Means a tract of land occupied or intended to be occupied by a use, building or group of buildings and their accessory uses and buildings as a unit, together with such open spaces and driveways as are provided and required. A parcel may contain more than one contiguous lot individually identified by a 'Permanent Parcel Number' assigned by the Erie County Auditor's Office.
- (q) **PERSON:** Any individual, corporation, firm, trust, commission, board, public or private partnership, joint venture, agency, unincorporated association, municipal corporation, county or state agency, the federal government, other legal entity, or an agent thereof.
- (r) **PHASING:** Clearing a parcel of land in distinct sections, with the stabilization of each section before the clearing of the next.
- (s) **PROFESSIONAL ENGINEER:** A Professional Engineer registered in the State of Ohio.
- (t) **RAINWATER AND LAND DEVELOPMENT:** Ohio's standards for storm water management, land development, and urban stream protection. The most current edition of these standards shall be used with this Chapter.
- (u) **RUNOFF:** The portion of rainfall, melted snow, or irrigation water that flows across the ground surface and is eventually conveyed to water resources or wetlands.
- (v) **SEDIMENT:** The soils or other surface materials that are transported or deposited by the action of wind, water, ice, gravity, or any combination of those forces, as a product of erosion.
- (w) **SEDIMENTATION:** The deposition or settling of sediment.
- (x) **SETBACK:** A designated transition area around water resources or wetlands that is left in a natural, usually vegetated, state so as to protect the water resources or wetlands from runoff pollution. Soil disturbing activities in this area are restricted by this Chapter.
- (y) **SOIL DISTURBING ACTIVITY:** Clearing, grading, excavating, filling, or other alteration of the earth's surface where natural or human made ground cover is destroyed and that may result in, or contribute to, erosion and sediment pollution.
- (z) **SOIL & WATER CONSERVATION DISTRICT:** An entity organized under Chapter 1515 of the Ohio Revised Code referring to either the Soil and Water Conservation District Board or its designated employee(s). Hereafter referred to as Erie SWCD.
- (aa) **STABILIZATION:** The use of BMPs, such as seeding and mulching, that reduce or prevent soil erosion by water, wind, ice, gravity, or a combination of those forces.
- (bb) **STORM WATER POLLUTION PREVENTION PLAN (SWP3):** The written document that sets forth the plans and practices to be used to meet the requirements of this Chapter.
- (cc) **UNSTABLE SOILS:** A portion of land that is identified by the City of Sandusky Engineer as prone to slipping, sloughing, or landslides, or is

identified by the U.S. Department of Agriculture Natural Resource Conservation Service methodology as having a low soil strength.

- (dd) **WATER RESOURCE:** Any public or private body of water including lakes and ponds, as well as any brook, creek, river, or stream having banks, a defined bed, and a definite direction of flow, either continuously or intermittently flowing.
- (ee) **WETLAND:** Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas (40 CFR 232, as amended).

937.03 DISCLAIMER OF LIABILITY.

Compliance with the provisions of this Chapter shall not relieve any person from responsibility for damage to any person otherwise imposed by law. The provisions of this Chapter are promulgated to promote the health, safety, and welfare of the public and are not designed for the benefit of any individual or for the benefit of any particular parcel of property.

937.04 CONFLICTS, SEVERABILITY, NUISANCES AND RESPONSIBILITY.

- (a) Where this Chapter is in conflict with other provisions of law or ordinance, the most restrictive provisions shall prevail.
- (b) If any clause, section, or provision of this Chapter is declared invalid or unconstitutional by a court of competent jurisdiction, the validity of the remainder shall not be affected thereby.
- (c) This Chapter shall not be construed as authorizing any person to maintain a private or public nuisance on their property, and compliance with the provisions of this Chapter shall not be a defense in any action to abate such a nuisance.
- (d) Failure of City of Sandusky to observe or recognize hazardous or unsightly conditions or to recommend corrective measures shall not relieve the site owner from the responsibility for the condition or damage resulting therefrom, and shall not result in City of Sandusky, its officers, employees, or agents being responsible for any condition or damage resulting therefrom.

937.05 DEVELOPMENT OF STORM WATER POLLUTION PREVENTION PLANS.

- (a) This Chapter requires that a Storm Water Pollution Prevention Plan be developed and implemented for all parcels of one (1) acre or more.
- (b) The following activities shall submit an Abbreviated Storm Water Pollution Prevention Plan:
 - (1) New single-family residential construction in a subdivision that is currently regulated by an Ohio EPA Construction Site General Permit regardless of parcel size. If such activities disturb one (1) acre or more, or are part of a larger common plan of development or sale disturbing one (1) acre or more, an Ohio EPA Construction Site General Permit and a Storm Water Pollution Prevention Plan may be required.
 - (2) General clearing activities not related to construction and regardless of parcel size. If such activities disturb one (1) acre or more, or are part of a larger common plan of development or sale disturbing one (1) acre or more, an Ohio EPA Construction Site General Permit and a Storm Water Pollution Prevention Plan may be required.
- (c) Activities disturbing 1/10th (one tenth) or less of an acre are not required to submit a Storm Water Pollution Prevention Plan or an Abbreviated Storm Water Pollution Prevention Plan, unless required by the City of Sandusky

Engineer. These activities must comply with all other provisions of this Chapter.

937.06 APPLICATION PROCEDURES.

- (a) **SOIL DISTURBING ACTIVITIES SUBMITTING A STORM WATER POLLUTION PREVENTION PLAN:** The applicant shall submit two (2) sets of the SWP3 and the applicable fees to the City of Sandusky 30 days prior to construction.
- (b) The City of Sandusky shall review the plans submitted under 937.06 (a) for conformance with this Chapter and approve, or return for revisions with comments and recommendations for revisions. A plan rejected because of deficiencies shall receive a narrative report stating specific problems and the procedures for filing a revised plan.
- (c) Soil disturbing activities shall not begin without an approved SWP3.
- (d) SWP3 for individual sublots in a subdivision will not be approved unless the larger common plan of development or sale containing the subplot is in compliance with this Chapter.
- (e) Approvals issued in accordance with this Chapter shall remain valid for one (1) year from the date of approval.

937.07 COMPLIANCE WITH STATE AND FEDERAL REGULATIONS.

Approvals issued in accordance with this Chapter do not relieve the applicant of responsibility for obtaining all other necessary permits and/or approvals from the Ohio EPA, the US Army Corps of Engineers, and other federal, state, and/or county agencies. If requirements vary, the most restrictive requirement shall prevail. These permits may include, but are not limited to, those listed below. All submittals are required to show proof of compliance with any applicable, additional State and Federal regulations shall be submitted with Storm Water Pollution Prevention Plans or Abbreviated Storm Water Pollution Prevention Plans.

- (a) Ohio EPA NPDES Permits authorizing storm water discharges associated with construction activity or the most current version thereof: Proof of compliance with these requirements shall be the applicant's Notice of Intent (NOI) number from Ohio EPA, a copy of the Ohio EPA Director's Authorization Letter for the NPDES Permit, or a letter from the site owner certifying and explaining why the NPDES Permit is not applicable.
- (b) Section 401 of the Clean Water Act: Proof of compliance shall be a copy of the Ohio EPA Water Quality Certification application tracking number, public notice, project approval, or a letter from the site owner certifying that a qualified professional has surveyed the site and determined that Section 401 of the Clean Water Act is not applicable. Wetlands, and other waters of the United States, shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time of application of this Chapter.
- (c) Ohio EPA Isolated Wetland Permit: Proof of compliance shall be a copy of Ohio EPA's Isolated Wetland Permit application tracking number, public notice, project approval, or a letter from the site owner certifying that a qualified professional has surveyed the site and determined that Ohio EPA's Isolated Wetlands Permit is not applicable. Isolated wetlands shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time of application of this Chapter.
- (d) Section 404 of the Clean Water Act: Proof of compliance shall be a copy of the U.S. Army Corps of Engineers Individual Permit application, public notice, or project approval, if an Individual Permit is required for the development project. If an Individual Permit is not required, the site owner shall submit proof of compliance with the U.S. Army Corps of Engineer's Nationwide Permit Program. This shall include one of the following:

- (1) A letter from the site owner certifying that a qualified professional has surveyed the site and determined that Section 404 of the Clean Water Act is not applicable.
- (2) A site plan showing that any proposed fill of waters of the United States conforms to the general and special conditions specified in the applicable Nationwide Permit. Wetlands, and other waters of the United States, shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time of application of this Chapter.

937.08 STORM WATER POLLUTION PREVENTION PLAN.

- (a) In order to control sediment pollution of water resources and wetlands, the applicant shall submit a SWP3 in accordance with the requirements of this Chapter.
- (b) The SWP3 shall be certified by a professional engineer, a registered surveyor, certified professional erosion and sediment control specialist, or a registered landscape architect.
- (c) The SWP3 shall incorporate measures as recommended by the most current edition of Rainwater and Land Development as published by the Ohio Department of Natural Resources and shall include the following information:
 - (1) Site description: The SWP3 shall provide:
 - A. A description of the nature and type of the construction activity (e.g. residential, shopping mall, highway, etc.).
 - B. Total area of the site and the area of the site that is expected to be disturbed (i.e., grubbing, clearing, excavation, filling or grading, including off-site borrow areas).
 - C. An estimate of the impervious area and percent of imperviousness created by the soil-disturbing activity.
 - D. Existing data describing the soil and, if available, the quality of any known pollutant discharge from the site such as that which may result from previous contamination caused by prior land uses.
 - E. A description of prior land uses at the site.
 - F. An implementation schedule which describes the sequence of major soil disturbing operations (i.e., grubbing, excavating, grading, utilities and infrastructure installation) and the implementation of erosion and sediment controls to be employed during each operation of the sequence.
 - G. The location and name of the immediate receiving stream or surface water(s) and the first subsequent receiving water(s).
 - H. The aerial (plan view) extent and description of wetlands or other special aquatic sites at or near the site which will be disturbed or which will receive discharges from disturbed areas of the project.
 - I. For subdivided developments where the SWP3 does not call for a centralized sediment control capable of controlling multiple individual lots, a detail drawing of a typical individual lot showing standard individual lot erosion and sediment control practices.
 - J. Location and description of any storm water discharges associated with dedicated asphalt and dedicated concrete plants associated with the development area and the best management practices to address pollutants in these storm water discharges.
 - K. Site map showing:
 1. Limits of soil-disturbing activity of the site, including off site spoil and borrow areas.

2. Soils types should be depicted for all areas of the site, including locations of unstable or highly erodible soils.
3. Existing and proposed one-foot (1') contours. This must include a delineation of drainage watersheds expected during and after major grading activities as well as the size of each drainage watershed in acres.
4. Surface water locations including springs, wetlands, streams, lakes, water wells, etc., on or within 200 feet of the site, including the boundaries of wetlands or stream channels and first subsequent named receiving water(s) the applicant intends to fill or relocate for which the applicant is seeking approval from the Army Corps of Engineers and/or Ohio EPA.
5. Existing and planned locations of buildings, roads, parking facilities, and utilities.
6. The location of all erosion and sediment control practices, including the location of areas likely to require temporary stabilization during the course of site development.
7. Sediment ponds, including their sediment settling volume and contributing drainage area.
8. Areas designated for the storage or disposal of solid, sanitary and toxic wastes, including Dumpster areas, areas designated for cement truck washout, and vehicle fueling.
9. The location of designated stoned construction entrances where the vehicles will ingress and egress the construction site.
10. The location of any in-stream activities including stream crossings.

(2) A soils engineering report. The Director of Engineering Services may require the SWP3 to include a Soils Engineering Report based upon his/her determination that the conditions of the soils are unknown or unclear to the extent that additional information is required to protect against erosion or other hazards. This report shall be based on adequate and necessary test borings, and shall contain all the information listed below. Recommendations included in the report and approved by the Director of Engineering Services shall be incorporated in the grading plans and/or other specifications for site development.

- A. Data regarding the nature, distribution, strength, and erodibility of existing soils.
- B. If applicable, data regarding the nature, distribution, strength, and erodibility of the soil to be placed on the site.
- C. Conclusions and recommendations for grading procedures.
- D. Conclusions and recommended designs for interim soil stabilization devices and measures, and for permanent soil stabilization after construction is completed.
- E. Design criteria for corrective measures when necessary.
- F. Opinions and recommendations covering the stability of the site.

937.09 PERFORMANCE STANDARDS.

The SWP3 must contain a description of the controls appropriate for each construction operation and the applicant must implement such controls. The SWP3 must clearly describe for each major construction activity the appropriate control measures; the general sequence during the construction process under

which the measures will be implemented; and the contractor responsible for implementation (e.g., contractor A will clear land and install perimeter controls and contractor B will maintain perimeter controls until final stabilization).

Final stabilization shall be determined by the Director of Engineering Services.

937.10 ABBREVIATED STORM WATER POLLUTION PREVENTION PLAN.

- (a) In order to control sediment pollution of water resources and wetlands, the applicant shall submit an Abbreviated SWP3 in accordance with the requirements of this Chapter.
- (b) The Abbreviated SWP3 shall be certified by a professional engineer, a registered surveyor, certified professional erosion and sediment control specialist, or a registered landscape architect.
- (c) The Abbreviated SWP3 shall include information following the requirements as listed in the procedures maintained by the Director of Engineering Services.

937.11 FEES.

The Storm Water Pollution Prevention Plan and Abbreviated Storm Water Pollution Plan review, filing, and inspection fee is part of a complete submittal and is required to be submitted to the City of Sandusky before the review process begins. Please consult with Director of Engineering Services for current fee schedule.

937.12 PERMIT.

No project subject to this Chapter shall commence without a SWP3 SWP3 approved by the Director of Engineering Services.

937.13 ENFORCEMENT.

- (a) All development areas may be subject to external inspections by the City of Sandusky to ensure compliance with the approved SWP3.
- (b) After each external inspection, City of Sandusky shall prepare and distribute a status report to the applicant.
- (c) If an external inspection determines that operations are being conducted in violation of the approved SWP3, the City may take action as detailed in Section 937.13 of this Chapter.

937.14 VIOLATIONS.

- (a) No person shall violate or cause or knowingly permit to be violated any of the provisions of this Chapter, or fail to comply with any of such provisions or with any lawful requirements of any public authority made pursuant to this Chapter, or knowingly use or cause or permit the use of any lands in violation of this Chapter or in violation of any permit granted under this Chapter.
- (b) Upon notice, the Director of Engineering Services and/or designee may suspend any active soil disturbing activity for a period not to exceed ninety (90) days, and may require immediate erosion and sediment control measures whenever he or she determines that such activity is not meeting the intent of this Chapter. Such notice shall be in writing, shall be given to the applicant, and shall state the conditions under which work may be resumed. In instances, however, where the Director of Engineering Services and/or designee finds that immediate action is necessary for public safety or the public interest, he or she may require that work be stopped upon verbal order pending issuance of the written notice.

937.99 PENALTY.

- (a) Any person, firm, entity or corporation; including but not limited to, the owner of the property, the owner's agents and assigns, occupant, property manager, and any contractor or subcontractor who violates or fails to comply with any provision of this Chapter is guilty of a misdemeanor of the third degree for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.**
- (b) The imposition of any other penalties provided herein shall not preclude the City of Sandusky instituting an appropriate action or proceeding in a Court of proper jurisdiction to prevent an unlawful development, or to restrain, correct, or abate a violation, or to require compliance with the provisions of this Chapter or other applicable laws, ordinances, rules, or regulations, or the orders of the City of Sandusky.”**

Section 3. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 4. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 5. That for the reasons set forth in the preamble hereto, this Ordinance shall take effect at the earliest time allowed by Law.

DENNIS E. MURRAY, JR.
PRESIDENT OF THE CITY COMMISSION

ATTEST: _____
B. JOYCE BROWN
CLERK OF THE CITY COMMISSION

Passed:

TO: Mr. Matthew Kline, Sandusky City Manager
FROM: Rosanne Bodner, Public Transit Administrator
DATE: April 18, 2008
**SUBJECT: Sandusky Transit System Grant Application to Ohio Dept of Transportation
Job Access Reverse Commute (JARC)**

ITEM FOR CONSIDERATION: Request for Resolution of Authorization to file an application with the Ohio Department of Transportation for a Job Access Reverse Commute (JARC) transportation grant and upon approval for the City Manager to execute any grant or agreement if awarded.

BACKGROUND INFORMATION: The City of Sandusky is required to pass a resolution in order to complete applications for funding with the Ohio Department of Transportation for transportation grants. Current grant being applied for:

Job Access Reverse Commute (JARC)

- Funds available in this cycle of application to Ohio Small Urban Systems - \$1,252,139
- City Sandusky application is for requested amount of \$100,000
- Submission deadline April 30, 2008
-

JARC - Job Access Reverse Commute dollars are designated for those projects that provide transportation from urban areas where job opportunities have been lost, to suburban areas where job opportunities are being created. The project outlined in the Sandusky Transit System application will be for a new transportation service along the Rt. 250/Milan Road retail and commercial corridor. As the area becomes increasingly developed more of our population depends on that sector for jobs, thus the need for transportation to worksites. The project will provide deviated route service from designated points within City of Sandusky to designated points along Rt. 250 with Kalahari Resort being the southern terminus. Hours of service will be determined according to grant amount awarded, but will be dependent on greatest demand by businesses for employee staffing. Project implementation will begin in early 2009.

A local match is required for award of funds. If granted the full amount requested of \$100,000, a local match of \$50,000 will be required. STS has letters of certification from two sources - Jobs and Family Services has provided certification of \$30,000 and Serving Our Seniors has provided certification of \$5,000. Sandusky Erie County Community Foundation has submitted a letter of support to assist with fund raising among the local foundations to ensure receiving the additional \$15,000 needed.

Project Summary, Project Budget, Funding allocation by source, and Local Match certifications are attached to this communication for your review.

BUDGET/STRATEGIC PLAN IMPACT: The state grant, if awarded, will allow Sandusky Transit System to increase service to our residents. The project will have no impact on the City's budget as all moneys for the additional service will be provided through State of Ohio JARC grant funding and matching local sources.

ACTION REQUESTED: Resolution authorizing the filing of a grant application with the Ohio Department of Transportation and upon approval for the City Manager to execute any grant or agreement as awarded. It is further requested that this legislation take immediate effect in full accordance with Section 14 of the City Charter in order to meet the Ohio Department of Transportation submission deadline of April 30, 2008.

I concur with this recommendation:

Matthew D. Kline
Sandusky City Manager

Carrie Handy
Community Development

cc: Donald Icsman, Law Director
Joyce Brown, Commission Clerk

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE FILING OF A GRANT APPLICATION WITH THE OHIO DEPARTMENT OF TRANSPORTATION THROUGH THE US DOT FEDERAL TRANSIT ADMINISTRATION (FTA) FOR A JOB ACCESS REVERSE COMMUTE (JARC) PROGRAM GRANT FOR THE SANDUSKY TRANSIT SYSTEM; AND DECLARING THAT THIS RESOLUTION SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, the Director of the Ohio Department of Transportation is authorized to make grants for job access / reverse commute projects; and

WHEREAS, it is required by the U.S. Department of Transportation in accordance with the provisions of Title VI of the Civil Rights Act of 1964, that in connection with the filing of an application for assistance under 49 USC Section 5316 the City give an assurance that it will comply with Title VI of the Civil rights Act of 1964 and the U.S. Department of Transportation requirements thereunder; and

WHEREAS, it is the goal of the City that disadvantaged business enterprise be used to the fullest extent possible in connection with these projects and that definite procedures shall be established and administered to ensure that disadvantaged businesses shall have the maximum construction contracts, supplies, equipment contracts, or consultant and other services; and

WHEREAS, any funds, if awarded, from the Job Access Reverse Commute (JARC) Program will be used for increased service along the Rt. 250 / Milan Road retail and commercial corridor as this area is increasingly developed and providing jobs requiring the need for transportation to this area; and

WHEREAS, the total cost for the Rt. 250 / Milan Road project is \$166,860.00, with the City requesting \$100,000.00 from the Job Access Reverse Commute (JARC) Program and \$50,000 from local matches from Erie County Dept. of Job & Family Services (\$30,000), Serving our Seniors (\$5,000) and Sandusky / Erie County Community Foundation (\$15,000) and the remaining \$16,860 to be funded by revenues from the Farebox; and

WHEREAS, this legislation should be passed under suspension of the rules as an emergency measure in accordance with accordance with Section 14 of the City Charter in order to file the applications to the Ohio Department of Transportation for the Job Access Reverse Commute (JARC) Program by the submissions deadline of April 30, 2008; and

WHEREAS, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of Municipal Departments of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio, finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Resolution** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. The City Manager is hereby authorized to execute and file application on behalf of the City of Sandusky with the Ohio Department of Transportation for the Job Access Reverse Commute (JARC) Program and to execute any contracts or agreements on behalf of the City should they be awarded.

Section 2. The City Manager is authorized to execute and file with the City's applications any assurances or any other documentation required by the U.S. Department of Transportation effectuating the purposes of Title VI of the Civil Rights Act of 1964 and

to furnish such additional information as the Ohio Department of Transportation may require in connection with the City's applications submitted to the Federal Transit Administration.

Section 3. The Clerk of the City Commission is hereby directed to furnish a certified copy of this Resolution to be utilized for the filing of any applications for financial assistance from the Ohio Department of Transportation.

Section 4. If any section, phrase, sentence, or portion of this Resolution is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 5. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Resolution were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 6. That for the reasons set forth in the preamble hereto, this Resolution is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

DENNIS E. MURRAY, JR.
PRESIDENT OF THE CITY COMMISSION

ATTEST: _____
B. JOYCE BROWN
CLERK OF THE CITY COMMISSION

Passed:

April 16, 2008

MEMORANDUM

TO: Matthew D. Kline, City Manager
FROM: Michael R. Meinzer, Fire Chief
RE: Commission Agenda Item

ITEM FOR CONSIDERATION: Legislation to purchase one (1) 2008 Pierce Class "A" Triple Combination Fire Pumping Engine complete with all accessories and equipment from Pierce Manufacturing, Inc. of Appleton, Wisconsin, through the State of Ohio Purchasing Program.

BACKGROUND INFORMATION: The above listed vehicle is available through the State of Ohio Department of Administrative Services Cooperative Purchasing Program from Pierce Manufacturing, Inc of Appleton, Wisconsin. Firefighters from all ranks worked closely with Pierce's Ohio sales representative, Findley Fire Equipment, Inc. of McConnelsville, Ohio on this purchase. This item is available under State of Ohio contract number STS 618X 7761800208 for a total purchase price of \$517,317.00. The State of Ohio's Cooperative Purchasing Program through the Department of Administrative Services allows local political subdivisions to purchase items that have been competitively bid from the successful State vendor thereby giving the City the benefit of the State's competitively bid price without the necessity of formal competitive bidding by the City. This vehicle is not available locally. The Fire Chief has been notified that the price of this vehicle will increase significantly as the new National Fire Protection Association (NFPA) standards will be effective in August, 2008.

This new vehicle will replace the 1990 Sutphen pumping apparatus (pumper) that is 18 years old and has been determined by the Fire Chief and Fleet Maintenance Supervisor to be at the end of its serviceable life. The 1990 Sutphen pumper is on the department's 2008 vehicle replacement schedule.

There is a 250 day delivery period after acceptance of the order for the 2008 vehicle by the manufacturer. Upon delivery and acceptance of the new 2008 vehicle the Fire Chief through the City Manager will formally request that the City Commission declare the 1990 Sutphen pumper to be unnecessary and unfit for City use pursuant to Section 25 of the City Charter and to sell and/or dispose of it.

BUGETARY INFORMATION: **No general fund money will be required for this project.** This purchase has been budgeted for in the vehicle equipment replacement fund and sufficient funds are available to purchase the vehicle. The cost is as follows:

| | | |
|------------------------------|---|---------------------|
| Fire Apparatus | - | \$484,447.00 |
| Required Ancillary Equipment | - | <u>\$ 32,870.00</u> |
| Grand Total | - | \$517,317.00 |

ACTION REQUESTED: It is requested that the proper legislation be prepared to purchase one (1) Pierce Class "A" Triple Combination Fire Pumping Engine complete with all accessories and equipment from Pierce Manufacturing, Inc. of Appleton Wisconsin through the State of Ohio Cooperative Purchasing Program in an amount not to exceed \$517,317.00. In consideration of the time period of 250 days between the placement of the order and the delivery of the new vehicle together with the potential for a significant price increase when the new NFPA standards become effective in August, 2008, it is

requested that this legislation be passed and take immediate effect in accordance with Section 14 of the City Charter.

Approved:

I concur with this recommendation:

Michael R. Meinzer, Fire Chief

Matthew D. Kline, City Manager

Cc: Edward Widman, Finance Director
Don Icsman, Law Director

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO PURCHASE ONE (1) 2008 PIERCE CLASS "A" TRIPLE COMBINATION FIRE PUMPING ENGINE FROM PIERCE MANUFACTURING, INC., OF APPLETON, WISCONSIN, THROUGH THE STATE OF OHIO COOPERATIVE PURCHASING PROGRAM; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, this new vehicle will replace the 1990 Sutphen pumping apparatus (pumper) that is 18 years old and has been determined by the Fire Chief and Fleet Maintenance Supervisor to be at the end of its serviceable life and is on the department's 2008 vehicle replacement schedule; and

WHEREAS, the 2008 Pierce Class "A" Triple Combination Fire Pumping Engine is available through the State of Ohio Department of Administrative Services Cooperative Purchasing Program from Pierce Manufacturing, Inc., (Schedule Number 7761800208), thereby, allowing local political subdivisions to purchase items that have been competitively bid from the successful state vendor giving the City the benefit of the State's negotiated price and eliminating the necessity of formal bidding; and

WHEREAS, funds for the purchase of this new 2008 vehicle with all accessories and equipment are available and budgeted for in the Vehicle Equipment Replacement Fund, therefore, no general fund dollars will be spent; and

WHEREAS, this legislation should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter to allow for the placement of the order at the earliest possible time in consideration of the time period of 250 days between the placement of the order and the delivery of the new vehicle together with the potential for a significant price increase when the new NFPA standards become effective in August of 2008; and

WHEREAS, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Fire Department of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. The City Manager is authorized and directed to purchase one (1) 2008 Pierce Class "A" Triple Combination Fire Pumping Engine complete with all accessories and equipment from Pierce Manufacturing, Inc., of Appleton, Wisconsin, at an amount **not to exceed** Five Hundred Seventeen Thousand Three Hundred Seventeen and 00/100 Dollars (\$517,317.00).

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall

not affect the validity of the remaining portions thereof.

Section 3. This Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. That for reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter upon its passage, and its due authentication by the President, and the Clerk of the City Commission of the City of Sandusky, Ohio.

DENNIS E. MURRAY, JR.
PRESIDENT OF THE CITY COMMISSION

ATTEST: _____
B. JOYCE BROWN
CLERK OF THE CITY COMMISSION

Passed:

TO: Matt Kline, City Manager
FROM: Michele Hall, Recreation Program Supervisor
DATE: April 21, 2008
RE: Item for Commission Agenda (Priority Use Agreement for Northwest Ohio USSSA Leagues)

ITEMS FOR CONSIDERATION:

Legislation to enter into a one-year, License Agreement with Northwest Ohio USSSA Baseball League for priority use of the field located at Kiwanis Park for their baseball league program (April 30 through July 31) beginning April 30, 2008.

BACKGROUND INFORMATION:

We have had a License Agreement with St. Mary's Central Catholic High School for the past 5-years which has worked well for both parties. Because of the success of the agreement with SMCC high school, and to assist with communication between the leagues and the city, it would be beneficial to enter into this agreement.

This league will be hosting more than eight games this summer and to verify that they will be able to host all of their games on the same field, they have decided to pay cash for half of the expenses of the Kiwanis Park field. The expense for this field was calculated by adding the costs of the services which include port-o-johns, trash pick-up, and electric usage. The cost per field was then divided in half: deriving at the league's commitment. (Please see attachment.)

BUDGET IMPACT:

The agreements will not result in any additional budgetary expenses. The City will benefit from the agreed upon cash payment to be made by the league to assist with the expenses of the Kiwanis Park field.

ACTION REQUESTED:

It is requested that legislation be approved authorizing the City Manager to enter into a License Agreement with the Norwest Ohio USSSA Baseball League for seasonal priority use of the Kiwanis Park field. It is further requested that the legislation take immediate effect in full accordance with Section 14 of the City Charter in order to allow the License Agreements to be fully executed prior to the commencing date of April 30, 2008.

I concur with this recommendation.

Matthew D. Kline
City Manager

Warranette Parthemore
Administrative Services Director
Department Head

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO A ONE (1) YEAR LICENSE AGREEMENT WITH THE NORTHWEST OHIO UNITED STATES SPECIALTY SPORTS ASSOCIATION BASEBALL LEAGUE FOR PRIORITY USE OF THE KIWANIS PARK BALL FIELD LOCATED AT 2227 FIRST STREET, SANDUSKY, OHIO FOR THE NORTHWEST OHIO USSSA BASEBALL LEAGUE PROGRAM (APRIL 30 THROUGH JULY 31) BEGINNING APRIL 30, 2008; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, the Northwest Ohio USSSA Baseball League desires to have priority use of the Kiwanis Park Ball Field located at 2227 First Street, Sandusky, Ohio for the Northwest Ohio USSSA Baseball League Program for the season April 30, 2008 through July 31, 2008, as documented in the schedule marked Exhibit "A" attached and incorporated in the License Agreement; and

WHEREAS, it is necessary for the City to grant the Northwest Ohio USSSA League permission to utilize the City' park property on a priority use basis; and

WHEREAS, the Northwest Ohio USSSA Baseball League is willing to drag the field prior to each scheduled game and make a one-time payment of \$462.00 to the City in exchange for the priority use of the baseball field; and

WHEREAS, this agreement will not result in any additional budgetary expenses and the City will benefit from the agreed upon payment made by the league to assist with the expenses of the Kiwanis Ball Park Field; and

WHEREAS, this Ordinance should be passed as an emergency measure in accordance under suspension of the rules in accordance with Section 14 of the City Charter in order to allow the License Agreement to be fully executed prior to the commencing date of April 30, 2008; and

WHEREAS, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio, finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. The City Manager is authorized and directed to enter into a one (1) year License Agreement with the Northwest Ohio USSSA Baseball League for priority use the Kiwanis Park Ball Field located at 2227 First Street, Sandusky, Ohio, for the Northwest Ohio USSSA Baseball League Program beginning April 30, 2008, through July 31, 2008, substantially in the same form as Exhibit "1", a copy of which is attached to this Ordinance and is specifically incorporated as if fully rewritten herein, together with such revisions or additions as are approved by the Law Director as not being adverse to the City and as being consistent with carrying out the terms of this Ordinance.

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

DENNIS E. MURRAY, JR.
PRESIDENT OF THE CITY COMMISSION

ATTEST: _____
B. JOYCE BROWN
CLERK OF THE CITY COMMISSION

Passed:

LICENSE AGREEMENT

This Agreement made on and entered into this _____ day of _____, 2008 between the City of Sandusky, Ohio, a Chartered Municipality, 222 Meigs Street, Sandusky, Ohio, hereinafter referred to as “City” and the Northwest Ohio United States Specialty Sports Association Baseball League (Northwest Ohio USSSA Baseball League), 925 West Madison Street, Sandusky, Ohio, hereinafter referred to as “Licensee” for the purpose of utilizing the Kiwanis Park Ball Field located at 2227 First Street, Sandusky, Ohio, from April 30, 2008 through July 31, 2008.

WHEREAS, the Northwest Ohio USSSA Baseball League desires to have priority use of the Kiwanis Park Ball Field for the Northwest Ohio USSSA Baseball League Program beginning in CY 2008 for the season April 30, 2008, through July 31, 2008, as documented in the schedule marked Exhibit “A” attached and specifically incorporated as if fully rewritten herein; and

WHEREAS, it is necessary for the City to grant the Licensee permission to utilize the City’s park property on a priority use basis; and

WHEREAS, Licensee is willing to drag the field prior to each scheduled game and pay four hundred and sixty two dollars (\$462.00), in exchange for the priority use of the ball field delineated in this license agreement; and

WHEREAS, the City and the Licensee understand and acknowledge they need to work cooperatively to insure that all City ball fields are equitably shared and available.

NOW, THEREFORE, the parties agree as follows:

SECTION ONE
GRANT OF LICENSE

The City hereby grants to Licensee and to Licensee's participants, coaches, members, guests, volunteers and invitees the right, privilege and permission to enter into and on certain tracts of real property owned by the City, known as the Kiwanis Park Ball Field located at 2227 First Street, Sandusky, Ohio.

SECTION TWO
TERM

The City grants to the Licensee the priority use of the above-described ball field during the Licensee's yearly Northwest Ohio USSSA Baseball League schedule, for a period commencing April 30, 2008, through July 31, 2008.

The City shall have the option to modify this License Agreement pursuant to Section 9 of this Agreement in the event that the ball field becomes unavailable for use, through no fault of the parties, which necessitates necessary public improvements.

SECTION THREE
CONSIDERATION

In addition to furthering the City's public purpose of equitably sharing the City's ball fields and avoiding scheduling conflicts the priority use privilege granted by this Agreement is in exchange for the Licensee's Agreement to drag the field prior to each scheduled game and to make a one-time payment to the City in the amount of four hundred and sixty two dollars (\$462.00). The payment shall be due on July 31, 2008.

Licensee agrees not to erect or cause to be erected on the property described in Section One any buildings or structures, whether permanent or temporary, without securing the prior approval of the City Manager pursuant to this Agreement.

SECTION FOUR
INDEMNIFICATION

In consideration of the privilege granted by this Agreement, Licensee agrees to indemnify, defend, and save the City harmless from all loss, liability, cost or damages in connection with or on account of any injuries or damages that may occur or be claimed with respect to any person or property in or on the above-described property while being used by Licensee and Licensee's participants, coaches, members, guests, volunteers or invitees unless the injuries or damages are the result of the sole negligence of the City or its employees, agents or contractors.

During the term of this Agreement for any priority use period Licensee shall secure, pay premiums for, and furnish certificates to the City annually and in advance of the start of each baseball season for the following:

- a. Public liability insurance protecting the City and Licensee, and their respective agents, officers, employees, officials, and volunteers because of liability incurred in the performance of the terms of this Agreement when such liability is imposed on account of injury or death of a person or persons, such policy to provide limits on account of an accident resulting in injury or death to one person of not less than One Million Dollars and a liability limit on account of any accident resulting in injury or death to more than one person of not less than Two Million Dollars.
- b. Property damage insurance protecting the City and Licensee and their respective agents, officers, employees, officials and volunteers in the performance of the terms of this Agreement, such policy to

provide for a limitation on account of each accident of not less than One Million Dollars.

All such insurance policies shall name the City and Licensee and shall inure to the benefit of City and Licensee and their agents, officers, employees, officials, and volunteers. Such insurance policies shall require immediate notification to both City and Licensee of any cancellation or material change in the insurance coverage.

SECTION FIVE
MAINTENANCE AND OTHER OBLIGATIONS

Licensee agrees that during all times of use of the Kiwanis Park Ballfield all applicable Park rules and regulations promulgated by the City shall be enforced and adhered to including, but not necessarily limited to, the following:

The Sandusky Parks and Recreation Department's Rules and Regulations for all Organized Leagues. The City does not allow the consumption of alcoholic beverages in City ball fields or City parks. Your group is responsible for clean up and disposal of any refuse resulting from the use of the ball field. Please remind spectators, parents, players and coaches to be respectful of residents in the area by not parking and/or trespassing on private property.

The Kiwanis Park Ball Field is a part of the City's Public Park System and as such the City is responsible for all routine maintenance identical to the maintenance provided to all City parks and ball fields, which includes, but is not necessarily limited to, mowing, repairs to fencing, turf, playing surfaces and permanent structures.

SECTION SIX
GOVERNING LAW

It is agreed that this License Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Ohio.

SECTION SEVEN
TERMINATION

Either party may terminate this Agreement upon sixty (60) days written notification to the other party:

City of Sandusky:
c/o City Manager
222 Meigs Street
Sandusky, OH 44870

Licensee:
c/o League President
Northwest Ohio USSSA Baseball League
925 West Madison Street
Sandusky, OH 44870

SECTION EIGHT
ASSIGNMENT

This Agreement may not be assigned by either Party or by operation of law to any other person, firm, or entity without the express written approval of the other Party.

SECTION NINE
MODIFICATIONS

This Agreement may be amended at any time and from time to time, but any amendment must be in writing and signed by each Party.

SECTION TEN
CAUSE BEYOND REASONABLE CONTROL

Either Party will be excused from delays in performing or from failing to perform its obligations under this Agreement to the extent the delays or failures

result from causes beyond the reasonable control of the Party. However, to be excused from delay or failure to perform, the Party must act diligently to remedy the cause of the delay or failure.

SECTION ELEVEN
JOINT DRAFTING AND NEUTRAL CONSTRUCTION

This Agreement is a negotiated document and shall be deemed to have been drafted jointly by the Parties, and no rule of construction or interpretation shall apply against any particular Party based on a contention that the Agreement was drafted by one of the Parties. This Agreement shall be construed and interpreted in a neutral manner.

SECTION TWELVE
VALIDITY OF AGREEMENT

If any term, provision, covenant, or condition of this Agreement is held by a Court of competent jurisdiction to be invalid or unenforceable, the rest of the Agreement shall remain in full force and effect and shall in no way be affected or invalidated.

SECTION THIRTEEN
ENTIRE AGREEMENT

This Agreement, including Exhibit "A" contains the entire Agreement of the Parties relating to the rights granted and obligations assumed in this Agreement. Any oral representations or modifications concerning this instrument shall be of no force or effect unless contained in a subsequent written modification signed by the Party to be changed.

SIGNATURE PAGES TO FOLLOW

WITNESSES:

LICENSEE:

Kurt Fitzhum, League President
Northwest Ohio USSSA Baseball League

STATE OF OHIO)
) ss:
ERIE COUNTY)

On this ____ day of _____, 2008, before me, a Notary Public in and for said County and State, personally appeared _____, Northwest Ohio USSSA Baseball League and acknowledged their execution of the foregoing instrument as said Lessee on behalf of themselves and that the same is their voluntary act and deed as said Lessee on behalf of themselves.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed by official seal on the day and year aforesaid.

NOTARY PUBLIC

Approved as to Form:

Donald C. Icsman
Law Director
City of Sandusky

To: Matthew D. Kline
City Manager

From: Carrie R. Handy
Chief Planner

Date: April 21, 2008

Subject: **Commission Agenda Item for the April 28, 2008 City Commission Meeting**

Item for Consideration: Amendments to the City of Sandusky Zoning Code – repeal of Chapter 1153 Land Use Intensity Regulations, repeal of current Chapter 1155 Planned Unit Development and adoption of new Chapter 1155 and deletions of certain specific references to these two (2) chapters in other parts of the Zoning Code (Chapter 1129.02(d) and Chapter 1133.13).

Purpose: To revise the City’s planned unit development (PUD) regulations to allow for greater flexibility in the size and land use composition of planned unit developments, to provide for a preliminary plan review stage in the PUD process, and to clarify the procedural requirements for PUD approval.

Background Information: A draft of new PUD regulations was approved by the Planning Commission during its meeting on December 19, 2007. A letter was sent to the Sandusky City Commission from the Sandusky Planning Commission dated February 14, 2008, recommending approval of the proposed Planned Unit Development regulation amendments to the City of Sandusky Zoning Code (see attached letter). On February 25, 2008, a public hearing was scheduled by the City Commission for April 14, 2008, which was the earliest date the new regulations could be considered due to a 30-day hearing notice requirement in the Zoning Code. The City Commission held the public hearing on April 14, 2008, and no objections to the new regulations were raised at that time.

The Planning Commission proposes that these regulations replace the current Chapters 1153 and 1155 of the current Sandusky Zoning Code. The current regulations are very confusing to developers and are difficult to explain/interpret. The current regulations also do not provide for a preliminary plan stage which is beneficial for the City and for the developer. The preliminary plan stage provides for a “preview” of the planned unit development for the City prior to approving a zone change. It is also beneficial to the developer as it provides an avenue for zoning approval before a significant amount of investment is made in construction drawings and plans.

The proposed regulations would also clarify that a PUD is actually a rezoning and not a “special exception” as in the current Code. It also provides for what happens to the PUD zoning designation if a developer decides not to proceed with actual development of the PUD. In this case, the Planning Commission would recommend to the City Commission that the PUD property be rezoned back to its original zoning classification. What happens to a PUD designation if the PUD is not built or finished under the current regulations is a “murky” issue at best. This has been a problem for the City in areas where a PUD was not finished and new developers wanted to come in and build something different on the remaining vacant land in the PUD (Foxborough Commons development).

Other areas related to planned unit developments which the proposed regulations would address include a reduction in the minimum acreage to allow for more creative developments on smaller parcels; elimination of percentages of types of uses which restrict how uses can be mixed on a site; establishment of clear lot area, density, and height regulations for residential uses within a PUD; and clarification of how the percentage of open space within the PUD should be calculated.

Action Requested: Approval of the proposed planned unit development regulations and the necessary changes to other parts of the Zoning Code. A public hearing was scheduled by the City Commission and held on April 14, 2008 to consider these amendments. It is further requested that this ordinance take effect under Section 13 of the City Charter.

Submitted by:

Carrie R. Handy, Chief Planner

Reviewed by:

Matthew D. Kline, City Manager

Attachment

cc: Don Icsman, Law Director

Joyce Brown, Clerk of the City Commission

ORDINANCE NO. _____

AN ORDINANCE AMENDING PART ELEVEN - PLANNING AND ZONING CODE, TITLE THREE - ZONING DISTRICTS AND REGULATIONS, CHAPTER 1129 - RESIDENTIAL DISTRICTS AND CHAPTER 1133 - BUSINESS DISTRICTS, TITLE FIVE - ADDITIONAL ZONING REQUIREMENTS, CHAPTER 1153 - LAND USE INTENSITY AND CHAPTER 1155 - PLANNED UNIT DEVELOPMENT, IN THE MANNER AND WAY SPECIFICALLY SET FORTH HEREINBELOW; AND DECLARING THAT THIS ORDINANCE SHALL TAKE EFFECT UNDER SUSPENSION OF THE RULES AS CONTAINED IN AND IN ACCORDANCE WITH SECTION 13 OF THE CITY CHARTER.

WHEREAS, the proposed amendments to the City of Sandusky Zoning Code will allow greater flexibility in the size and land use composition of Planned Unit Developments (PUD), provide for a preliminary plan review stage in the PUD process and clarify the procedural requirements for PUD approval; and

WHEREAS, the Planning Commission met on December 19, 2007, and approved the new PUD regulations and recommended they be approved by letter to the Sandusky City Commission dated February 14, 2008;

WHEREAS, the City's Zoning Code requires that for amendments to the code newspaper publication and a 30 day time period be provided prior to the public hearing held by this Commission and at the February 25, 2008, City Commission meeting a public hearing was scheduled for April 14, 2008, and no objections were raised at that hearing; and

WHEREAS, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of Municipal Departments of the City of Sandusky, Ohio and, NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

**NEW LANGUAGE APPEARS IN BOLD PRINT
LANGUAGE TO BE STRICKEN APPEARS WITH A STRIKE THROUGH IT
LANGUAGE TO REMAIN UNCHANGED APPEARS IN REGULAR PRINT**

Section 1. Part Eleven - Planning and Zoning Code, Title Three - Zoning Districts and Regulations, Chapter 1129 - Residential Districts be amended as follows:

1129.02 USE REGULATIONS.

Buildings and land shall be used, and buildings shall be designed, erected, altered, moved, or maintained in residential districts only for the uses set forth in the schedules and use regulations of the Zoning Code.

- (a) Main buildings and uses, set forth in Section 1129.03, shall be permitted as the principal building, use, or activity of a zoning lot located only in a district in which it is specifically permitted.
- (b) Conditional uses are certain types of main uses, so classified in the Zoning Code because of their uncommon characteristics, infrequency of occurrence, large land area requirements, or because they should not be permitted in certain locations as a right without special requirements. Such uses, because of their nature, require approval by the Commission as to the proper location in relation to adjacent developments and with respect to the entire community. Procedures for evaluating and approving conditional use permits are set forth and found in Sections 1123.06, 1129.05, and Chapter 1155.
- (c) Accessory buildings and uses set forth in Section 1129.03 shall be permitted as a

subordinate building or for subordinate use, which is clearly incident to and located on the same zoning lot as the main building or use, and shall be located only in a district in which it is specifically permitted.

~~(d) In addition to all other regulations as to the uses set forth in this chapter, buildings and land may also be subject to further regulation based on residential land use intensity factors, as set forth in Chapter 1153. (1980 Code 151.11)~~

Section 2. Part Eleven - Planning and Zoning Code, Title Three - Zoning Districts and Regulations, Chapter 1133 - Business Districts be amended by the repeal of Section 1133.13 as follows:

~~1133.13 PLANNED SHOPPING CENTER.~~

~~If a shopping center is planned and developed as a unit, greater flexibility in the types of uses, yard requirements, off-street parking, and other regulations may be permitted provided:~~

- ~~(a) The area to be developed shall be at least 3 acres in area, in one ownership or under unified management;~~
- ~~(b) A preliminary plan showing a unified and well-organized arrangement of buildings, service facilities, parking areas, and landscaping, and showing driveways and streets planned so as to direct the least possible traffic onto local streets, and to cause the least possible congestion on major or secondary streets, and shall be submitted to the Commission who may hold a public hearing thereon;~~
- ~~(c) If approved, a final development plan shall be prepared and submitted for approval of the Commission before a building permit may be issued. (Ord. 04-057. Passed 1-12-04.)~~

Section 3. Part Eleven - Planning and Zoning Code, Title Five - Additional Zoning Requirements, Chapter 1153 - Land Use Intensity be amended by repealing the current Chapter in its entirety.

Section 4. Part Eleven - Planning and Zoning Code, Title Five - Additional Zoning Requirements, Chapter 1155 - Planned Unit Development be amended by the repeal of current Chapter 1155 and the enactment of new Chapter 1155 as follows:

**NEW CHAPTER 1155
PLANNED UNIT DEVELOPMENT**

| | | | |
|----------------|---|----------------|--|
| 1155.01 | Purpose. | 1155.12 | Procedure For Approval Of PUD District. |
| 1155.02 | Relation to Zoning Ordinance. | 1155.13 | Pre-Application Meeting. |
| 1155.03 | Permitted Uses. | 1155.14 | Application Contents; Preliminary Plan. |
| 1155.04 | Accessory Buildings and Uses. | 1155.15 | Preliminary Plan Approval. |
| 1155.05 | Minimum Project Area. | 1155.16 | Submission of Final Development Plan. |
| 1155.06 | Common Open Space. | 1155.17 | Application Contents; Final Development Plan. |
| 1155.07 | Utility Requirements. | 1155.18 | Approval by Planning Commission. |
| 1155.08 | Minimum Lot Size and Maximum Height Regulations. | | |
| 1155.09 | Parking. | | |

- | | | | |
|---------|-----------------------------------|---------|--|
| 1155.10 | Arrangement of Commercial Uses. | 1155.19 | Major and Minor Modifications to a Planned Unit Development. |
| 1155.11 | Maintenance of Undeveloped Areas. | | |

1155.01 PURPOSE.

The PUD District is established to promote progressive development of land and construction thereon by encouraging planned unit developments to achieve:

- (a) A maximum choice of living environments by allowing a variety of housing and building types and permitting an increased density per acre and reductions in lot dimensions, yards, building setbacks, and area requirements;
- (b) A more useful pattern of open space and recreation areas and, if permitted as part of the project, more convenience in the location of accessory commercial uses and services;
- (c) A development pattern which preserves and utilizes natural topography and geologic features, scenic vistas, trees and other vegetation, and prevents the disruption of natural drainage patterns;
- (d) A more efficient use of land than is generally achieved through conventional development resulting in substantial savings through shorter utilities and streets;
- (e) A development pattern in harmony with the land use, transportation, and other objectives of the City of Sandusky Comprehensive Plan;
- (f) The City is prepared to accept a greater population density in undeveloped areas than that reflected by conventional zoning, provided the developer can demonstrate that any increment of public cost attributable to increased densities will be compensated for by the private amenities and public benefits to be achieved by the plan of development.

1155.02 RELATION TO ZONING ORDINANCE.

Because of the special characteristics of planned unit developments, special provisions governing the development of land for this purpose are required. Whenever there is a conflict or difference between the provisions of this Chapter and those of the other Chapters of this Zoning Ordinance or other Ordinances of the City of Sandusky, the provisions of this chapter shall prevail. Subjects not covered by this chapter shall be governed by the respective provisions found elsewhere in this Zoning Ordinance.

1155.03 PERMITTED USES.

Compatible residential, commercial, public and quasi-public uses may be combined in the PUD District, provided the City Planning Commission and the City Commission find that the proposed location of the commercial uses will not adversely affect adjacent property, and/or the public health, safety, and general welfare.

1155.04 ACCESSORY BUILDINGS AND USES.

- (a) Accessory buildings and uses are permitted provided that such buildings and uses are customary and incidental to the principal use and are situated on the same lot as the principal building.
- (b) For the purpose of regulating accessory buildings and uses, all residential uses in PUD Districts shall conform to the Residential District regulations of the Zoning Code in Chapter 1129.

1155.05 MINIMUM PROJECT AREA.

There is no minimum project area requirement for a PUD District.

1155.06 COMMON OPEN SPACE.

- (a) A minimum of twenty percent (20%) of the land developed in any planned unit development project shall be reserved for common open space and recreational facilities for the residents or users of the area being developed.
- (b) At the discretion of the Planning Commission, the required amount of common open space land reserved under a planned unit development shall either:
 - (1) Be held in corporate ownership by owners of the project area for the use of each owner who buys property within the development; or
 - (2) Be acceptable to the City for dedication as common open space for parks, recreation, and related uses.

All land dedicated to the City must meet the Planning Commission's requirements as to size, shape, and location. Public utility and similar easements and rights-of-way for water courses and other similar channels are not acceptable for common open space dedication to the City unless such land or rights-of-way are usable as a trail or other similar purpose and approved by the Planning Commission. The legal responsibility and method of the maintenance of all open spaces shall be specified by the developer before approval of the Preliminary Development Plan.

- (c) Landscaping of open spaces shall be sufficient to provide a park-like environment and reduce the harshness of bare structures and land. Planted species shall be of types and sizes to assure a park atmosphere and permanent survival.

1155.07 UTILITY REQUIREMENTS.

Underground utilities, including telephone and electrical systems, are required within the limits of all planned unit developments. The City encourages the location of utility lines in alleys or easements behind buildings instead of in street rights-of-way whenever possible. Appurtenances to these systems which can be effectively screened may be exempted from this requirement if the Planning Commission finds that such exemption will not violate the intent or character of the proposed planned unit development.

1155.08 MINIMUM LOT SIZE AND MAXIMUM HEIGHT REGULATIONS.

- (a) The following minimum and maximum requirements shall be observed:

| Land Use | Minimum Lot Area (Square Feet) | Density (Not to exceed units / residential acre) | Maximum Height | |
|-------------------------------------|-----------------------------------|--|-------------------|---------------|
| | | | Number of Stories | Height (feet) |
| Single family | 4,200 | 6 | 2-1/2 | 30 |
| Two family | 2,100 per family | 10 | 2-1/2 | 30 |
| Garden, Townhouse, Apartments | 1,200 per family | 16 | 3 | 40 |

| | | | | |
|--------------|------------------|----|----|-----|
| Multi-family | 1,200 per family | 16 | 10 | 120 |
|--------------|------------------|----|----|-----|

A diversification of lot sizes is encouraged. Lot widths and setbacks may be varied to allow for a variety of structural designs. Clustering of dwellings is encouraged. Maintaining waterfront views/vistas for projects close to Sandusky Bay and Lake Erie is also encouraged.

- (b) For determining density as shown in the above table, the term “residential acre” does not include street rights-of-way or common open space.
- (c) Notwithstanding the provisions of this section, every building abutting the perimeter of the planned unit development shall maintain a building setback of at least twenty-five (25) feet.
- (d) Where townhouses are used, there shall be no more than eight townhouse units in any contiguous group.

1155.09 PARKING.

Off-street parking, loading and service areas shall be provided in accordance with Chapter 1149 of this Zoning Ordinance.

1155.10 ARRANGEMENT OF COMMERCIAL USES.

When planned unit development districts include commercial uses, the amount of land which may be devoted to commercial use shall be approved by the Planning Commission and the City Commission. Commercial buildings and establishments shall be planned as groups having common parking areas and common ingress and egress points in order to reduce the number of potential accident locations at intersections with thoroughfares. Planting screens or fences shall be provided on the perimeter of the commercial areas abutting residential areas. The plan of the project shall provide for the integrated and harmonious design of buildings, and for adequate and properly arranged facilities for internal traffic circulation, landscaping, and such other features and facilities as may be necessary to make the project attractive and efficient from the standpoint of the adjoining and surrounding noncommercial areas.

1155.11 MAINTENANCE OF UNDEVELOPED AREAS.

All areas designed for future expansion or not intended for immediate improvement or development shall be landscaped as approved by the Planning Commission and maintained in accordance with a landscape maintenance plan approved by the Planning Commission. Natural and scenic areas should be preserved wherever possible.

1155.12 PROCEDURE FOR APPROVAL OF A PUD DISTRICT.

Planned unit development districts shall be approved in accordance with the procedures in Section 1155.13 to 1155.20.

1155.13 PRE-APPLICATION MEETING.

The developer shall meet with the Chief Planner, City Engineer, and Traffic Engineer prior to the submission of the preliminary plan. The purpose of this meeting is to discuss early and informally the purpose and effect of this Zoning Ordinance and the criteria and standards contained herein, and to familiarize the developer with the comprehensive development plan, major thoroughfare plan, the parks and public open space plan, the subdivision regulations, and the drainage, sewer, and water system of the City.

1155.14 APPLICATION CONTENTS; PRELIMINARY PLAN.

An application for zone change for a PUD District shall be accompanied by a preliminary plan and shall be filed with the Chairman of the Planning Commission by at least one owner or lessee of the property for which the planned unit development is proposed. At a minimum, the application shall contain the following information:

- (a) All information normally required for a zone change amendment under Chapter 1113 of this Zoning Ordinance;
- (b) Name, address and telephone number of registered surveyor, registered engineer and/or urban planner assisting in the preparation of the preliminary plan;
- (c) A preliminary plan at a scale approved by the Chief Planner, showing topography at two foot intervals; location and type of residential and commercial uses; layout, dimensions, names of existing and proposed streets, rights-of-way, utility easements, parks and community spaces; layout and dimensions of lots and building setback lines; preliminary improvement drawings showing utility lines and other items as the Planning Commission deems necessary;
- (d) Proposed schedule for the development of the site;
- (e) Evidence that the applicant has sufficient control over the land in question to initiate the proposed development plan within eighteen (18) months;
- (f) The application for planned unit development shall be accompanied by a written statement by the developer setting forth the reasons why, in his opinion, the planned unit development would be in the public interest and would be consistent with the City's statement of objectives for planned unit developments in Section 1155.01;
- (g) A PUD filing fee and deposit as set by the City Commission. The number of copies of the application and preliminary plan required for submittal shall be set by the Planning Commission.

1155.15 PRELIMINARY PLAN APPROVAL

- (a) **Review of Preliminary Plan.** The Planning Commission shall review the preliminary plan and zone change request to determine if it is consistent with the objectives of this chapter; whether the proposed development advances the general welfare of the community and neighborhood; and whether the benefits of combining various land uses justify the deviation from conventional district regulations.
- (b) **PUD Zone Change and Preliminary Plan Recommendations.** After review, the Planning Commission shall recommend to the City Commission that the zone change request and the preliminary plan be approved as presented, approved with supplementary conditions, or disapproved. The City Commission will then follow normal zone change procedures specified in Chapter 1113.

1155.16 SUBMISSION OF FINAL DEVELOPMENT PLAN.

- (a) Within eighteen (18) months of the City Commission's approval of the preliminary plan and zone change, the developer shall submit a final development plan to the Planning Commission. When a subdivision plat is required, the final development plan may be processed concurrently. The final development plan shall be in general conformance with the preliminary plan approved by the City Commission.
- (b) If the final development plan has not been submitted to the Planning Commission within eighteen (18) months, notice shall be given to the applicant that the Planning Commission will recommend to the City Commission rezoning to the former zoning district of the subject property

which existed prior to the PUD rezoning. The Planning Commission may grant the applicant an extension to the eighteen (18) month time limit if the applicant can show cause why an extension should be granted.

1155.17 APPLICATION CONTENTS; FINAL DEVELOPMENT PLAN.

An application for approval of the final development plan and subdivision plat shall be filed with the Planning Commission by at least one owner or lessee of property for which the planned unit development is proposed. The application shall contain the following information:

- (a) A survey of the proposed development site, showing the dimensions and bearings of the property lines, areas in acres, topography, existing features of the development site, including major wooded areas, structures, street, easements, utility lines and land uses.
- (b) All the information required on the preliminary plan; the location and sizes of lots, location and proposed density of dwelling units, non-residential building intensity, and land use.
- (c) A schedule for the development of units to be constructed in progression and a description of the design principles for buildings and streetscapes; tabulation of the number of acres in the proposed project for various uses, the number of housing units proposed by type; estimated residential population; anticipated timing for each unit; and standards for height, open space, building density, parking areas, population density and public improvements proposed for each unit of the development.
- (d) Engineering feasibility studies and plans showing, as necessary, water, sewer, drainage, electricity, telephone, cable TV, and natural gas installations, waste disposal facilities, street improvements, and the nature and extent of earthwork required for site preparation and development.
- (e) Site Plan, showing building (s), various functional use areas, circulation and their relationship.
- (f) Preliminary building plans, including floor plans and exterior elevations.
- (g) Landscaping and landscaping maintenance plans.
- (h) Deed restrictions, protective covenants and other legal statements or devices to be used to control the use, development and maintenance of the land and the improvements thereon, including those areas which are to be commonly owned and maintained.
- (i) A filing fee and deposit as set by the City Commission. The number of copies of the application, the final development plan and any required subdivision plat for submittal shall be set by the Planning Commission.

1155.18 APPROVAL BY PLANNING COMMISSION.

After review of the final development plan, the Planning Commission shall either approve as presented, approve with the supplementary conditions, or disapprove the final development plan. The Planning Commission, in its review of the final development plan, shall determine that the facts submitted with the application establish that:

- (a) The proposed development can be initiated within eighteen (18) months of the date of approval;
- (b) Each individual unit of the development, as well as the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability or that adequate assurance will be provided that such objective will be attained; the uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect;
- (c) The streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic, and increased densities will not generate traffic in such

amounts as to overload the street network outside the planned unit development and the adopted policies of the Planning Commission and the City Commission;

- (d) Any proposed quasi-public development can be justified at the locations proposed;
- (e) Any deviation from district requirements of conventional Residential Districts is warranted by the design and other amenities incorporated in the final development plan;
- (f) The area surrounding the development can be planned and zoned in coordination and substantial compatibility with the proposed development;
- (g) The planned unit development is in general conformance with the comprehensive plan of the City;
- (h) The existing and proposed utility services are adequate for the population densities and non-residential uses proposed.

1155.19 MAJOR AND MINOR MODIFICATIONS TO A PLANNED UNIT DEVELOPMENT.

- (a) Subsequent to the approval of the final development plan by the Planning Commission, the land included within the site area thereof shall not be developed or used in any manner whatsoever that is not in conformance with the approved plan, and no building permit or certificate of occupancy shall be issued for any building, structure or use on the lands except in conformance with the approved plan.
- (b) Any change in an approved final development plan desired by the owner of the tract of land involved shall be submitted to the Planning Commission. The Commission shall determine whether the proposed revision is a minor or a major modification to the PUD and take the following action:
 - (1) A minor modification is a change which does not substantially alter the overall concept of the planned unit development. Generally, such changes are limited to small site alterations such as realigning a street, shifting a setback or slight changes in building designs that do not result in the loss of open space. Increases of up to five percent (5%) of the total development density may be determined by the Planning Commission to be minor changes. Minor modifications shall not involve reductions in required improvements, such as open space, parking areas, pavement widths, etc. Minor modifications shall be approved by the Planning Commission but do not require a public hearing;
 - (2) A major modification is a major change which will affect the general character and overall concept of the PUD, including substantial relocation or redesign of principal or accessory structures, parking, open space areas and streets. A major change is involved in density increases in excess of five percent (5%) of the total development density and/or revisions affecting the land coverage by building, parking and open space areas. Major modifications require approval by the Planning Commission after a public hearing. Notice of the public hearing must be sent to property owners within 300 ft. of the tract of land involved in the PUD and must be published in the local newspaper of general circulation at least ten (10) days prior to the public hearing;
 - (3) Upon approval of a revised final development plan as a minor or major modification, the original final plan shall be considered void and the revised final plan shall have the same force and effect as if it were the original plan.

Section 5. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 6. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 7. That for the reasons set forth in the preamble hereto, this Ordinance shall take effect under suspension of the rules as provided in Section 13 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission.

DENNIS E. MURRAY, JR.
PRESIDENT OF THE CITY COMMISSION

ATTEST: _____
B. JOYCE BROWN
CLERK OF THE CITY COMMISSION

Passed:

TO: Matthew D. Kline, City Manager
FROM: Jeffrey W. Rosekelly, P.E., Project Engineer
DATE: April 21, 2008
SUBJECT: Commission Agenda Item

ITEM FOR CONSIDERATION: Proposed Monroe Street Resurfacing Project Phase III. This project is from Columbus Avenue to Meigs Street, and includes the replacement of curb and gutters, sidewalks and drive approaches in need of repair; removal of abandoned railroad ties and full-depth pavement repair in the center ten feet (10') of pavement; milling and re-surfacing to a depth of three inches (3") of the remaining road surface; and installation of a new 12" water line from Columbus Avenue to Wayne Street.

This section of Monroe Street contains three (3) of the twelve (12) worst sections of street located on major streets in the City as reported by the 2005 UT pavement study. There is currently an existing 2" waterline that extends approximately 300 feet east from the existing 6" waterline in Columbus Avenue. This portion of the project is part of the City's master waterline looping plan to connect dead-end waterlines.

BUDGETARY INFORMATION: The total estimated project cost including engineering, inspection, advertising and miscellaneous expenses is \$600,149.72. The estimated private assessment cost is \$125,009.01. The City portion of the project cost is \$279,800.71. The Water Fund expense will be \$138,223.37, the Sewer Fund expense will be \$8,776.25, the \$5 license fee fund will be \$132,801.09 and the Ohio Public Works Grant expense will be \$195,340.00.

ACTION REQUESTED: It is recommended that the proposed Monroe Street Resurfacing Project Phase III be approved and that the necessary legislation be passed under suspension of the rules and in accordance with Section 14 of the City Charter in order to bid the project and receive competitive prices.

Jeffrey W. Rosekelly, P.E.
Project Engineer

I concur with this recommendation:

Matthew D. Kline
City Manager

Kathryn K. McKillips, P.E.
Director of Engineering Services

cc: Don Icsman, Law Director
Ed Widman, Finance Director
Joyce Brown, Clerk of City Commission
Ernie Demanelis, Squire, Sanders, & Dempsey

ORDINANCE NO. _____

AN ORDINANCE DETERMINING TO PROCEED WITH THE IMPROVEMENT OF MONROE STREET BETWEEN CERTAIN TERMINI BY GRADING, PAVING, RESURFACING, CONSTRUCTING CURBS, GUTTERS, SIDEWALKS, DRIVEWAY APPROACHES AND CURB RAMPS, ADJUSTING MANHOLES, CATCH BASINS AND A WATER VALVE BOX TO GRADE, AND INSTALLING A WATERLINE BETWEEN CERTAIN TERMINI, ALL TOGETHER WITH THE NECESSARY APPURTENANCES THERETO, AND DECLARING AN EMERGENCY.

WHEREAS, this Commission adopted Resolution No. 036-07R on December 10, 2007 (the Resolution of Necessity), declaring the necessity of making the improvement described in Section 1 of the Resolution of Necessity; and

WHEREAS, a waterline looping project in Monroe Street from Columbus Avenue to Wayne Street was originally scheduled to be constructed prior to the aforesaid improvement being made but this Commission has heretofore determined that they are so situated in relation to each other that it would be economical, practical and less of an inconvenience to the residents to combine that project with the aforesaid improvement and contract for and perform all of the work at the same time, and, since all of the costs of that waterline portion of the work will be paid from the City's Water Fund, there also would be no change in the estimated assessments, and therefore, under those circumstances, this Commission has determined that it is therefore appropriate and in the best interest of the City to so proceed with that combined improvement as described in Section 1 hereof; and

WHEREAS, an emergency exists in that, for the immediate preservation of the public peace, property, health and safety, it is necessary that this ordinance be immediately effective in order to provide for the construction of that improvement and thereby eliminate hazards to the traveling public, and by reason thereof, this ordinance shall take effect forthwith upon its passage, NOW THEREFORE

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, that:

Section 1. It is hereby determined to proceed with the improvement of Monroe Street from Camp Street to Columbus Avenue by grading, paving, resurfacing, constructing curbs, gutters, sidewalks, driveway approaches and curb ramps, adjusting manholes, catch basins and a water valve box to grade, and installing a waterline from Columbus Avenue to Wayne Street, all together with the necessary appurtenances thereto, all as further described in the preambles hereto.

Section 2. That improvement shall be made in accordance with the provisions of the Resolution of Necessity, and with the plans, specifications, estimates and profiles which have been revised for the reasons set forth in the preambles hereto and which are hereby ratified and approved and are now on file in the office of the Director of Engineering Services and the Clerk of this Commission.

Section 3. All claims for damages resulting therefrom that have been legally filed shall be inquired into after completion of that improvement, and the Law Director is hereby authorized and directed to institute legal proceedings in a court of competent jurisdiction to inquire into any claims that have been so filed.

Section 4. The portion of the cost of that improvement to be assessed as provided in the Resolution of Necessity and the preambles hereto shall be assessed in the manner and pursuant to the schedule provided in the Resolution of Necessity and on the lots and lands described therein.

Section 5. The estimated special assessments heretofore prepared and filed in the office of the Clerk of this Commission be and the same are hereby approved and adopted. This Commission does hereby determine that said assessments as so adopted are in proportion to the benefits which may result from such improvement and are not in excess of any statutory limitation.

Section 6. The Clerk of this Commission is hereby directed to deliver a certified copy of this ordinance to the County Auditor within fifteen days after its passage. As provided in Section 15 of the City Charter, and in lieu of publishing this ordinance, the Clerk of the Commission shall cause a notice of determination to proceed with public improvement substantially in the form contemplated therein to be published once in a newspaper of general circulation in this City.

Section 7. Subject to the provisions of Revised Code Section 727.24, the City Manager is hereby authorized and directed as soon as the funds are available therefor to make and execute a contract for said improvement with the lowest and best bidder after advertising according to law, and the improvement shall be financed as provided for in the Resolution of Necessity.

Section 8. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 9. For the reasons set forth in the last preamble hereto, this ordinance is hereby declared to be an emergency measure and shall take effect immediately upon its passage and due authentication by the President and the Clerk of the City Commission.

DENNIS E. MURRAY, JR.
PRESIDENT OF THE CITY COMMISSION

ATTEST:

B. JOYCE BROWN
CLERK OF THE CITY COMMISSION

Passed: April 28, 2008