

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

=====

**MONDAY, SEPTEMBER 10, 2007**

=====

Prayer  
Pledge of Allegiance  
Meeting Called to Order  
Roll Call - BF, DW, CS, DE, DK, DM, BC  
Minutes –

=====

Charter Officers - (Don) James L. Miers, Interim City Manager; Don Icsman, Law Director,  
Ed Widman, Finance Director, B. Joyce Brown, Clerk of the City Commission

=====

Audience Participation – Agenda Items Only (3 minute limit)

=====

**\*PRESENTATIONS\***

=====

Friends of Pipe Creek Watershed –Kathie Mueller, Co-Chair and Bre Hohman, Firelands Coastal Tributaries Watershed Coordinator

=====

**CURRENT BUSINESS**

=====

**ITEM #1** – Communication – B. Joyce Brown, Clerk of the City Commission

**BUDGETARY INFORMATION:** The cost of the revisions of the Codification supplements and the Code in Folio Views for internet reinstallation will be taken from the line item Contractual Services in the Clerk's Budget. This item was previously appropriated.

**ORDINANCE NO.** \_\_\_\_\_ Approve current replacement pages to the Sandusky Codified Ordinances and the Folio Views for 2007 in an amount of \$3,885.75. **Request passed under suspension of rules in full accordance of Section 14 of the City Charter.**

=====

**ITEM #2** – Communication – Kim Nuesse, Chief of Police

**BUDGETARY INFORMATION:** This would not impact the Police Department budget as there is no cost associated with enacting this Ordinance. Officers are currently serving warrants and subpoenas without the City collecting any fees.

**ORDINANCE NO.** \_\_\_\_\_ Establishing a schedule of fees to be taxed as costs in a Civil, Criminal, or Traffic Action or proceeding in the Sandusky Municipal Court for services performed by officers or other employees of the Sandusky Police Department and/or the Sandusky Municipal Court Bailiff.

=====

**ITEM #3** – Communication – Kim Nuesse, Chief of Police

**BUDGETARY INFORMATION:** The vehicle will be added to the current fleet of police cruisers and will be paid out of the 2007 budget. Funds for this purchase will come from un-appropriated capital monies.

**ORDINANCE NO.** \_\_\_\_\_ Purchase one (1) 2007 Chevrolet Tahoe 4WD Police Package from Bob McDorman Chevrolet of Winchester, Ohio, through the State of Ohio Cooperative Purchasing Program in an amount of \$35,888.83. **Request passed under suspension of rules in full accordance of Section 14 of the City Charter.**

=====

**ITEM #4** – Communication – Jeffrey W. Rosekelly, P.E. Project Engineer

**BUDGETARY INFORMATION:** The Engineer's Estimate for the project was \$55,223.14. The original contract amount was \$38,747.32. The new contract amount including the First and Final Change Order in the amount of \$8,553.24 is \$47,300.56. This project is completely funded by Community Development Block Grant monies.

**ORDINANCE NO.** \_\_\_\_\_ Approve the First & Final Change Order for work being performed for the Monroe Street Handicap Ram Replacement Project in the amount of \$8,553.24 to be paid to Fosco Cement Inc. of Sandusky, Ohio. **Request passed under suspension of rules in full accordance of Section 14 of the City Charter.**

=====

**ITEM #5** – Communication – Gary Packan, Assistant City Manager, and Scott Schell, Economic Development Specialist

**BUDGETARY INFORMATION:** The cost of the services if \$24,500.00, and are more fully explained in a copy of the proposal of Partner Environmental Consulting which is attached to the requested Ordinance.

**ORDINANCE NO.**\_\_\_\_\_ Enter into a contract with Partners Environmental Consulting, Inc. and Hull & Associates, Inc. of Solon, Ohio, for certified Professional Services for Geo Gradel and Deep Water Marina properties as part of the Bayfront Paper District – West End Redevelopment Project. **Request passed under suspension of rules in full accordance of Section 14 of the City Charter.**

=====

**ITEM #6**

**ORDINANCE NO.**\_\_\_\_\_ Amending Part Nine – Streets, Utilities and Public Services Code, Title One – Street and sidewalk areas, by the enactment of Chapter 923 – Regulation of Video Service providers in the manner and way specifically set forth hereinbelow. **Request passed under suspension of rules in full accordance of Section 14 of the City Charter.**

---

---

**ITEM #7** – Communication submitted by the Ohio Department of Liquor Control.

A new request of D5J Liquor Permit to P. Frisch Enterprises LLC dba Yesteryears Restaurant, 129 West Market Street, Sandusky, OH 44870. **Request the Clerk to notify the Ohio Department of Liquor Control that the City has no objections to this request.**

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: City Commission

FROM: B. Joyce Brown, Clerk of the City Commission

DATE: August 30, 2007

RE: Commission Agenda Item

**ITEM FOR CONSIDERATION:**

Ordinance approving current replacement pages to the Codified Ordinances and the Folio Views for 2007.

**BUDGETARY INFORMATION:**

The cost of the revisions of the Codification supplements and the Code in Folio Views for internet reinstallation will be taken from the line item Contractual Services in the Clerk's Budget. This item was previously appropriated.

**ACTION REQUESTED:**

It is recommended that an Ordinance be approved for payment of the invoice in the amount of \$3,885.75 to Walter H. Drane Company for services rendered. It is further requested that the legislation take immediate effect in full accordance with Section 14 of the City Charter to allow for payment in a timely manner.

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

**AN ORDINANCE TO APPROVE CURRENT REPLACEMENT PAGES TO THE SANDUSKY CODIFIED ORDINANCES; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, certain provisions within the Codified Ordinances should be amended to conform with current State law as required by the Ohio Constitution; and

**WHEREAS**, various ordinances of a general and permanent nature have been passed by the Commission which should be included in the Codified Ordinances; and

**WHEREAS**, the City has heretofore entered into a contract with the Walter H. Drane Company to prepare and publish such revision which is before this City Commission;

**WHEREAS**, in order to provide for the immediate preservation of the public peace, health, welfare and safety for the reason that there exists an imperative necessity for the earliest publication and distribution of current replacement pages to the officials and residents of the City of Sandusky, so as to facilitate administration, daily operation and avoid practical and legal entanglements, it is necessary to declare this Ordinance to be an emergency measure to take effect immediately upon its adoption and due authentication; and NOW, THEREFORE,

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

Section 1. The Ordinances of the City of Sandusky, Ohio, of a general and permanent nature, as revised, recodified, rearranged and consolidated into component codes, titles, chapters and sections within the 2007 Replacement Pages to the Codified Ordinances are hereby approved and adopted.

Section 2. That the following sections and chapters are hereby added, amended or repealed as respectively indicated in order to comply with current State law.

Traffic Code

- |         |  |
|---------|--|
| 331.01  | Driving Upon Right Side of Roadway. (Amended)                    |
| 331.07  | Hazardous or No Passing Zones. (Amended)                         |
| 331.14  | Signals Before Changing Course. (Amended)                        |
| 333.01  | Driving or Physical Control While Under the Influence. (Amended) |
| 333.04  | Stopping Vehicle; Slow Speed. (Amended)                          |
| 335.03  | Driving With Temporary Instruction Permit. (Amended)             |
| 335.031 | Driving With Probationary License. (Amended)                     |
| 337.18  | Motor Vehicle and Motorcycle Brakes. (Amended)                   |
| 337.26  | Child Restraint System Usage. (Amended)                          |
| 337.29  | Bumper Heights. (Amended)  |
| 339.03  | Maximum Width, Height and Length. (Amended)                      |
| 339.05  | Wheel Protectors. (Amended)                                      |
| 373.01  | Code Application to Bicycles. (Amended)                          |
| 373.02  | Riding Upon Bicycle and Motorcycle Seats. (Amended)              |
| 373.05  | Signal Device On a Bicycle. (Amended)                            |
| 373.06  | Lights and Reflector on Bicycle. (Amended)                       |
| 373.07  | Riding Bicycle on Right Side of Roadway. (Amended)               |

General Offenses Code

501.01	Definitions. (Amended)
517.01	Gambling Definitions. (Amended)
517.06	Methods of Conducting a Bingo Game. (Amended)
517.08	Raffles. (Added)
517.09	Charitable Instant Bingo Organizations. (Added)
517.14	Instant Bingo Conduct By a Veteran's or Fraternal Organization. (Added)
525.02	Falsification. (Amended)
525.03	Impersonation of Peace Officer. (Amended)
529.02	Sales to and Use by Underage Persons. (Amended)
529.07	Open Container Prohibited. (Amended)
533.07	Public Indecency. (Amended)
537.02	Vehicular Homicide and Manslaughter. (Amended)
537.03	Assault. (Amended)
537.16	Illegal Distribution of Cigarettes. (Amended)
549.18	Defacing Identification Marks of a Firearm, or Possessing a Defaced Firearm. (Added)

Section 3. The complete text of the sections listed above are set forth in full in the current replacement pages to the Codified Ordinances, a copy of which is on file in the office of the Clerk of the City Commission. Any summary publication of this ordinance shall include a complete listing of these sections. Notice of adoption of each new section by reference to its title shall constitute sufficient publication of new matter contained therein.

Section 4. 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 5. 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 6. 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.

**PAGE 3 - ORDINANCE NO.** \_\_\_\_\_

\_\_\_\_\_  
DANIEL J. KAMAN  
PRESIDENT OF THE CITY COMMISSION

ATTEST: \_\_\_\_\_

B. JOYCE BROWN  
CLERK OF THE CITY COMMISSION

Passed:

**To: Don Mears, Interim City Manager**

**From: Chief Kim A. Nuesse**

**DATE: August 31, 2007**

**RE: Commission Agenda Item**

**ITEM FOR CONSIDERATION:**

Requesting the City Commission to enact an Ordinance establishing a schedule of fees to be taxed as costs in any civil, criminal, or traffic action or proceeding in Sandusky Municipal Court for the performance by Sandusky Police Department Officers or other employees of the City's Police Department similar to the types that are performed by Sheriffs and Constables.

In 2006 the State legislature passed HB 226 which amended O.R.C. §1901.26 to authorize the legislative authority of a municipal corporation to establish by ordinance a schedule of fees for services performed by Officers or other employees of the Police Department similar to those specified in O.R.C. §311.17 and §509.15 (a copy of each is attached to this communication). Currently Sandusky Police Officers are serving warrants and subpoenas. Fees for performing these services are to be collected by the Clerk of Court and deposited into the City's General Fund. Neighboring law enforcement agencies such as the Erie County Sheriff's Office currently collect fees for their services.

I have together with the Law Department discussed this matter with Judge O'Brien and Peggy Rice who have agreed with adopting a fee schedule for services performed by the Police Department consistent with State Law.

**BUDGET STRATEGIC PLAN IMPACT:**

This would not impact the Police Department budget as there is no cost associated with enacting this Ordinance. Officers are currently serving warrants and subpoenas without the City collecting any fees.

**ACTION REQUESTED:**

It is requested that the proper legislation be prepared and the City Commission adopt an Ordinance establishing a schedule of fees consistent with §1901.26 of the Ohio Revised Code.

I concur with this recommendation:

Don Mears, Interim City Manager

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

**AN ORDINANCE ESTABLISHING A SCHEDULE OF FEES TO BE TAXED AS COSTS IN A CIVIL, CRIMINAL, OR TRAFFIC ACTION OR PROCEEDING IN THE SANDUSKY MUNICIPAL COURT FOR SERVICES PERFORMED BY OFFICERS OR OTHER EMPLOYEES OF THE SANDUSKY POLICE DEPARTMENT AND/OR THE SANDUSKY MUNICIPAL COURT BAILIFF.**

**WHEREAS**, the Ohio Legislature has enacted AM. HB 226, amending Section 1901.26 of the Ohio Revised Code, effective February 27, 2006, which authorizes the Legislative Authorities of Municipalities to establish by Ordinance a schedule of fees to be taxed as costs in any civil, criminal, or traffic action or proceeding in a Municipal Court for services performed by officers or other employees of the Municipal Corporation's Police Department or by the Municipal Court Bailiff and directs the Clerk of the Municipal Court, when the Clerk collects taxable fees for those services, to pay the fees to the specified Municipal Corporation's general Fund; and

**WHEREAS**, this City Commission finds that such fees are reasonable and necessary and authorized by law; and

**WHEREAS**, in order to provide for the usual daily operation of the Sandusky Municipal Court in efficiently administering and collecting costs in civil, criminal, and traffic actions and proceedings it is necessary that the schedule of fees be enacted by the City Commission of the City of Sandusky, Ohio, NOW, THEREFORE,

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

Section 1. This City Commission hereby establishes a schedule of fees to be taxed as costs in any civil, criminal, or traffic action or proceeding in the Sandusky Municipal Court for the performance by officers or other employees of the Sandusky Police Department of any of the services specified in Sections 311.17 and 509.15 of the Ohio Revised Code, and if a fee established in this schedule conflicts with a fee for the same service established in another section of the Ohio Revised code or a rule of the Sandusky Municipal Court the fee established in the other section of the Revised Code or Rule of Court shall apply.

Section 2. If a Bailiff of the Sandusky Municipal Court performs in a civil, criminal or traffic action or proceeding in the Court a service specified in Sections 311.17 or 509.15 of the Ohio Revised Code for which a taxable fee has been established under this Ordinance or any section of the Ohio Revised Code, the fee for the service is the same and is taxable to the same extent as if the service had been performed by an officer or employee of the Sandusky Police Department.

Section 3. Pursuant to the Ohio Revised Code Section 1901.26(1)(b)(ii), when an officer or employee of the Sandusky Police Department or a Bailiff of the Sandusky Municipal Court performs in a civil, criminal, or traffic action or proceeding a service

specified in Sections 311.17 or 509.15 of the Ohio Revised Code, the applicable legal fees and any other expenses, including overtime, provided for the service shall be taxed as costs in the case and the Clerk of the Sandusky Municipal Court shall pay those legal fees and other expenses, when collected, into the City of Sandusky's General Fund.

Section 4. 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 5. 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 6. That for the reasons set forth in the preamble hereto, this Ordinance shall take effect at the earliest time permitted by law.

\_\_\_\_\_  
DANIEL J. KAMAN  
PRESIDENT OF THE CITY COMMISSION

ATTEST:

\_\_\_\_\_  
B. JOYCE BROWN  
CLERK OF THE CITY COMMISSION

Passed:

## **311.17 Fees.**

Except as provided in a contract entered into under division (A) of section 3125.141 of the Revised Code, for the services specified in this section, the sheriff shall charge the following fees, which the court or its clerk shall tax in the bill of costs against the judgment debtor or those legally liable therefor for the judgment:

(A) For the service and return of the following writs and orders:

(1) Execution:

(a) When money is paid without levy or when no property is found, twenty dollars;

(b) When levy is made on real property, for the first tract, twenty-five dollars, and for each additional tract, ten dollars;

(c) When levy is made on goods and chattels, including inventory, fifty dollars.

(2) Writ of attachment of property, except for purpose of garnishment, forty dollars;

(3) Writ of attachment for the purpose of garnishment, ten dollars;

(4) Writ of replevin, forty dollars;

(5) Warrant to arrest, for each person named in the writ, ten dollars;

(6) Attachment for contempt, for each person named in the writ, six dollars;

(7) Writ of possession or restitution, sixty dollars;

(8) Subpoena, for each person named in the writ, in either a civil or criminal case, six dollars;

(9) Venire, for each person named in the writ, in either a civil or criminal case, six dollars;

(10) Summoning each juror, other than on venire, in either a civil or criminal case, six dollars;

(11) Writ of partition, twenty-five dollars;

(12) Order of sale on partition, for the first tract, fifty dollars, and for each additional tract, twenty-five dollars;

(13) Other order of sale of real property, for the first tract, fifty dollars, and for each additional tract, twenty-five dollars;

(14) Administering oath to appraisers, three dollars each;

(15) Furnishing copies for advertisements, one dollar for each hundred words;

(16) Copy of indictment, for each defendant, five dollars;

(17) All summons, writs, orders, or notices, for the first name, six dollars, and for each additional name, one dollar.

(B) In addition to the fee for service and return:

- (1) On each summons, writ, order, or notice, a fee of one dollar per mile for the first mile, and fifty cents per mile for each additional mile, going and returning, actual mileage to be charged on each additional name;
- (2) Taking bail bond, three dollars;
- (3) Jail fees, as follows:
  - (a) For receiving a prisoner, five dollars each time a prisoner is received, and for discharging or surrendering a prisoner, five dollars each time a prisoner is discharged or surrendered. The departure or return of a prisoner from or to a jail in connection with a program established under section 5147.28 of the Revised Code is not a receipt, discharge, or surrender of the prisoner for purposes of this division.
  - (b) Taking a prisoner before a judge or court, per day, five dollars;
  - (c) Calling action, one dollar;
  - (d) Calling jury, three dollars;
  - (e) Calling each witness, three dollars;
  - (f) Bringing prisoner before court on habeas corpus, six dollars.
- (4) Poundage on all moneys actually made and paid to the sheriff on execution, decree, or sale of real estate, one and one-half per cent;
- (5) Making and executing a deed of land sold on execution, decree, or order of the court, to be paid by the purchaser, fifty dollars.

When any of the services described in division (A) or (B) of this section are rendered by an officer or employee, whose salary or per diem compensation is paid by the county, the applicable legal fees and any other extraordinary expenses, including overtime, provided for the service shall be taxed in the costs in the case and, when collected, shall be paid into the general fund of the county.

The sheriff shall charge the same fees for the execution of process issued in any other state as the sheriff charges for the execution of process of a substantively similar nature that is issued in this state.

Effective Date: 09-26-2003; 12-21-2004

## **509.15 Fees of constables.**

The following fees and expenses shall be taxed as costs, collected from the judgment debtor, and paid to the general fund of the appropriate township or district as compensation due for services rendered by township constables or members of the police force of a township police district or joint police district:

(A) Serving and making return of each of the following:

- (1) Order to commit to jail, order on jailer for prisoner, or order of ejectment, including copies to complete service, one dollar for each defendant named therein;
- (2) Search warrant or warrant of arrest, for each person named in the writ, five dollars;
- (3) Writ of attachment of property, except for purpose of garnishment, twenty dollars;
- (4) Writ of attachment for the purpose of garnishment, five dollars;
- (5) Writ of possession or restitution, twenty dollars;
- (6) Attachment for contempt, for each person named in the writ, three dollars;
- (7) Writ of replevin, twenty dollars;
- (8) Summons and writs, subpoena, venire, and notice to garnishee, including copies to complete service, three dollars for each person named therein;
- (9) Execution against property or person, eighty cents, and six per cent of all money thus collected;
- (10) Any other writ, order, or notice required by law, for each person named therein, including copies to complete service, three dollars for the first name and fifty cents for each additional name.

(B) Mileage for the distance actually and necessarily traveled in serving and returning any of the preceding writs, orders, and notices, fifty cents for the first mile and for each additional mile, twenty cents;

(C) For attending a criminal case during the trial or hearing and having charge of prisoners, each case, two dollars and fifty cents, but, when so acting, such constable shall not be entitled to a witness fee if called upon to testify;

(D) For attending civil court during a jury trial, each case, two dollars;

(E) For attending civil court during a trial without jury, each case, one dollar and fifty cents;

(F) The actual amount paid solely for the transportation, meals, and lodging of prisoners, and for the moving and storage of goods and the care of animals taken on any legal process, such expense shall be specifically itemized on the back of the writs and sworn to;

(G) For summoning and swearing appraisers, each case, two dollars;

(H) For advertising property for sale, by posting, taken on any legal process, one dollar;

(I) For taking and making return of any bond required by law, eighty cents.

Notwithstanding anything to the contrary in this section, if any comparable fee or expense specified under section 311.17 of the Revised Code is increased to an amount greater than that set forth in this section, the board of township trustees, board of trustees of the township police district, or joint township police district board, as appropriate, may require that the amount taxed as costs under this section equal the amount specified under section 311.17 of the Revised Code.

Effective Date: 08-23-1995

**To: Don Mears, Interim City Manager**

**From: Chief Kim A. Nuesse**

**DATE: August 30, 2007**

**RE: Commission Agenda Item**

**ITEMS FOR CONSIDERATION:**

Legislation to purchase one 2007 Chevrolet Tahoe 4WD police package from Bob McDorman Chevrolet 5885 Gender Road Canal Winchester, Ohio 43110.

**BACKGROUND INFORMATION:**

The Chevrolet Tahoe 4WD will be added to our patrol fleet as an emergency vehicle for critical incidents, inclement weather, and transportation of equipment.

The vehicle is being purchased using the state of Ohio Cooperative Purchasing Program. The Ohio Cooperative Purchasing Program was created in 1985 and is administered by the State Department of Administrative services. It allows local political subdivisions to purchase items (in this case a Tahoe with police package) that have been competitively bid from successful state vendor thereby giving the City the benefit of the State negotiated price and eliminating the necessity of formal bidding.

Additionally, this vehicle could not be purchased in a police package for the budgeted amount from local vendors.

**BUDGET STRATEGIC PLAN IMPACT:**

The vehicle will be added to the current fleet of police cruisers. The vehicle will be paid out of the 2007 budget. Funds for this purchase will come from un-appropriated capital monies.

**ACTION REQUESTED:**

It is requested that the proper legislation be prepared to purchase one (1) 2007 Chevrolet Tahoe 4WD police package from Bob McDorman Chevrolet in an amount not to exceed \$35,888.83.

It is further requested that this be passed to take immediate effect in accordance with Section 14 of the City Charter. This will permit the ordering now, as there are only two (2) 2007 White Chevrolet Tahoe's in stock.

Approved: \_\_\_\_\_  
**Don Mears**, Interim City Manager

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

**AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO PURCHASE ONE (1) 2007 CHEVROLET TAHOE 4WD POLICE PACKAGE FROM BOB MCDORMAN CHEVROLET OF WINCHESTER, OHIO, 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**, the Police Department is recommending to purchase a 2007 Chevrolet Tahoe 4WD police package to be added to the current fleet of police cruisers as an emergency vehicle for critical incidents, inclement weather and transportation of equipment; and

**WHEREAS**, the 2007 Chevrolet Tahoe 4WD police package is available through the State of Ohio's Cooperative Purchasing Program, thereby, eliminating the necessity for competitive bidding; and

**WHEREAS**, funds for the purchase of this 2007 Chevrolet Tahoe 4WD police package will be paid from the Police Department's 2007 budget; and

**WHEREAS**, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter to allow an order to be placed for a white 2007 Chevrolet Tahoe 4WD police package as soon as possible as there is currently only two vehicles in stock with these specifications; 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 be authorized and directed to purchase one (1) 2007 Chevrolet Tahoe 4WD police package from Bob McDorman Chevrolet of Winchester, Ohio, at an amount **not to exceed** Thirty Five Thousand Eight Hundred Eighty Eight and 83/100 Dollars (\$35,888.83) through the State of Ohio Cooperative Purchasing Program, Contract #RS903907.

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's

Commission and any of its committees that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements;

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.

\_\_\_\_\_  
DANIEL J. KAMAN  
PRESIDENT OF THE CITY COMMISSION

ATTEST: \_\_\_\_\_  
B. JOYCE BROWN  
CLERK OF THE CITY COMMISSION

Passed:

**TO:** James L. Miers,  
Interim City Manager

**FROM:** Jeffrey W. Rosekelly, P.E.  
Project Engineer

**DATE:** August 29, 2007

**SUBJECT:** Commission Agenda Item

**ITEM FOR CONSIDERATION:** First and Final Work Order for the Monroe Street Handicap Ramp Replacement Project in the amount of \$8,553.24. The City has a contract with Fosco Cement, Inc., Sandusky Ohio. This change order includes actual quantities measured in the field for all necessary work to replace the curb ramps on Monroe Street from Edgewater Avenue to Camp Street. The final sidewalk quantities that were replaced were less than the estimated amount by \$4,046.76. However, due to ODOT regulations and guidelines on this project we were required to install detectable warning surfaces on the new ramps at a cost of \$12,600.00. This resulted in a net change order amount of \$8,553.24. Truncated domes were not in the original project scope because Federal Highway was not funding this project. We later discovered that because the project was being performed at the same time as the federally funded Monroe St. Resurfacing Project, we were required to meet the Federal Highway requirements.

**BUDGETARY INFORMATION:** The Engineer's Estimate for the project was \$55,223.14. The original contract amount was \$38,747.32. The new contract amount including the First and Final Change Order in the amount of \$8,553.24 is \$47,300.56. This project is completely funded by Community Development Block Grant monies.

**STRATEGIC PLAN:** The work being performed in this project is in conjunction with the strategic plan of the City by improving the adjacent property values and is in-line with the general goals of being a Customer-Focused Organization by providing better infrastructure for our residents.

**ACTION REQUESTED:** It is recommended that an ordinance authorizing the First and Final Change Order for the Monroe Street Handicap Ramp Replacement Project be approved and that it take effect immediately in accordance with Section 14 of the City Charter in order to close out the project and compensate the contractor.

---

Jeffrey W. Rosekelly, P. E., Project Engineer  
Department of Engineering Services

I concur with this recommendation:

---

James L. Miers  
Interim City Manager

---

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

JWR/cal

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

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

**AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO APPROVE THE FIRST & FINAL CHANGE ORDER FOR WORK BEING PERFORMED FOR THE MONROE STREET HANDICAP RAMP REPLACEMENT PROJECT IN THE AMOUNT OF \$8,553.24 TO BE PAID TO FOSCO CEMENT INC., OF SANDUSKY, OHIO; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, this City Commission previously declared the necessity for the City to proceed with the Monroe Street Handicap Ramp Replacement Project by passage of Resolution No. 010-07R on March 12, 2007; and

**WHEREAS**, this City Commission previously approved the awarding of the contract for work being performed for the Monroe Street Handicap Ramp Replacement Project by Ordinance No. 07-021, passed on April 23, 2007; and

**WHEREAS**, this First & Final Change Order reflects the actual quantities measured in the field for all necessary work to replace the curb ramps on Monroe Street from Edgewater Avenue to Camp Street; the final sidewalk quantities that were replaced were less than the estimated amount by \$4,046.76, however due to ODOT regulations and guidelines requiring installation of detectable warning surfaces on the new ramps at a cost of \$12,600, resulted in a net change order in the amount of \$8,553.24; and

**WHEREAS**, the original contract with Fosco Cement, Inc. was \$38,747.32 and with the addition of this First & Final Change Order the final contract cost is \$47,300.56, which is completely funded with Community Development Block Grant funds; and

**WHEREAS**, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order for this completed project to be closed out; 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 Department of Engineering Services 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 hereby authorized and directed to approve this First & Final Change Order for work performed for the Monroe Street Handicap Ramp Replacement Project in an amount **not to exceed** \$8,553.24 resulting in the final contract cost of Forty Seven Thousand Three Hundred and 56/100 Dollars (\$47,300.56) with Fosco Cement, Inc., of Sandusky, Ohio.

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.

\_\_\_\_\_  
DANIEL J. KAMAN  
PRESIDENT OF THE CITY COMMISSION

ATTEST:

\_\_\_\_\_  
B. JOYCE BROWN  
CLERK OF THE CITY COMMISSION

Passed:



**City of Sandusky**  
**DEPARTMENT OF ENGINEERING SERVICES**  
*Division of Engineering, Design and Construction*  
**MONROE ST. HANDICAP RAMPS**

**FINAL QUANTITIES**

LINE ITEM NO.	NO.	DESCRIPTION	ESTIMATED COST BASED ON BIDS				FINAL QUANTITIES		
			ESTIMATED QUANTITY	UNIT	BID UNIT COST	ESTIMATED COST	COMPLETED QUANTITY	UNIT	FINAL COST
1	608	4" Concrete Sidewalk	6100	SF	\$ 4.00	\$ 24,400.00	5143	SF	\$ 20,572.00
2	609	Type 2 PCC Curb & Gutter	636	LF	\$ 15.12	\$ 9,616.32	638	LF	\$ 9,646.56
3	608	Curb Ramps	57	EA	\$ 83.00	\$ 4,731.00	54	EA	\$ 4,482.00
C/O		Truncated Dome Surfaces	--	EA	\$ 300.00	--	42	EA	\$ 12,600.00
<b>TOTAL COST</b>					\$	<b>38,747.32</b>		\$	<b>47,300.56</b>

TO: City Commission

FROM: Gary Packan, Assistant City Manager  
Scott Schell, Economic Development Specialist

DATE: August 28, 2007

RE: Item for Commission Agenda - Geo. Gradel & Deep Water Shore Permits Contract

**ITEM FOR CONSIDERATION:** Approval to enter into a contract with Partners Environmental Consulting Inc. to begin the application and approval process for shore permits (OHEPA, USACE and ODNR) for the redevelopment of the Geo. Gradel and Deep Water Marina property.

**BACKGROUND INFORMATION:** Staff would like to proceed with the submission of shore permits for Geo Gradel and Deep Water Marina properties with applications being anticipated to be submitted in September/October of 2007.

The city received a Clean Ohio Revitalization Fund (CORF) grant for the acquisition, remediation and demolition of the Geo Gradel and Deep Water Marina property. Within this grant, monies have been budgeted for consultant fees, but these expenses can not be utilized until the properties are acquired. The expense of \$24,500 would serve as a portion of the required match from the CORF grant. Staff would like to begin this process as soon as possible to avoid further delay.

Therefore, staff recommends this expense be allocated as a TIF expense. TIF eligible projects consist of public waterfront access, consultant fees, roads, sidewalks, green space and other similar public infrastructure improvements.

While it is the intention that this expense be covered by the TIF, if the project would not happen for any reason the city would have to assume this expense. Staff is proactively getting approval from the City Commission just in case this situation would occur, although that is not the anticipated result. This is a precautionary measure.

**BUDGET IMPACT:** The cost of the services is \$24,500 and are more fully explained in a copy of the proposal of Partners Environmental Consulting which is attached to the requested Ordinance.

**ACTION REQUESTED:** It is requested legislation be adopted allowing the Interim City Manager to enter into a contract with Partners Environmental Consulting, Inc., for obtaining shore permits for the Geo. Gradel and Deep Water properties and that the necessary legislation be approved under suspension of the rules and in full accordance with Section 14 of the City Charter in order for shore permit applications to be submitted in a timely fashion and allow for the development to proceed.

I concur with this recommendation.

---

James L. (Don) Mears, Interim City Manager



August 28, 2007

Mr. Scott Schell  
Economic Development Specialist  
City of Sandusky  
222 Meigs Street  
Sandusky, Ohio 44870

**RE: 401/404 Permitting Activities for the West End Redevelopment Site,  
Sandusky, Erie County, Ohio (Property);**

Dear Mr. Schell:

The Partners Environmental Consulting Inc. (Partners) and Hull & Associates, Inc. (Hull) Team (Partners/Hull) was selected in 2006 as the consultant for the West End Redevelopment Project (Geo Gradel Property-only). Since that time, our Team prepared a successful Clean Ohio Revitalization Fund (CORF) application for the Deep Water Marina site and a preliminary development plan has emerged that ties both projects together. However, our Team has not been formerly engaged or contracted to initiate any activities, either as described in our original proposal for the West End Redevelopment Project or the Deep Water Marina CORF Application.

Recently, the City of Sandusky (City) received a Completeness Review (June 13, 2007) from the Ohio Department of Development (ODOD), which facilitated the need to undertake the initial steps of the permitting process required to achieve the proposed development. As the initial phase of the permitting process, we are pleased to present this scope of work. The work will be performed for the City, with the intent that these costs would be reimbursable under the CORF grant for both Geo Gradel (awarded) and Deep Water (pending) properties. However, our Team makes no guarantee that all costs will be applicable under the CORF grant and some costs may fall under the match requirement for the project.

#### **BACKGROUND INFORMATION**

Development plans for the West End Redevelopment Project, a Clean Ohio Revitalization funded project, have been presented by Water Tower Development Incorporated (WTD). These plans combine the previous plans for the Geo Gradel Property and the Deep Water Marina Property into a single development. Partners/Hull prepared a May 15, 2007 letter to the United States Army Corp of Engineers (USACE) and participated in a pre-application conference on June 5, 2007 with the USACE, the City and WTD, which specifically addressed this combined plan.

As a result of that call and in response to the Completeness Review by the ODOD, Partners/Hull has been asked to prepare Clean Water Act Section 404 and Section 401 permit applications. These activities have been identified as necessary in order to remediate and fully develop the Property. We propose the following scope of work.

### **Task 1 – Preparation of 404 and 401 Permit Applications**

Partners/Hull assumes that WTD will prepare drawings of the proposed Preferred Design Alternative, a Minimal Degradation Alternative, and a Non-degradation Alternative. The Preferred Design Alternative drawing will be prepared both in D-size and in 8.5 x 11-inch formats for black and white reproduction as required for inclusion in the Section 404 public notice by the USACE.

Partners/Hull will review and consolidate the information gathered from the pre-application meeting, field visits, and discussions, and prepare Individual Clean Water Act Section 404 and 401 applications. The applications will be prepared consistent with all relevant and applicable federal and state rules and guidelines, including federal 404 guidelines and Ohio EPA 401 guidelines. The applications will contain an alternatives analysis and a conceptual mitigation proposal appropriate for each 'build' alternative (i.e., Preferred Design and Minimal Degradation Alternative).

Partners/Hull will participate in a pre-application meeting with Ohio EPA. We will assist the City in preparing and arranging for the publication of the Public Notice for the Section 401 application in accord with current Ohio EPA rules. It is expected that the City will pay for cost for the public notice directly.

We expect to complete a written comparison for the applications of the cost effectiveness/feasibility of all three (3) alternatives. As part of this comparison, we will need to work with both the City and WTD to review tax base information and development *pro forma* information. We request assistance from the City to outline the social and economic benefits for these three (3) alternatives. It is expected that these will be similar to the benefits outlined in the Chesapeake/Tricor permit. As such, and to maintain a consistent message to the agencies involved, we request a copy of that permit application. Partners/Hull will detail and summarize the environmental benefits lost or gained through implementation of each site alternative and present the Remedial Action Plans (RAPs) for addressing the coal tar plume.

A draft of each Application and all associated attachments will be provided to the City and WTD for review prior to their submittal. Our proposal includes time for Partners/Hull to meet with the City and WTD one (1) time to review the information and discuss any modifications. Upon receipt of all comments, Partners/Hull will prepare the final applications and submit such to the appropriate Agencies, copying the City and WTD.

Partners/Hull will track the applications through the regulatory process and perform project management activities in support of the permit process. Because they cannot be foreseen, the response to Agency comments is beyond the scope of this proposal. A proposal for such activities will be provided to the City once comments are received.

### **Task 2 - Conceptual Mitigation Plan**

Unavoidable impacts to surface waters as a result of the proposed project must be mitigated in a way acceptable to both regulatory agencies (Ohio EPA and USACE). The mitigation proposal is a critical component of the Clean Water Act applications, and must demonstrate that impacts to surface waters will be compensated by creation or restoration of a similar or superior aquatic habitat in as close proximity as possible to the site of the impact.

Partners/Hull will identify and explore potential mitigation opportunities for the proposed project. The search for mitigation opportunities will be conducted in accordance with known federal and state mitigation preference hierarchies. The scope and feasibility of each potential mitigation opportunity will be described in writing in order to document the hierarchical search process.

The outcome of this activity will be summaries of up to three (3) viable mitigation options. Cost estimates will be developed for the identified mitigation opportunity(ies). The best mitigation opportunity will then be selected for inclusion in the Section 404 and 401 applications.

### **Task 3 – Agency Required Information**

We currently believe that there are no information gaps that will require specialized assessments (e.g., quality survey for benthic organisms, surface water delineation, etc.). We are aware of potential National Environmental Policy Act (NEPA) coordination issues, including those related to cultural resources and endangered species. We will coordinate necessary NEPA review activities, including letters to the Ohio Historic Preservation Office and US Fish & Wildlife Service. Because they cannot be foreseen, the completion of detailed Environmental Assessments (EAs) or Environmental Impact Statements (EIS) are not included in this proposal. A proposal for such activities will be provided to the City once comments are received and a determination of the need is made.

### **MISCELLANEOUS**

The work described herein will be conducted in conjunction with the Certified Professional (CP) for the CORF project, Dan B. Brown, CP 127.

### **ADDITIONAL WORK**

Additional work beyond the Scope of Work defined herein shall not be performed until such time as an amendment to this proposal, including the scope of the additional work and associated costs, has been prepared in writing to address the additional work and said amendment has been approved by the Client. Some potential items of additional work that could be identified during the project include, but are not limited to, the following:

1. Meetings to discuss the findings of the work, beyond any meeting(s) discussed in the Tasks above;
2. Additional data collection, analyses, reporting or report copies requested by regulatory agencies, or by the Client;
3. Section 401 Public Notice publications costs, and Section 401 application and review fees.
4. Other permits required for the development project (e.g., stormwater, demolition, grading, etc.).
5. Other tasks associated with the technical development/modification of the RAP or other aspects of the VAP portions of the project.
6. Professional survey of the Property.

### **FEES**

The Partners/Hull Team will conduct the activities described in this proposal for the fees indicated below. The fees are presented on a time and materials (T&M) basis and all other terms and conditions previously agreed upon between Partners and the City will apply to the work.

Although Partners/Hull has attempted to anticipate each potential scenario related to this scope of work, because of the early stage of the project plans and the uncertainty of Agency responses, you acknowledge that our estimates are preliminary and subject to change based on actual site conditions. We will not exceed the amount indicated below without prior written approval from the City. Our costs assume that all tasks will be conducted concurrently and our proposal is valid for 30 days.

Task 1: 401/404 Permits	\$15,000
Task 2: Mitigation Plan	\$ 4,000
Task 3: Agency Required Information	\$ 5,500
<b>TOTAL</b>	<b>\$24,500</b>

**PROJECT SCHEDULE**

Partners/Hull will initiate work upon being given notice to proceed. Based on experience with projects of similar scope, we anticipate that the Section 404 and 401 applications will be ready for submittal in approximately six (6) calendar weeks. We anticipate that the Section 404 and 401 permits will be approved by the regulatory agencies in approximately six (6) to eight (8) months after application submittal.

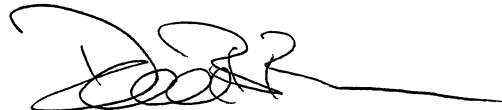
**CLOSING**

The Partners/Hull Team appreciates this opportunity to provide environmental services to you. Thank you in advance for your consideration of this proposal. Please indicate your concurrence with this proposal by signing in the space provided below and returning the original to our office and/or by providing authorizing legislation.

**Sincerely,**



William J. Burkett, R.S.  
Senior Project Manager  
Hull & Associates, Inc.



Dan B. Brown, CPG, CP  
President  
Partners Environmental

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

**AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH PARTNERS ENVIRONMENTAL CONSULTING, INC., AND HULL & ASSOCIATES, INC., OF SOLON, OHIO, FOR CERTIFIED PROFESSIONAL SERVICES FOR GEO GRADEL AND DEEP WATER MARINA PROPERTIES AS PART OF THE BAYFRONT PAPER DISTRICT - WEST END REDEVELOPMENT PROJECT; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, this City Commission declared the necessity for the City to proceed with Phase II of the Bayfront Paper District Redevelopment Project, by the passage of Resolution No. 006-04R, effective March 8, 2004; and

**WHEREAS**, by Ordinance No. 05-089, passed on May 9, 2005, this City Commission authorized preparation of a Clean Ohio Revitalization Fund Grant Application for the Geo Gradel property (awarded) and by Resolution No. 007-07R, passed on February 26, 2007, this Commission authorized the filing of a grant application to participate in the Clean Ohio Revitalization Fund for the Deep Water Marina property (pending); and

**WHEREAS**, by Ordinance No. 07-015, passed on March 12, 2007, this City Commission authorized a contract with Partners Environmental Consulting, Inc., and Hull & Associates, Inc., for Certified professional Services for the Geo Gradel property; and

**WHEREAS**, the City of Sandusky received a Completeness Review on June 13, 2007, from the Ohio Department of Development (ODOD), which facilitated the need to undertake the initial steps of the permitting process and in response to that Review by the ODOD, City Staff is recommending Partners/Hull begin the application and approval process for the Clean Water Act Section 404 and Section 401 permits (OHEPA, USACE and ODNR), necessary in order to remediate and fully develop the Geo Gradel and Deep Water Marina properties; 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 Partners/Hull to submit the shore permit applications in a timely manner and allow the development of the Bayfront Paper District to proceed; 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 an agreement with Partners Environmental, Inc., and Hull & Associates, Inc., of Solon, Ohio, for Certified Profession Services for the Bayfront Paper District - West End Redevelopment Project for shore permit applications for the Geo Gradel and Deep Water Marina properties, in an amount **not to exceed** Twenty Four Thousand Five Hundred and 00/100 Dollars (\$24,500.00). The services shall be provided in accordance with the proposal of Partners Environmental, Inc., and Hull & Associates,

Inc., a copy of which is on file in the City Manager's Office and attached to this Ordinance, marked Exhibit "A", and the specifications contained therein, together with any revisions or additions as are approved by the Law Director as not being substantially adverse to the City and consistent with carrying out the City's public purpose.

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.

\_\_\_\_\_  
DANIEL J. KAMAN  
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 ONE - STREET AND SIDEWALK AREAS, BY THE ENACTMENT OF CHAPTER 923 - REGULATION OF VIDEO SERVICE PROVIDERS, IN THE MANNER AND WAY SPECIFICALLY SET FORTH HEREINBELOW; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, the Ohio Legislature recently approved Senate Bill 117 which was signed by the Governor on June 25, 2007, and becomes law effective on September 23, 2007; and

**WHEREAS**, in order to permit the City of Sandusky to receive video service provider fees and PEG fees an Ordinance must be enacted setting those fees; 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 in order to enact Chapter 923 which establishes the video service provider fees and PEG fees before SB 117 becomes law on September 23, 2007; 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. Part Nine - Streets, Utilities and Public Services Code, Title One - Street and Sidewalk Areas, by the enactment of Chapter 923 - Regulation of Video Service Providers, as follows:

**NEW  
CHAPTER 923  
Regulation of Video Service Providers**

- 
- 923.01 Purpose and Authority**
  - 923.02 Video Service Provider Fees and PEG Fees**
  - 923.03 Audit Authority**
  - 923.04 City Response to Video Service Authorization Applications**
  - 923.05 Permits Required**
  - 923.06 Compliance with Other Laws**
  - 923.07 Severability**

**CROSS REFERENCES**

See Ohio Revised Code for related Chapters including the following:

- Chapter 153 - Public Improvements
- Chapter 1332 - Fair Competition in Cable Operations
- Chapter 4939 - Use of Public Way
- Chapter 5739 - Sales Tax

- 923.01 Purpose and Authority**

This Chapter is designed to regulate video service providers issued video service authorizations by the Director of Commerce of the State of Ohio, pursuant to Amended Substitute Senate Bill Number 117 of the 127<sup>th</sup> General Assembly, which amends section 153.64, enacts sections 1332.21, 1332.22, 1332.23, 1332.24,

1332.25, 1332.26, 1332.27, 1332.28, 1332.29, 1332.30, 1332.31, 1332.32, 1332.33, and 1332.34, and repeals sections 505.90, 505.91, and 505.92 of the Revised Code (hereinafter called "Act"), operating within the City.

As of September 23, 2007, the State of Ohio has the sole authority to issue video service authorizations under the Act; and pursuant to the Act, the City of Sandusky shall receive a video service provider fee and shall receive a fee for public, educational and government ("PEG") purposes from all video service providers operating within the City. The Act leaves unchanged the City's authority to regulate the City's current cable franchise which was issued in accordance with the Ordinances of Sandusky, which franchise agreement shall remain in effect until such time as the cable franchisee no longer holds a City franchise, is no longer operating under the current City franchise, or January 1, 2012, whichever is earlier.

**923.02 Video Service Provider Fees and PEG Fees**

- (a) For any video service provider operating within the boundaries of the City of Sandusky, there shall be a fee paid to the City equal to five percent (5%) of the gross revenue of that video service provider, which the video service provider will calculate and remit not sooner than forty-five days and not later than sixty days after the end of each calendar quarter; and each fee payment shall be accompanied by a detailed summary explaining the basis for the calculation of the video service provider fee.
- (b) A late payment charge of 2% per month will be imposed upon any payment not received when due under sub-section (a) above.
- (c) Gross revenue, for the purposes of the calculation of the fees to be paid in accordance with paragraph (a) above, shall have the definition set forth in Ohio Revised Code Section 1332.32, and shall consist of all of the following revenue that is collected by the provider for video service from all its subscribers having service addresses within the City of Sandusky: (i) recurring monthly charges for video service; (ii) event-based charges for video service, including, but not limited to, pay-per-view and video-on-demand charges; (iii) charges for rental of set top boxes and other video service equipment; (iv) service charges related to the provision of video service, including, but not limited to, activation, installation, and repair; (v) administrative charges related to the provision of video service, including, but not limited to, service order and service termination charges; and (vi) advertising revenue, as defined in Ohio Revised Code section 1332.32(B)(2)(g).
- (d) Any amounts due and payable to the City under the franchise agreement and under the formula established by the State of Ohio in the Act for the provision of PEG channels shall remain in full force and effect and shall be due and payable as previously established under the existing franchise agreement.

**923.03 Audit Authority**

Not more than once annually, the City Manager or his designee may examine and perform an audit of the business records of any video service provider providing service or operating within the boundaries of the City of Sandusky for the purpose of verifying the accuracy of the video service provider's calculation of video service provider fees it paid to the City of Sandusky during the audit period; and the video service provider shall make available the records to which Ohio Revised Code section 1332.33(A) refers.

**923.04 City Response to Video Service Authorization Applications**

Applicants for video service authorizations within the boundaries of the City of Sandusky must concurrently provide a complete copy of the application submitted to the Director of Commerce, pursuant to the applicable provisions of the Ohio Revised Code, to the City Manager of the City of Sandusky so that the City Manager may provide any appropriate comments to the Department of Commerce regarding an application for a video provider authorization.

**923.05 Permits Required**

- (a) Video service providers shall comply with the requirements of Ohio Revised Code sections 1332.21 to 1332.34 and all applicable ordinances and regulations consistent with said Ohio Revised Code sections relating to use of the City of Sandusky rights-of-way. Each video service provider shall indemnify and hold harmless the City of Sandusky and its officers, employees and agents from any loss or damage, including, but not limited to attorneys' fees, caused by the installation or construction of video service facilities within the City of Sandusky rights-of-way. The City may require documentation of such indemnification by written agreement or other instrument. No facilities to be used for video services shall be installed or constructed without obtaining a permit from the City authorizing the location and plans for such facilities. If the video service provider shall fail to obtain such permit, the video service provider will be subject to the following penalties to be imposed by the City:
  - (1) For the first occurrence of a violation, a fine of \$500.00 shall be imposed for each day the violation remains in effect, not to exceed \$5,000.00 for each violation.
  - (2) For a second violation of the same nature within 12 months, a fine of \$1,000.00 shall be imposed for each day the violation remains in effect, not to exceed \$10,000.00 for each violation.
  - (3) For a third or further violation of the same nature within 12 months, a fine of \$2,500.00 shall be imposed for each day the violation remains in effect, not to exceed \$25,00.00 for each violation.
- (b) A video service provider operating within the boundaries of the City of Sandusky may appeal a penalty assessed by the City Manager to the City Commission within 30 days of the initial assessment. The City Commission shall hear all evidence and relevant testimony and may uphold, modify or vacate the penalty. The City Commission's decision on the imposition of a penalty shall be final.
- (c) The penalties imposed under this section shall be deposited into the General Fund of the City of Sandusky in order to provide services and benefits to the citizens of the City of Sandusky.
- (d) The city shall have the authority to prohibit the use or occupation of a specific portion of public right-of-way by a video service provider due to a reasonable public interest, necessitated by public health, safety and welfare, based upon a recommendation of the city engineer, and is nondiscriminatory among all authorized video service providers.
- (e) If the city denies a request to use or occupy a specific portion of the public right-of-way, the video service provider shall be served a

notice of such denial by first class mail. The notice shall indicate that the service provider shall have ten days from the date of receipt of the notice to request a public hearing by the City Commission concerning the denial. Failure to make a timely request for a hearing shall constitute a waiver of the video service provider's right to contest the denial before the City Commission. The hearing shall be held by the City Commission within 30 days after the filing of the request therefore, or the next date upon which the City Commission meets in its regular session, whichever date is later; and the video service provider shall be advised by the city of the time and place of the hearing. Following the public hearing, if the City Commission denies a video service provider's request to use or occupy a specific portion of the public right-of-way, such determination may be appealed to the Court of Common Pleas for Erie County, Ohio.

**923.06 Compliance with Other Laws**

All accessory utility facilities constructed or to be constructed by a video service provider within the City of Sandusky shall be subject to all other applicable regulations and standards as established as part of the codified ordinances of the City of Sandusky, including but not limited to building codes, zoning requirements, and rights-of-way management regulations. Any damage to landscaping or vegetation on private or public property during installation or maintenance of facilities shall be promptly remedied by the facility owner.

**923.07 Severability**

The portions of this Ordinance shall be severable. In the event that any portion of this Ordinance is found by a court of competent jurisdiction to be invalid, the remaining portions of this Ordinance are valid, unless the court finds the valid portions of this Ordinance are so essential and inseparably connected with and dependent upon the void portion that it cannot be presumed that the City Council would have enacted the valid portions without the invalid ones, or unless the court finds that the valid portions standing alone are incomplete and are incapable of being executed in accordance with the legislative intent.

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.

\_\_\_\_\_  
DANIEL J. KAMAN  
PRESIDENT OF THE CITY COMMISSION

ATTEST: \_\_\_\_\_  
B. JOYCE BROWN  
CLERK OF THE CITY COMMISSION

Passed:

NOTICE TO LEGISLATIVE  
AUTHORITY

OHIO DIVISION OF LIQUOR CONTROL  
6606 TUSSING ROAD  
P.O. BOX 4005  
REYNOLDSBURG, OHIO 43068-9005

TO

2937225 PERMIT NUMBER		NEW TYPE	P FRISCH ENTERPRISES LLC DBA YESTERYEARS RESTAURANT 129 W MARKET ST SANDUSKY OHIO 44870	
08 16 2007 ISSUE DATE				
08 16 2007 FILING DATE				
D5J PERMIT CLASSES				
22 TAX DISTRICT	077 B	Y04827 RECEIPT NO.		

FROM 08/20/2007

PERMIT NUMBER		TYPE		
ISSUE DATE				
FILING DATE				
PERMIT CLASSES				
TAX DISTRICT		RECEIPT NO.		



MAILED 08/20/2007

RESPONSES MUST BE POSTMARKED NO LATER THAN. 09/20/2007

**IMPORTANT NOTICE**

PLEASE COMPLETE AND RETURN THIS FORM TO THE DIVISION OF LIQUOR CONTROL  
WHETHER OR NOT THERE IS A REQUEST FOR A HEARING.  
REFER TO THIS NUMBER IN ALL INQUIRIES **B NEW 2937225**

(TRANSACTION & NUMBER)

(MUST MARK ONE OF THE FOLLOWING)

WE REQUEST A HEARING ON THE ADVISABILITY OF ISSUING THE PERMIT AND REQUEST THAT  
THE HEARING BE HELD  IN OUR COUNTY SEAT.  IN COLUMBUS.

WE DO NOT REQUEST A HEARING.

DID YOU MARK A BOX? IF NOT, THIS WILL BE CONSIDERED A LATE RESPONSE.

PLEASE SIGN BELOW AND MARK THE APPROPRIATE BOX INDICATING YOUR TITLE:

(Signature)

(Title)-  Clerk of County Commissioner

(Date)

Clerk of City Council

Township Fiscal Officer

CLERK OF SANDUSKY MUNICIPAL COUNCIL  
222 MEIGS STREET  
SANDUSKY OHIO 44870

OHIO DEPARTMENT OF COMMERCE - DIVISION OF LIQUOR CONTROL

6606 Tussing Road, P.O. Box 4005, Reynoldsburg, Ohio 43068-9005

Telephone: (614) 644-2431 - http://www.com.state.oh.us

FOR OFFICE USE ONLY

NEW TRANSFER

PERMIT #

2937225

LIMITED LIABILITY COMPANY DISCLOSURE FORM

Section AUG-8 (This form must accompany all applications of an LLC business entity)

Name of Limited Liability Company	P. FRISCH ENTERPRISES LLC	DBA Name	YESTER YEARS RESTAURANT
Permit Premises Address	129 W. MARKET ST	City, State	SANDUSKY, OH
Township, if in Unincorporated Area		Zip Code	44870
		Tax Identification No. (TTN)	20-8480461

Limited Liability Company ("LLC") - Chapter 1705 Ohio Revised Code. Indicate below the managing members, LLC Officers, and all persons with a 5% or greater membership or voting interest, and attach a copy of the Articles of Organization filed with the Ohio Secretary of State.

Please be advised that any social security numbers provided to the Division of Liquor Control in this application may be released to the Ohio Department of Public Safety, the Ohio Department of Taxation, the Ohio Attorney General, or to any other state or local law enforcement agency if the agency requests the social security number to conduct an investigation, implement an enforcement action, or collect taxes.

SECTION B. List the top five (5) officers of the captioned business. If an office is NOT held, please indicate by writing NONE.

EACH OFFICER LISTED BELOW MUST SUBMIT A CIVILIAN IDENTIFICATION CARD & PERSONAL HISTORY BACKGROUND FORM

NAME OF OFFICER	SOCIAL SECURITY NUMBER	DATE OF BIRTH
1) CEO		
2) President PAMELA R. FRISCH	[REDACTED]	12-18-54
3) Vice-President		
4) Secretary ELIZABETH TUOAX	[REDACTED]	12-30-77
5) Treasurer		

SECTION C. List the managing members and all persons with a 5% or greater membership or voting interest in the LLC.

ALL INDIVIDUALS LISTED BELOW MUST SUBMIT A CIVILIAN IDENTIFICATION CARD & PERSONAL HISTORY BACKGROUND FORM

1) Name	PAMELA R. FRISCH	Social Security No (if individual)	[REDACTED]	<input checked="" type="checkbox"/> Managing Member
Residence Address	3924 DEER PATH DR.	Tax Identification No (if applicable)		<input checked="" type="checkbox"/> 5% or greater voting interest
City and State	SANDUSKY, OH	Zip Code	44870	<input checked="" type="checkbox"/> 5% or greater membership interest
Telephone No	(419) 627-8439	Date of Birth	12-18-54	
2) Name		Social Security No (if individual)		<input type="checkbox"/> Managing Member
Residence Address		Tax Identification No (if applicable)		<input type="checkbox"/> 5% or greater voting interest
City and State		Zip Code		<input type="checkbox"/> 5% or greater membership interest
Telephone No		Date of Birth		

(PLEASE SEE REVERSE SIDE SHOULD YOU NEED ADDITIONAL SPACE)

STATE OF OHIO, ERIE COUNTYss.

I, PAMELA R. FRISCH being first duly sworn, according to law, deposes and says that he/she is (Title) PRESIDENT of the P. FRISCH ENTERPRISES LLC, a business duly authorized by law to do business in the State of Ohio, and that the statements made in the

forgoing affidavit are true

(Signature) Pamela R. Frisch (Print Name and Title) PAMELA R. FRISCH PRES

Sworn to and subscribed in my presence this 17th day of August, 2007

Stephanie M. Lawrence  
(Notary Public) (Notary Expiration) of Ohio

My Commission Expires October 29, 2007

**DEPARTMENT OF COMMUNITY DEVELOPMENT**  
**Inter-Office Communication**

---

---

**DATE:** September 4, 2007  
**TO:** Joyce Brown, City Commission Clerk  
**FROM:** Carrie R. Handy, Chief Planner  
**SUBJECT:** New Liquor License – P. Frisch Enterprises, LLC

---

Be advised that this office has received a copy of a notice from the Ohio Division of Liquor Control regarding the issuance of a new liquor license for P. Frisch Enterprises, LLC dba Yesteryears Restaurant at 129 W. Market Street.


This office has no objection to the proposed new license which will be beneficial to a new downtown business.

  
Carrie R. Handy  
Chief Planner

# **Sandusky Police Department**

## **Inter-Office Communication**

**DATE: 9-5-2007**

**To: Chief Nuesse** 

**From: Assistant Chief Sams**

**RE: Ohio Department of Liquor Control (Yesteryears Restaurant)**

There are no pending cases at that location or for any of the listed subjects. I have no objections to the liquor license being issued.



**Assistant Chief Charles Sams**



## Fire Department

MICHAEL R. MEINZER  
FIRE CHIEF

Office Telephone (419) 627-5822  
Fire Prevention (419) 627-5823

600 WEST MARKET STREET  
SANDUSKY, OHIO 44870  
FAX (419) 627-5820

After reviewing the Fire inspection file on 129 W. Market St. transaction number: B NEW 2937225 the Sandusky Fire Department Fire Prevention Bureau has no official objection for renewal to maintain permit privileges, nor requests a hearing.

According to the inspection file there are no unfavorable enforcement records or disregard to laws, regulations or local ordinances.

Sincerely,

A handwritten signature in black ink, appearing to read "Rudy Ruiz", is written over a horizontal line.

Rudy Ruiz  
Fire Safety Inspector  
Fire Prevention Bureau