

CITY OF BRIGHTON
CITY COUNCIL MEETING
CITY HALL
August 18,2011

Regular Blue Sky - 7:00 pm: Review of Agenda Items for this evening's meeting

REGULAR SESSION - 7:30 P.M.

1. Call to order
2. Pledge of Allegiance
3. Roll Call
4. [Approval of minutes: Regular Meeting and Closed Session of August 4, 2011](#)
5. Conduct and present two Eagle Scout Award proclamations and recognition
6. Call to the Public
7. Mayor's Reading of Citizen Inquiries received since the last City Council Meeting
8. City Manager's Response to Citizen Inquiries to City Council received at this City Council Meeting or prior meetings
9. Consider approval of the Agenda

Consent Agenda

10. Consider approval of an [extension of the current contract with the Livingston County Building Department to provide Building Official, Building Inspections, & Building Permit Administration services](#) as recommended by staff
11. Receive the quarterly expenditure summary report from staff
12. Consider appointment to the Arts & Culture Advisory Commission as recommended by the Mayor
13. Consider approval of the City Attorney's recommendation for the Nu-Vest v City of Brighton MTT Case

Policy Development & Customer Communications' action item

14. Consider actions as may be recommended by the City Police Chief and City Attorney to enable City Police to enforce a "No-Smoking" zone for the City owned Municipal Pavilion and Imagination Station facilities & properties
15. Consider a recommendation from the PSD Board to authorize the use of the Municipal Pavilion's current unused booth space for a Concession Stand by a local business owner in exchange for the owner providing cleaning of the Pavilion's public restrooms on weekends.
16. Consider a motion to provide a [list of City Council Requests to the City Council Budget & Finance Subcommittee and City Manager for the review of past Operating Line Item Budget Cuts and to develop related possible proposed Budget Amendments to recommend to the City Council for approval at a September City Council Meeting \(per the City Manager's "Suggested Process For Possible Budget Amendments" given to Council at the Aug. 4th Council Meeting\)](#)
17. Presentation from the City Manager regarding a possible alternative preliminary Capital Improvements' Funding Bond proposal for the City Manager to present in upcoming public information meetings about capital improvements funding

Other Business

18. Information for City Customers
19. Receive updates from Council Member Liaisons to other Boards and Commissions
20. Call to the Public
21. Conduct closed session at the request of the City Labor Attorney to receive an update regarding pending collective bargaining labor negotiations

22. Consider possible motions or actions as may be recommended by the City Labor Attorney regarding pending collective bargaining negotiations
23. Conduct closed session to receive advice from the City Attorney
24. Adjournment

MINUTES OF THE MEETING OF THE CITY COUNCIL OF BRIGHTON
HELD ON AUGUST 4, 2011 AT THE BRIGHTON CITY HALL
200 N. 1ST STREET, BRIGHTON, MICHIGAN

BLUE SKY SESSION

The Council conducted a Blue Sky Session at 7:00 p.m. Present were Mayor Pro-Tem Bohn, Councilmembers Schillinger, Muzzin, Roblee, Cooper and Pipoly. The Council reviewed the agenda items.

REGULAR SESSION

Mayor Pro-Tem Bohn called the regular meeting to order at 7:30 p.m. Following the Pledge of Allegiance, the roll was called, there being present were Mayor Pro-Tem Bohn, Councilmembers Schillinger, Muzzin, Roblee, Cooper and Pipoly. Also in attendance were Attorney Paul Burns and Special Legal Counsel Dennis Gabrian and Staff members Dana Foster, Jennifer Burke, Amy Cyphert, Matt Schindewolf, Jon Westendorf, Kelly LaLonde and an audience of 12. Press and Media included Tom Tolen from WHMI and Johnny Branstetter from the Patch.

It was moved by Councilmember Cooper, seconded by Pipoly to excuse Mayor Bandkau from the evening's meeting. Motion passed 6-0.

MINUTES APPROVAL

It was moved by Councilmember Muzzin, seconded by Roblee to approve the Regular Meeting minutes of July 21, 2011 as presented. Motion passed 6-0.

It was moved by Councilmember Roblee, seconded by Muzzin to approve the Closed Session minutes of July 21, 2011 as presented. Motion passed 6-0.

It was moved by Councilmember Muzzin, seconded by Pipoly to approve the Closed Session minutes of July 21, 2011 as presented. Motion passed 5-0, with Councilmember Schillinger abstaining.

DPS Director Schindewolf briefed Council and the public on the algae treatment for the millpond, weed control and weed control in the downtown area sidewalks. Weed control does not affect lily pads in the millpond.

CALL TO THE PUBLIC

Mayor Pro-Tem Bohn gave a Call to the Public at 7:49 p.m. The following comments were heard:

Lynn Rosen, 520 Glenwyth, stated her concerns with so many police officers per the number of square miles and parcels within the City limits, number of pocket parks, statues, cell phone and car allowances provided to employees, wellness program, attorney's on retainer, council member pier diems, trash pick-up, refuse ordinance, Comcast franchise fees, check registry, transparency and fees expended for the Bonner's litigation.

Mary Holiday discussed the rebroadcast of July 21st City Council Meeting, 907 Brighton Lake Road pothole, Oak Ridge Reconstruction, her concerns with the maintenance of the downtown and millpond area, car allowances, transparency, check registry online and the Bonner lawsuit. She requested additional time to read the remainder of her letter. Council did not approve additional time.

Hearing no further comment, Mayor Pro-Tem Bohn closed the Call to the Public at 8:02 p.m.

CITIZEN INQUIRIES

There were no citizen inquiries submitted.

Manager Foster briefly discussed his letter to Ms. Cole regarding her inquiry from the last City Council meeting relative to City Cemetery employees do work during the time available during specific seasons and monies delegated to the perpetual care trust fund, fees for Cemetery plots and the Cemetery Sexton job description as requested in her recent FOIA.

Councilmember Muzzin expressed his concerns with comments directed towards staff and stated that if there is an issue with policies it should be addressed with City Council, as Council Members are the policymakers.

AGENDA APPROVAL

It was moved by Councilmember Schillinger, seconded by Pipoly to approve the Consent Agenda as presented. A roll call vote was taken. Yes: Schillinger, Cooper, Bohn, Muzzin, Roblee, Pipoly. No: none. Motion passed 6-0. The following items were approved:

1. Approved the name for the new St. Paul Street Park.
2. Approved the site plan for the Brighton Area Fire Department September 11th Memorial, last dated 6-30-2011, as drawn by Lindhout Associates, job #1032, subject to the following conditions:
 1. That irrigation is provided for the new planting beds.
 2. That right of way permits be obtained from the Department of Public Services, if applicable.
 3. That any damages done to the existing public sidewalk be repaired to current condition.
3. Approved Resolution 11-17 Delegating authority to assign fund balance under GASB Statement #54, Fund Balance Reporting and Governmental Fund Type Definitions.
4. Approved the quarterly idle funds investment report.
5. Approved the Run for Their Lives Pregnancy Helpline 5K Walk Civic Event.

It was moved by Councilmember Cooper, seconded by Muzzin to approve the Action Agenda as amended. Add item #4a, Closed Session Minutes Regarding Pending Collective Bargaining Labor Relations. Motion passed 6-0.

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Cooper asked that staff advertise the September 11th Memorial to get the message out there to inform residents of the upcoming event.

PUBLIC HEARING FOR TEMPORARY LAND USE FOR FRESH PRODUCE SALES AT CIAO AMICI'S RESTAURANT BUILDING SITE

Manager Foster stated that the process was instituted by Ordinance in the 1990's. Prior to that time, there were difficulties with stands at prominent locations on a seasonal basis.

Mayor Pro-Tem Bohn opened the Public Hearing at 8:02 p.m. Hearing none, Mayor Pro-Tem Bohn closed the public hearing.

There was Council discussion regarding Temporary Land Use approval by staff on a yearly basis as opposed to coming to City Council on a yearly basis, issuing a five-year permit and to discuss this at the Fall Retreat.

Attorney Burns stated changes could be made to the Temporary Land Use by an Ordinance amendment.

It was moved by Councilmember Muzzin, seconded by Schillinger to approve the Land Use Permit for Nik Gjonaj for a produce stand next the Ciao Amici's on W. Main Street. Motion passed 6-0.

PLANNING COMMISSION AND BOARD OF APPEALS ORDINANCE AMENDMENT SECOND READING & PUBLIC HEARING

Mayor Pro-Tem Bohn opened the Public Hearing at 8:08 p.m. Hearing none, Mayor Pro-Tem Bohn closed the Public Hearing.

It was moved by Councilmember Muzzin, seconded by Pipoly to approve Ordinance #557, amending Chapter 2, Administration, Article 3, Boards and Commissions, Division 2, Planning Commission and Division 3, Boards of Appeals of City Ordinances as presented. A roll call was taken. Yes: Schillinger, Cooper, Bohn, Muzzin, Roblee, Pipoly. No: None. Absent: Bandkau. Motion passed 6-0-1.

Council Member Muzzin clarified that the amendments would not change the number of Planning Commission Members and would remain as 9.

RECOMMENDATIONS FROM CITY MANAGER REGARDING POSSIBLE BUDGET AMENDMENTS

City Manager, Dana Foster discussed cost reductions from FY 2008-2009, 10% cut in operating line item cuts, Non-personnel line items and the base budget.

There was Council discussion regarding reevaluating the Prioritization of Services, endorse process/procedures outlines, Matrixes of services, evaluate targeted items, savings, replacement revenue, process outlined by the City Manager, economic expansion and an 8 year expansion.

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Councilmember Pipoly thanked the budget & finance subcommittee for their work.

PRESENTATION FROM DPS DIRECTOR REGARDING THIRD STREET PUMPING STATION REBUILD PROJECT

Department of Public Services Director, Matt Schindewolf gave an overview of the recent 3rd Street Pumping Station improvements and discussed the project scope.

City Manager, Dana Foster stated one of the reasons for utility rate increases is for the rebuild project.

There was Council discussion regarding an odor at given times of the season, water level in the nearby area and depreciation not being factored into this project.

CITY CUSTOMER INFORMATION

City Manager, Dana Foster stated at the August 18th City Council he would give a more detailed report on the charts for the bonding plan for Council feedback for the August 24th meeting.

Department of Public Services Director, Matt Schindewolf gave an update on the Oakridge Drive maintenance relative to cracking stating Staff is taken care of crack sealing on Oakridge Drive and if it is a failure of sub grade, it will have to be repaved. He also stated there would be a pothole run on Friday, August 5th. The pothole work is done in both residential and downtown areas every two weeks. If there is a safety hazard with a pothole, those would be handled immediately.

CALL TO THE PUBLIC

Mayor Pro-Tem Bohn gave a Call to the Public at 9:36 p.m. The following comment was heard:

Mary Holiday, questioned the comment made by Councilmember Muzzin.

Chip Baldwin, N. Second Street, apologized to staff and Councilmembers as there are residents in the City that do not realize what is fully going on. He discussed the ratio of Police Officers as opposed to residents and stated he feels Police Officers have a timely response and the City has a fantastic service.

Hearing no further comment, Mayor Pro-Tem Bohn closed the Call to the Public at 9:45 p.m.

PENDING COLLECTIVE BARGAINING LABOR NEGOTIATIONS CLOSED SESSION

It was moved by Muzzin, seconded by Cooper to go into Closed Session to receive an update regarding pending collective bargaining labor negotiations pursuant to MCL 15.268 (c). A roll call vote was taken. Yes: Schillinger, Cooper, Bohn, Bandkau, Muzzin, Roblee, Pipoly. No: none. Absent: Bandkau. Motion passed 6-0-1.

The Council convened into Closed Session at 9:47 p.m.

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The Council reconvened the Regular meeting at 10:09 p.m.

Councilmember Schillinger left at 10:11

ADJOURNMENT

It was moved by Councilmember Pipoly, seconded by Muzzin to adjourn the meeting at 10:13 p.m. Motion passed 5-0.

Diana Lowe, City Clerk

James Bohn, Mayor Pro-Tem

POLICY REPORT: RECOMMENDATION EXTEND THE BUILDING SERVICES CONTRACT WITH LIVINGSTON COUNTY

AUGUST 18, 2011

Prepared by:

Amy Cyphert
Acting Planning & Zoning
Director

City

Reviewed by:

Dana Foster
Manager

ISSUE:

Consider approving the extension of the building services contract with Livingston County as recommended by City Staff.

BACKGROUND:

On September 16, 2010, City Council approved a one-year contract with Livingston County for Building Inspection & related Building Permit Administration Services. That one-year contract was recommended by the Council Budget & Finance Subcommittee.

The City Manager and Acting Planning & Zoning Director met with Belinda Peters and Jim Rowell of Livingston County and Shea Charles of the City of Howell on June 13, 2011. At that meeting County Staff offered an extension of the existing building service contracts for the City of Brighton and City of Howell. City of Brighton Staff requested one minor addition under Section 4 of the existing contract:

- i. Address building related issues as they apply to the City of Brighton Property Maintenance Code. The process shall be as follows:
 1. Property maintenance complaints regarding structures are received at the City of Brighton offices.
 2. The City of Brighton Staff reviews the complaints and forwards the complaints to the Livingston County Building Official as appropriate.
 3. Livingston County Officials investigate and evaluate the condition of the structure and report the findings to the City of Brighton.
 4. The City of Brighton requests remedial measures and if necessary initiates legal action.

The remainder of the proposed contract is the same as the existing contract.

City Staff has determined that the existing contract agreement with Livingston County has been an overall positive experience and Livingston County Building Department Staff members have been dependable. City Staff believes that the extension of the existing contract will be in the best interest of the City and its property owners.

BUDGET IMPACT:

The existing building services contract with Livingston County was \$25,000 per year. The proposed building service contract will maintain the \$25,000 per year cost.

STAFF RECOMMENDATION:

Staff recommends the extension of the building services contract with Livingston County.

COUNCIL ACTION:

Consider motion to approve the recommendation of City Staff to enter into a contract extension for building services with Livingston County effective for one year from September 16, 2011. This approval will continue the monthly payments of \$2,083.33 made to Livingston County for the provided services.

ATTACHMENTS:

Proposed Building Services Contract

INTERGOVERNMENTAL AGREEMENT
FOR
BUILDING DEPARTMENT SERVICES

WHEREAS, the Livingston County Building Department employs a full-time Building Official and Building Department,

WHEREAS, the City of Brighton and Livingston County believe that the Livingston County Building Official and Inspection Staff would be able to manage building department inspections and permit reviews in the City of Brighton and in other communities under the Livingston County Building Department's jurisdiction.

WHEREAS, Livingston County and the City of Brighton are able to enter into this Agreement pursuant to Public Act 35 of 1951 as amended, being MCL 124.1 et. seq. and Public Act 8 of 1967, being MCL 124.531, et seq.;

NOW THEREFORE, BASED UPON THE MUTUAL COVENANTS BETWEEN THE PARTIES HEREIN, THE PARTIES HEREBY AGREE AS FOLLOWS;

- 1. Appointment of the Building Official:** The Building Official of Livingston County is hereby appointed to also serve as the Building Official for the City of Brighton. The building official shall be responsible for the administration and enforcement of the Michigan Building Code and the Michigan Residential Codes, as amended (collectively the Codes) within the boundaries of Brighton.
- 2. The Building Inspection Department:** Work for the City of Brighton shall be done on a predetermined day agreed to by both parties. The days may be divided or overlapped as necessary to facilitate the work as dictated by the volume of work and as agreed to by both parties.
- 3. City of Brighton Building Department Responsibilities:** A building department shall be maintained by the City of Brighton and administrative staff be provided by the City of Brighton, who shall in part, be responsible for the following:
 - a. Managing and maintaining building records, including by way of example and not limitation, applications for building permits, relative site and construction plans, permits, stop work orders, enforcement actions, correspondences, and any and all

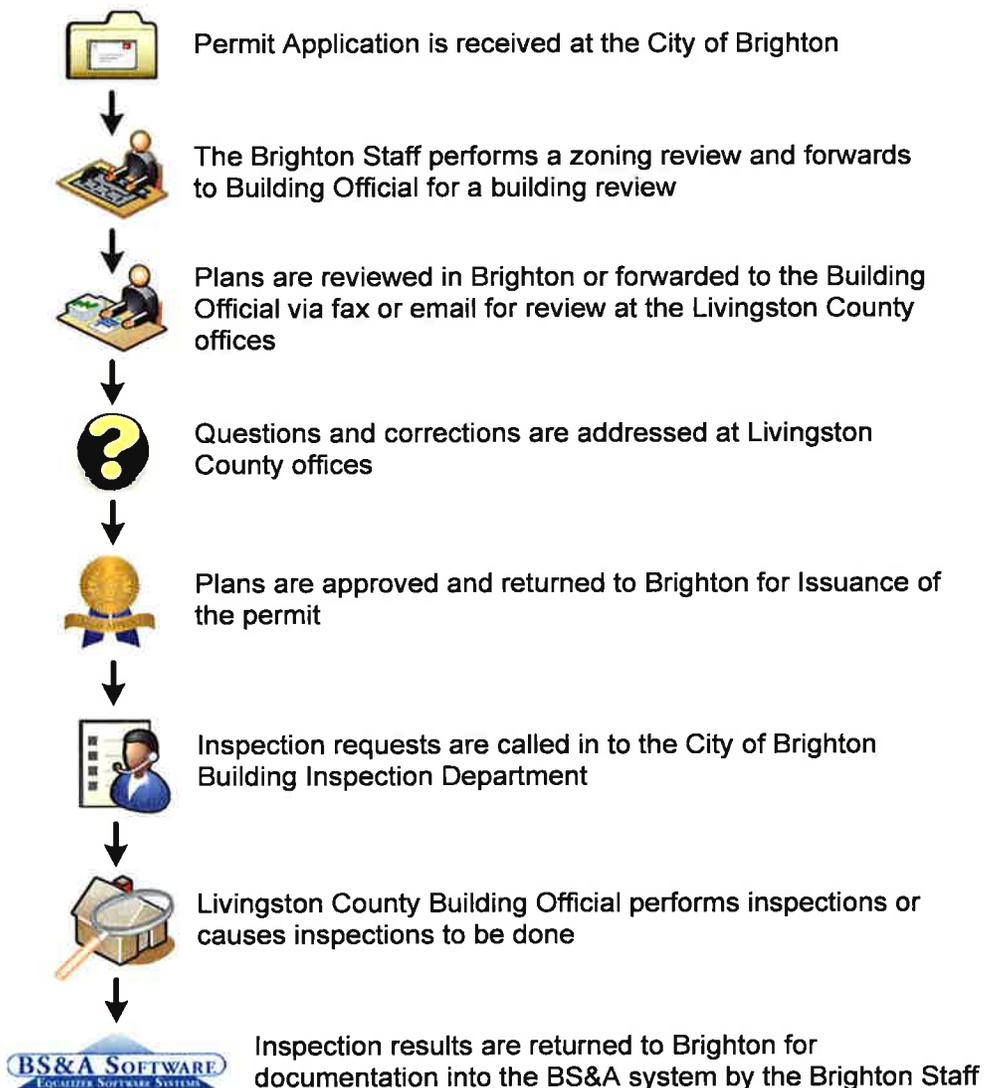
- other records necessary and / or appropriate for the administration and enforcement of the Codes;
- b. Collection, acceptance, and retention of permit fees associated with building projects, applications for permits and other fees associated with building projects, applications for permits, request for inspections, complaints, building plans, correspondences, and all other papers and items directed to the Brighton Building Department;
 - c. Communication and coordination with the Building Official/Designee and the public relating to building and construction issues to assure effective and efficient administration and enforcement of the codes, including by way of example, all requests for permit submittal requirement information, permit status requests, plan review requests, inspection requests, and certificate of occupancy requests;
 - d. Communication of time sensitive issues shall be sent to the Building Official/Designee and addressed in the Livingston County office.
 - e. Processing permit applications, request for inspections, fees, certificate of occupancy, and other building related matters as directed by the Building Official/Designee.
 - f. Assist the Building Official/Designee in the preparing of correspondence for building related matters and violations.
 - g. Documentation of all inspection results into the BS&A permit system.

4. Livingston County Building Official / Building Department Duties: The Livingston County Building Official shall be responsible for and perform the following duties on behalf of Brighton:

- a. Conduct all building inspections or cause all building inspections to be done by Livingston County Staff within the boundaries of Brighton in a timely manner on the predetermined day.
- b. Return inspection records to the City of Brighton to allow the Brighton Staff to enter results into the BS&A permit system.
- c. Conduct plan reviews on a predetermined day in the Livingston County Office or the Brighton office as deemed necessary by both parties.
- d. Prepare and sign construction documents for issuance of building permits by the City of Brighton Staff.
- e. Provide customer service and consistent advice to citizens, contractors and property owners regarding building codes and procedures by phone, email or in person at either office.
- f. Provide correspondence to regarding permits and inspections to applicants and the City Staff.
- g. Attend pre-construction or red-flag meetings as requested by City of Brighton Staff.

- h. Attend development team meeting and provide comments on site plans as requested by the City of Brighton Staff.
- i. Address building related issues as they apply to the City of Brighton Property Maintenance Code. The process shall be as follows:
 1. Property maintenance complaints regarding structures are received at the City of Brighton offices.
 2. The City of Brighton Staff reviews the complaints and forwards the complaints to the Livingston County Building Official as appropriate.
 3. Livingston County Officials investigate and evaluate the condition of the structure and report the findings to the City of Brighton.
 4. The City of Brighton requests remedial measures and if necessary initiates legal action.

5. **Building inspection and permit process:** The building permit and inspection process shall be as follows:



6. **Compensation for Building Department Services:** Livingston County will make its Building Official available by email, phone or in person as needed not to exceed Eight (8) hours per week for the rate of **TWENTY FIVE THOUSAND AND XX/100 DOLLARS (\$25,000)** per year for the Building Official / Department services. Said compensation will be billed to the City of Brighton and made in monthly payments of **Two THOUSAND EIGHTY-THREE AND 33/100 DOLLARS (\$2,083.33)** for the term of the Agreement as set forth in paragraph 7 herein, unless otherwise extended. The costs of services above and beyond that amount will be charged to the City of Brighton at a rate of \$70.00 per hour, portal to portal.
7. **Termination.** This Agreement shall commence upon the _____ day of _____, 2011, and shall continue until the _____ day of _____, 2012, at which time this Agreement shall terminate. Notwithstanding the foregoing, either party may terminate this Agreement upon Thirty (30) days prior written notification to the other.
8. **Insurance.** During the term of this Agreement, Livingston County shall maintain liability insurance covering the Building Official and Livingston County when he is acting in his capacity as Livingston County's Building Official, and Brighton shall maintain liability insurance covering the Building Official when he is acting in his capacity as Brighton's Building Official. The City of Brighton shall add the Livingston County as an Additional Insured on the City of Brighton's liability insurance to the extent Livingston County incurs liability arising out of the Building Official acting in the capacity of Brighton's Building Official.
9. **Nondiscrimination.** The parties, as required by law, shall not discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment, or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, disability that is unrelated to the individual's ability to perform the duties of a particular job or position, height, weight, or marital status.

The parties shall adhere to all applicable Federal, State and local laws, ordinances, rules and regulations prohibiting discrimination, including, but not limited to, the following:

- a. The Elliott-Larsen Civil Rights Act, 1976 PA 453, as amended.
- b. The Persons with Disabilities Civil Rights Act, 1976 PA 220, as amended.

- c. Section 504 of the Federal Rehabilitation Act of 1973, P.L. 93-112, 87 Stat. 355, as amended, and regulations promulgated thereunder.
- d. The Americans with Disabilities Act of 1990, P.L. 101-336, 104 Stat 327 (42 USC §12101 et seq.), as amended, and regulations promulgated thereunder.

Breach of this section shall be regarded as a material breach of this Agreement.

Agreement made this _____ day of _____, 2011.

CITY OF BRIGHTON

 By: **RICCI BANDKAU**
 ITS: MAYOR

 By: **DIANA LOWE**
 ITS: CLERK

STATE OF MICHIGAN)
 COUNTY OF LIVINGSTON) ss.

On this _____ day of _____, 2011, before me a Notary Public in and for said County, personally appeared **RICCI BANDKAU** and **DIANA LOWE**, to me known to be the Mayor and City Clerk of the **CITY OF BRIGHTON**, who being by me duly sworn, did say that they executed the foregoing Agreement on behalf of the City of Brighton by authority duly vested in them by the Brighton City Charter.

My Commission Expires: _____

 _____, Notary Public
 Livingston County, Michigan
 Acting in the County of Livingston

LIVINGSTON COUNTY

 By: **MAGGIE E. JONES - CHAIRMAN**
 BOARD OF COMMISSIONERS

STATE OF MICHIGAN)
 COUNTY OF LIVINGSTON) ss.

On this _____ day of _____, 2011, before me a Notary Public in and for said County, personally appeared **MAGGIE E. JONES** to me known to be the **CHAIRMAN** of the **LIVINGSTON COUNTY BOARD OF COMMISSIONERS**, who being by me duly sworn, did say that she executed the foregoing Agreement on behalf of the County of Livingston by authority duly vested in her through Resolution #2010-10-_____, approved by the Livingston County Board of Commissioners on _____, 2011.

My Commission Expires: 10.20.13

 CAROL SUE JONCKHEERE - Notary Public
 Livingston County, Michigan
 Acting in the County of Livingston

SUGGESTED PROCESS GOING FORWARD FOR POSSIBLE CURRENT FISCAL YEAR BUDGET AMENDMENTS

1. City Council Members begin Reviewing the Following Documents given to City Council with Previous Proposed Budget Materials of Recent years :
 - a. Prioritization of Services' Ranking Matrix (this past Spring's Update)
 - b. Service Impact Analysis of Possible Reduced Staffing from this past Spring
 - c. Documentation of Operating Budget Cuts made for/in each of the past 4 fiscal years which includes the cuts made that are part of the Current Fiscal Year Adopted budget which just began on July 1

(copies of documentation previously given to City Council during City Council's Budget Deliberations of Each of the past 3 years .)
2. Aug. 18 City Council Meeting : City Council as a group provides Requests to the City Council Budget & Finance Subcommittee and City Manager to review some of the past Operating Line Item Budget Cuts and to develop related Modifications or possible proposed Budget Amendments (that may or may Not be Budget-Neutral) back to City Council for final review & possible action or approval.
3. At the 1st or 2nd City Council Meeting of September :
 - a. The Finance Director and City Manager present a formal Update to the 6-year Financial Forecast which they are already working on
 - b. City Manager and Council Budget & Finance Subcommittee present Recommendations regarding the Council Requests of Aug. 18 including any possible related recommended Budget Amendments for Council Action (for the Current Fiscal Year Budget) . Again, the possible recommended Amendments May or may Not be Budget Neutral .

* City Manager's working definition of what "Budget Neutral" means to him :

1. Using an Expenditure-side only approach: the given Amendment may involve reallocations in between line item budgets but will Not change the Total Adopted Budget for All Expenditures (this assumes revenues are coming in as budgeted and all other variables staying the same) And / or
2. The given Amendment's net impact is such that we are meeting or exceeding the Adopted Budget's original projected Year-ending Fund Balance (for June 30,2012)

Good recent example of working definition # 1 above : the City Manager's recent Possible Proposals for the Reallocation of Budget Savings that we are projecting to realize from our recent Janitorial Service Contract change . And the immediate Council-approved change to reallocate \$ 3000 of that savings for Muni Pavillion Restrooms cleaning on the weekends was Budget Neutral per this working definition.