

**CITY OF TRENTON, MICHIGAN
REGULAR MEETING
April 19, 2010**

After the Pledge of Allegiance to the Flag, the Regular Meeting of the City Council of Trenton, Michigan was called to order by Mayor Brown, at 8:01 p.m. on the above date in the City Hall Council Chambers.

Present on roll call by City Clerk Stack: Mayor Brown, Councilpersons: Baun-Crooks, Gillespie, LeFevre, Taylor, and Teifer.

Absent: Councilwoman McLeod.

Moved by Councilman Taylor, seconded by Councilman Gillespie, to excuse the absence of Councilwoman McLeod.

Carried unanimously.

There being a quorum present, the Council was declared in session.

Other Officers Present: John Dahlquist, City Assessor; Randy Schoen, City Treasurer; Wallace Long, City Attorney; Robert Cady, City Administrator; Christine Arnoczki, City Controller; William Hogan, City Engineer; Bruce Vick, Fire Chief; Scott Church, Human Resource Director; City Librarian, Francene Sanak; Patrick Hawkins, Parks and Recreation Director; William Lilienthal, Police Chief; and Alan Bober, Department of Public Services, Director.

MINUTES

Moved by Councilman Taylor, seconded by Councilman Gillespie, to approve the minutes of the Regular Meeting of April 12, 2010.

Carried unanimously.

PRESENTATIONS AND PROCLAMATIONS

Moved by Councilman Gillespie, seconded by Councilman LeFevre, to make the Proclamation part of the regular minutes.

Carried unanimously.

Mayor Brown proclaimed April 14, 2010, as Comcast Care Day in the City of Trenton and presented the Proclamation to Fred Eaton.

COMMUNICATIONS AGENDA

GENERAL

- B-1. 33rd DISTRICT COURT: Fines, Costs, fees, March 2010
- B-2. COUNCILMAN LEFEVRE: Reduction of Judges at 33rd District Court (Mayor Guzzi, City of Rockwood)

DEPARTMENT HEADS, OFFICIALS, C.S.S. REFERRAL

- D-1. ATTORNEY: Ordinance 733, Storm Water Management (2nd Rdg)
- D-2. CITY LIBRARIAN: Microfilm Reader/Printer/Digitizer Machine Bid Award (tabled from 04/12/2010)
- D-3. ENGINEER: Maple Street Reconstruction Project Revised Bid Award
- D-4. PARKS & RECREATION: Mid-Summer Festival Beer Permits

LATE COMMUNICATIONS

- L-1. PARKS & RECREATION: Kennedy Recreation Center Beer Permits
- L-2. HUMAN RESOURCES: Letter of Understanding between City of Trenton and TILA/POLC

COMMUNICATIONS

(B-1)

33rd DISTRICT COURT
Fines, Costs, Fees, March 2010

Moved by Councilman LeFevre, seconded by Councilwoman Baun-Crooks, to receive and place on file, the Fines, Costs, Fees, March 2010, submitted by the 33rd District Court, showing the City of Trenton owing \$7,166.42.

Carried unanimously.

(B-2)

COUNCILMAN LEFEVRE
Reduction of Judges at 33rd District Court (Mayor Guzzi, City of Rockwood)

**CITY OF TRENTON
RESOLUTION 2010-13**

WHEREAS, the number of cases heard by the three (3) Judges in the 33rd District Court in Wayne County has dramatically declined over the past five (5) years; and

WHEREAS, Deborah Green, the Regional Administrator of the Michigan Supreme court, in a letter date May 29, 2009, indicated that the current caseload of the 33rd District Court would only support 1.82 judges.

NOW, THEREFORE, the City of Trenton hereby strongly recommends to the State Legislature and the Governor's Office that they implement a reduction in the number of judges in the 33rd District Court to reflect a more efficient and economical caseload for its judges, closer to the Resource Recommendations of the Michigan Supreme Court.

ADOPTED, APPROVED AND PASSED by the City Council of the City of Trenton this 19th day of April, 2010.

Moved by Councilman LeFevre, seconded by Councilwoman Baun-Crooks, to adopt the same resolution as the City of Rockwood.

Roll Call: Brown, Yes; Gillespie, Yes; LeFevre, Yes; Taylor, No, Teifer, Yes; and Baun-Crooks, Yes.

Motion carried.

(D-1)
ATTORNEY
Ordinance 733, Storm Water Management (2nd Rdg)

**CITY OF TRENTON
ORDINANCE No.733
STORMWATER MANAGEMENT ORDINANCE**

AN ORDINANCE TO AMEND CHAPTER 98 OF CITY CODE ENTITLED "UTILITIES" BY ADDING A NEW ARTICLE IV, ENTITLED "STORMWATER MANAGEMENT" TO MANAGE AND REGULATE STORMWATER RUNOFF FROM PROPERTIES LOCATED WITHIN THE CITY, FOR THE PROTECTION OF WATER QUALITY.

THE CITY OF TRENTON, COUNTY OF WAYNE, HEREBY ORDAINS AS FOLLOWS:

Section 1. Chapter 98 of the Trenton City Code shall be amended by adding a new Article IV entitled "Storm Water Management" for the purpose of setting forth the terms and condition for the management and regulation of storm water runoff from properties located within the City, for the protection of water quality, which Article shall read as follows:

ARTICLE IV. STORMWATER MANAGEMENT

DIVISION 1. GENERAL PROVISIONS

Sec. 98-401 Authority.

This article is enacted pursuant to the Federal Water Pollution Control Act of 1972, 33 U.S.C. 1251 et seq., as amended; Part 31 of the Natural Resources and Environmental Protection Act of 1994 ("Part 31"), MCL 324.3101 et seq., as amended; the General Permit "Municipal Separate Storm Sewer Systems (MS4s) Jurisdictional Storm Water Discharge" as described in National Pollutant Discharge Elimination System General Permit No. MIS049000 and mandated by certificate of coverage No. MIS040038, issued by the Michigan Department of Natural Resources and Environment pursuant to Part 31; Act 288 of 1967 (Subdivision Control Act), MCL 560.101 et seq., as amended by the Land Division Act, MCL 560.101 et seq.; Act 283 of 1909 (County Road Law), MCL 224.1 et seq., as amended; Act 40 of 1056 (Drain Code, MCL 280.1 et seq., as amended; and Act 96 of 1987 (Mobile Home Commission Act), MCL 125.2301 et seq., as amended; the Charter County Law, MCL 45.515 et seq., and the current Wayne County Storm Water Management program.

Sec. 98-402 Purpose.

Prevention of pollution from storm water runoff and the protection of the quality of water of the State of Michigan are of utmost importance to the people of the City of Trenton. It is the purpose of this article and any rules promulgated pursuant to this article:

To protect the environment against pollution and other effects from storm water runoff, and to protect the public health and safety;
To provide for implementation of a storm water management program in the City of Trenton and administrative rules to manage and prevent flooding, streambank erosion, pollution, and other effects from the storm water runoff;
To establish standards and criteria for the design and construction of storm water management systems subject to the requirements of this article;
To establish best management practices for the design, construction, maintenance and operation of storm water management systems subject to the requirements of this article;
To provide for the issuance of storm water construction approvals for construction activities subject to the requirements of this article;
To provide for the long-term preservation and maintenance of storm water management systems subject to the requirements of this article;
To authorize the inspection of storm water management systems subject to the requirements of this article; and
To provide for the administration, implementation and enforcement of this article.

Sec. 98-403 Title.

This article shall be known as the "City of Trenton Storm Water Maintenance Ordinance".

Sec. 98-404 Administration.

This article shall be administered by the City of Trenton Engineering Department.

Sec. 98-405 Effective Date.

The storm water management ordinance shall become effective upon approval by the City Council. In the event that a development has received final site plan approval prior to the effective date of this article, then this article shall not apply unless such approval expires prior to the commencement of construction. In the event a development has received preliminary site plan approval prior to the effective date of this article, the review required under this article shall proceed, and there shall be compliance with the terms of the article to the extent feasible without redesigning the development so as to reduce the number, size and density of buildings. In the case of a phased development in which one (1) or more phases have been constructed prior to the effective date of this article, then this article shall apply to those phases for which storm water facilities have not been constructed and approved.

Sec. 98-406 State and administrative rules.

Unless otherwise specifically provided in this article, the provisions of this article shall control over less stringent rules of the Michigan Department of Natural Resources & Environment (MDNRE), unless contrary to law.

Sec. 98-407 No Waiver or other obligations.

Nothing in this article or any rule promulgated pursuant to this article shall be construed to reduce, abate, alter, modify, amend, or affect any duty or obligation to preserve and protect the environment, including the watershed and other waters of the state; to control soil erosion and sedimentation; to protect wetlands; or to prevent air, water or other pollution.

Sec. 98-408 Incorporation by reference.

Rules, regulations, other regulatory standards or statutory provisions incorporated or adopted by reference in this article or any rules promulgated to this article shall have the same force and effect given to any provision of this article.

DIVISION 2. DEFINITIONS

Sec. 98-411 Definitions.

As used in this article, the following terms have the following meanings, except where the context clearly indicates a different meaning:

Applicant means a person responsible for regulated construction activity on a development site who is seeking to obtain storm water construction approval.

Construction Activity means human-made activity, including without limitation, clearing, grading, excavating, construction and paving, that results in an earth change or disturbance in the existing cover or topography of the land, including any modification or alteration of a site or the "footprint" of a building that results in an earth change or disturbance in the existing cover or topography of the land.

Conveyance means any structure or other means of safely conveying storm water and storm water runoff with in a storm water management system, including without limitation a watercourse, close conduit, culvert or bridge.

City means the City of Trenton.

City Engineer means the City of Trenton City Engineer or its designee.

County Drains are open or closed drain within the jurisdiction of Wayne County established pursuant to the Michigan Drain Code of 1956, MCL 280.1 et seq., as amended.

Development Site means the property on which regulated construction activity will occur or is occurring or has occurred.

Enforcement agency means any enforcement agency, including, but not limited to, the City of Trenton, the County of Wayne, the Michigan Department of Natural Resources and Environment, the Federal Environmental Protection Agency, or any court of competent jurisdiction of the State of Michigan or the United States of America.

Maintenance means any inspection, cleaning, and/or repairs required to be completed by the property owner on the on-site storm drainage systems.

Person or property owner means any individual, association, organization, partnership, firm, corporation, or other entity recognized by city records and acting as either the owner or as the owner's agent and shall include tenants or occupants of a parcel, structure, or vehicle.

Regulated Construction Activity means construction activity that is subject to the provisions of this article or a rule promulgated pursuant to this article.

Storm drainage system means any facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, catch basins, piped storm drains, pumping facilities, retention and detention basins, natural or human made or altered drainage channels, rivers, creeks, wetlands, or other drainage structures.

Storm water means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Storm water construction approval means an approval issued pursuant to this article and rules promulgated pursuant to this article.

Storm water management program consists of ordinances, orders, rules, regulations, and other mechanisms that provide for the management of storm water and storm water runoff to prevent flooding and to ensure the restoration and/or protection of surface waters in the City of Trenton. The regulations promulgated under this article, and activities mandated by the Certificate of Coverage issued by the MDNRE to the City pursuant to the General Permit "Municipal Separate Storm Sewer Systems (MS4s) Jurisdictional Storm Water Discharge" (General Permit No. MIS049000).

Storm water management system means any structure, feature or appurtenance subject to this article or a rule promulgated pursuant to this article that is designed to collect, detain, retain, treat, or convey storm water or storm water runoff, including without limitation buffer strips, swales, gutters, catch basins, closed conduits, detention systems, pretreatment systems, wetlands, pavement, unpaved surfaces, structures, watercourses, or surface waters.

Storm water runoff means the excess portion of precipitation that does not infiltrate the ground, but "runs off" and reaches a conveyance, surface water, or watercourse.

Surface water means a body of water, including without limitation seasonal and intermittent waters, in which the surface of the water is exposed to the atmosphere, including without limitation lakes, open detention basins, forebays, watercourses, bio-retention areas, retention basins, wetlands, and impoundments.

Watercourse means an open conduit, either naturally or artificially created, that periodically or continuously conveys water, including without limitation, rivers, streams, vegetated swales, open channels, and open drains.

DIVISION 3. APPLICABILITY

Sec. 98-421 General.

This article and rules promulgated pursuant to this article shall apply to all of the following:

- (a) Construction activity that impacts storm water runoff into or around new or existing road rights-of-way within the jurisdiction of the city, county, state;
- (b) Construction activity that impacts storm water runoff into or around county drains;
- (c) Construction activity that impacts storm water runoff in projects that are subject to the requirements of Act 288 of 1967 (Subdivision Control Act), MCL 560.101 et seq., as amended;
- (d) Construction activity that impacts storm water runoff from projects that are subject to Act 96 of 1987 (Mobile Home Commission Act), MCL 125.2301 et seq., as amended;
- (e) Construction activity that impacts storm water runoff into, on or through property owned by the city;
- (f) Construction activity that impacts new or existing storm sewer systems owned, operated, or controlled by the city; and
- (g) Construction activity that occurs within and impacts or may impact water quality or water resources in watersheds or sub-watersheds included in the certificate of coverage issued by the MDNRE to the City pursuant to the General Permit "Municipal Separate Storm Sewer Systems (MS4s) Jurisdictional Storm Water Discharge" (General Permit No. MIS049000).

DIVISION 4. STORM WATER CONSTRUCTION APPROVALS

Sec. 98.431 General Requirements.

It shall be a violation of this article to engage in regulated construction activity except in accordance with this article and rules promulgated pursuant to this article, and pursuant to a valid storm water construction approval issued by the city. A storm water construction approval shall be issued in a form and manner approved by the city, and may be incorporated into a construction permit or other approval issued under or required by another ordinance, statute or regulation.

Sec. 98-432 Application for Storm Water Construction Approval.

- (a) Applicants shall submit a written application for a storm water construction approval to the city. The application shall be made in a form and manner approved by the city, and shall include all information and documentation required by the city pursuant to this article or rules promulgated pursuant to this article.
- (b) All proposed modifications to a storm water management system that has received a storm water construction approval issued by the city shall be submitted to the city in writing, together with all information and all supporting documentation required by the city pursuant to this article or rules promulgated pursuant to this article to support the proposed modification. A person shall not commence regulated construction activity associated with a proposed modification without the approval of the city.

Sec. 98-433 Financial Assurance for Regulated Construction Activity.

- (a) The city may require an applicant to provide financial assurance for regulated construction activity.

(b) Financial assurance provided pursuant to this section shall be in the form of a performance bond, cash deposit, or unconditional irrevocable letter of credit. The city may accept, with prior approval, an equivalent instrument as financial assurance for regulated construction activity.

(c) The city may establish the form and amount of financial assurance to be provided; the events, circumstances, or occurrences that will cause the city to release the financial assurance mechanism; and other requirements for financial assurance to satisfy the purposes of this Article.

DIVISION 5. DESIGN AND CONTRUCTION REQUIREMENTS

Sec. 98-441 General.

(a) Except as provided below, storm water management systems shall be designed in accordance with the minimum requirements for performance and design that are set forth in this article and in rules promulgated pursuant to this article.

(b) The city encourages the development and use of innovative storm water management system designs and construction techniques, including without limitation the use of non-structural practices to reduce storm water runoff and/or its water quality impacts, to achieve the flood control and water quality objectives of the ordinance and the rules promulgated hereunder.

(c) Notwithstanding any provision in this article or a rule promulgated pursuant to this article, the city may require storm water management systems to satisfy performance and/or design standards more stringent than the minimum requirements for performance and design set forth in this article and in rules promulgated pursuant to this article when necessary to address unique flood control or water resources protection issues at a development site, on adjacent properties, or downstream of a development site.

Sec. 98-432 Requirements for Design of Storm Water Management Systems.

(a) Selecting and designing storm water management systems to meet the requirements of this article and the rules promulgated pursuant to this article shall be the responsibility of the applicant or its designee, subject to the approval of the city pursuant to this article and rules promulgated pursuant to this article. The city may deny a storm water construction approval for a system design that is not in compliance with these requirements.

(b) In designing a storm water management system, the applicant shall consider all relevant and appropriate factors, including without limitation the following:

- (1) The public health, safety, welfare, and the environment;
- (2) The inconvenience caused by storm water runoff on the subject property;
- (3) The long-term impact of regulated construction activity on storm water runoff on, from and beyond the property;
- (4) The natural drainage pattern of the land;
- (5) The impact of the regulated construction activity on the affected watershed(s); and
- (6) The effect of complete upstream development on the subject property as determined by applicable master plans and/or storm water plans; and
- (7) The extent of downstream improvements necessary for proper storm water drainage.

DIVISION 6. FEES FOR STORM WATER CONSTRUCTION APPROVALS

Sec. 98-441 Fees.

The city's Department of Engineering may recommend to the city council a written schedule to be adopted by the city to establish a fee system for administering and implementing the storm water management program. The fee system may include fees for application submittal and review, project overview, compliance inspections, and any other task or service performed by the city to administer or implement the requirements of this article or rules promulgated hereunder. Fees may be refundable or nonrefundable, as determined appropriate by the city department, and may include charges for time and materials utilized by the city in implementing and administering the requirements of this

article or rules promulgated pursuant to this article. The schedule of fees may be adopted by resolution of the city council and adjusted from time to time.

DIVISION 7. LONG-TERM MAINTENANCE

Sec. 98.451 Demonstration of Long-Term Maintenance.

The applicant for a storm water construction approval shall demonstrate to the city in the application or during the application review process, as determined appropriate by the city, that the storm water management system shall be maintained in perpetuity. This demonstration shall be made in the manner specified in rules promulgated pursuant to this article.

Sec. 98.452 Scope of Long-Term Maintenance.

For purposes of this article and rules promulgated pursuant to this article, long-term maintenance shall include site monitoring and preventative maintenance activities necessary to ensure that a storm water management system functions properly as designed; remedial actions necessary to repair, modify, or reconstruct the system in the event the system does not function properly as designed at any time; notification to subsequent owners of limitations or restrictions on the property; actions necessary to enforce the terms of restrictive covenants or other instruments applicable to the property pursuant to this article and rules promulgated pursuant to this article; and such other actions as may be set forth in rules promulgated hereto.

DIVISION 8. Authority and Duties of Inspectors

Sec. 98-461 Authority.

Upon presentation of proper credentials and identification, and after stating the authority and purpose of the inspection, city inspectors shall be promptly permitted to enter and inspect a development site. The inspection shall be for the purpose of investigating the development site, storm water management systems, or components of storm water management systems, to determine compliance or non-compliance with this article, rules or regulations promulgated pursuant to this article, and/or storm water construction approvals issued pursuant to this article.

Sec. 98-462 Duties of Inspectors.

While entering and performing an inspection on private property pursuant to section 8.1 above, a city inspector shall observe and comply with all safety rules applicable to the premises.

DIVISION 9. Compliance and Enforcement

Sec. 98-471 General.

All persons are encouraged to cooperate with the city to ensure that the requirements of this article, rules promulgated pursuant to this article, and storm water construction approvals issued hereunder are satisfied. Whenever possible, the city shall attempt to enter into voluntary agreements to resolve violations of this article, rules promulgated pursuant to this article, and storm water construction approvals issued hereunder.

Sec. 98-472 Investigations, Informal Conferences and Voluntary Agreements

(a) If the city believes that a violation of this article, a rule promulgated pursuant to this article, or a storm water construction approval issued hereunder may have occurred or exists, the city shall make a prompt investigation. If, after this investigation, the city determines that a violation has occurred or exists, the city shall attempt to enter into a voluntary agreement to resolve or correct the violation. An informal conference may be requested by the city or by any other person to facilitate a voluntary agreement.

(b) If a voluntary agreement cannot be reached, the city shall take appropriate enforcement action pursuant to this article and other applicable provisions of law.

Sec. 98-472 Notification of Violation.

(a) If a voluntary agreement pursuant to section 98-472 cannot be reached, the city shall issue written notice of a violation to the person or persons alleged to have caused or contributed to a violation of this article, a rule promulgated pursuant to this article, and/or an approval issued hereunder. A written notice of violation shall include a statement of facts upon which the violation is based.

(b) Within fourteen (14) days of the receipt of a written notice of violation, the alleged violator shall submit to the city an explanation of the violation and a plan for correcting the violation to comply with this article, rules promulgated pursuant to this article, and/or storm water construction approvals issued hereunder. Submission of this plan in no way relieves the alleged violator of liability for any previous violation not addressed by the plan or future violation.

(c) Within fourteen (14) days of the receipt of a written response to a notice of violation, the city shall determine whether the response resolves and/or corrects the alleged violation. If the city determines that the response resolves and/or corrects the violation, then the plan for correcting the violation shall be incorporated into a consent agreement pursuant to section 98-473.

Sec. 98.473 Consent Agreement.

(a) A consent agreement may be entered into at any time by and between the city and the person or persons alleged to have caused or contributed to the violation. The consent agreement shall be mutually acceptable to both the city and the recipient(s) and shall reflect the recipient's agreement to assume responsibility for and correct violations of this article, rules promulgated pursuant to this article, and approvals issued hereunder.

(b) The consent agreement shall contain a short statement of facts, describe the actions necessary to correct the noncompliance, contain a compliance schedule, and be signed by all parties. The agreement may contain a monetary or other relief as agreed to by the parties for the noncompliance, including without limitation, amounts necessary to compensate the city for costs incurred investigating, administering and/or enforcing this article or rules promulgated hereto.

Sec. 98-474 Administrative Compliance Orders.

(a) If the city determines that violation of this article, a rule promulgated pursuant to this article, or a storm water construction approval issued hereunder has occurred or exists, the city may issue an administrative compliance order pursuant to this section 98-493.

(b) Except as provided in section 98-476, the city may issue an administrative compliance order in the following circumstances:

(1) The city determines that a person has violated a consent agreement entered into with the city; or

(2) i. The city determines that a person has violated or continues to violate this article, a rule promulgated pursuant to this article, or a storm water construction approval issued hereunder, and

ii. The city has attempted to resolve the violation pursuant to sections 98-472 and 98-473 but no voluntary agreement or consent agreement has been entered into.

(c) The administrative compliance order shall contain a statement of facts upon which the order is based, a description of the actions that must be taken to correct the noncompliance, a compliance schedule, and other requirements as might be reasonably necessary to address the noncompliance. Administrative compliance orders also may contain administrative fines and penalties, and such other monetary relief for the noncompliance, including without limitation amounts necessary to compensate the city for costs incurred investigating, administering, and enforcing this article or rules promulgated hereto.

(d) Within twenty-eight (28) days of being issued an administrative compliance order, the person or persons receiving the order may appeal the issuance of the order pursuant to Division 10 of this Article.

Sec. 98-475 Imminent and Substantial Injury Orders.

(a) The city may issue an administrative order without attempting to resolve a violation by using the enforcement procedures described in sections 98-472 and 98-473 if the city finds that a violation of this article, a rule promulgated pursuant to this article, or a storm water construction approval issued hereunder constitutes or causes, or will constitute or cause, a substantial injury to the public health, safety, welfare, or the environment, and it is prejudicial to the interests of the people of the city to delay action.

(b) Administrative orders issued pursuant to this section 98-474 shall contain a statement of facts upon which the order is based, and notification to the person that it must immediately take action to discontinue, abate, correct, or otherwise address the imminent and substantial injury caused or likely to be caused by the noncompliance.

(c) Within seven (7) days, the city shall provide the person an opportunity to be heard and to present any proof that the noncompliance does not or will not constitute imminent and substantial injury to the public health, safety, welfare or the environment.

(d) An order issued pursuant to this section 98-474 is effective on issuance and shall remain in effect for a period of not more than seven (7) days, unless the city brings an action to restrain the alleged noncompliance pursuant to section 98-475 or 98-476 before the expiration of that period. If the city brings such an action within the seven day period, the order issued by the city shall remain in effect for an additional seven days or such other period as is authorized by the court in which the action is brought.

Sec. 99-476 Municipal Civil Infractions.

(a) Violation; municipal civil infraction. Except as provided by section 98-476, a person who violates any provision of this article or rules promulgated hereunder, including without limitation any notice, order, storm water construction approval, agreement, decision, or determination promulgated, issued, made, or entered by the city under this article or rules promulgated hereunder, is responsible for a municipal civil infraction, subject to payment of a civil fine of no less than \$1,000.00 per day and not more than \$5,000.00 per day for each infraction, plus costs and other sanctions.

(b) Repeat offenses; increased fines.

(1) Increased fines may be imposed for repeat offenses. As used in this section, "repeat offenses" means a second (or any subsequent) municipal or civil infraction violation of the same requirement or provision of this article or rule promulgated hereunder (a) that is committed by a person within any twelve (12) month period and (b) for which the person admits responsibility or is determined to be responsible.

(2) The increased fine for a repeat offense under this section shall be as follows:

i. The fine for any offense that is a first repeat offense shall be not less than \$2,500, plus costs.

ii. The fine for any offense that is a second repeat offense or any subsequent repeat offense shall be not less than \$5,000, plus costs.

(c) Amount of fines.

(1) Municipal civil infraction citations. Subject to the minimum fine amounts specified in subsections 98-475(a) and (b), the following factors shall be considered in determining the amount of a municipal civil infraction fine following the issuance of a municipal civil infraction citation for a violation of this article or rules promulgated pursuant to this article:

i. The type, nature, gravity, magnitude, severity, frequency, duration, preventability, potential and actual effect, cause (including whether negligent or intentional) and economic benefit to the violator (such as delayed or avoided costs or competitive advantage) of the violation;

ii. The violator's recalcitrance, cooperation or efforts to comply;

iii. The violator's compliance history (regardless whether prior enforcement proceedings were commenced);

iv. The economic impacts of the fine on the violator; and

v. Such other factors as justice may require.

A violator shall bear the burden of demonstrating the presence and degree of any mitigating factors to be considered in determining the amount of a fine. However, mitigating factors shall not be considered unless it is determined that the violator has made all good faith efforts to correct and terminate all violations.

(2) Municipal civil infraction notices; schedule of fines. Notwithstanding any provision of this article to the contrary, the amount of a municipal civil infraction fine due in response to the issuance of a municipal civil infraction notice for a violation as provided by section 98.472(a) shall be according to the following schedule:

First Offense: \$1,000

Second Offense: \$2,000

Third Offense: \$3,000

For any fine not paid in full within thirty (30) days of the time specified for appearance in the municipal civil infraction violation notice, the fine amount due shall automatically be double the amounts listed immediately above. A copy of this schedule shall be posted at the City of Trenton Engineering Department.

(d) Authorized city officials. The following persons are authorized city officials for purposes of issuing municipal civil infraction citations (directing alleged violators to appear in district court) or municipal civil infraction violation notices (directing alleged violators to appear at the Trenton Municipal Ordinance Violations Bureau) for violations under this article: the Director of the Department of Public Works; the City Engineer, and their respective designees and authorized representatives.

(e) Procedures. Except as otherwise provided by this section, the procedures for municipal civil infraction actions shall be as set forth in Chapter 2, Article 8 (municipal civil infractions) of the Code of Ordinances of the City of Trenton.

Sec. 98-477 Civil Actions.

The city, by and through the city attorney, may bring a civil action in the name of the city to enforce the provisions of this article and rules promulgated pursuant to this article. Nothing in this article shall preclude the city from instituting an action for appropriate legal and/or equitable relief in Wayne County Circuit Court to restrain, correct, or abate a violation of this article, a rule or regulation promulgated pursuant to this article, or a storm water construction approval issued hereunder; or to stop an illegal act; or to abate a nuisance; or to prevent pollution or flooding.

Sec. 98-478 Criminal Penalties; Imprisonment.

Any person who:

(a) At the time of violation knew or should have known that a violation of this article, or any notice, order, storm water construction approval, or decision or determination promulgated, issued or made by the city under this article; or

(b) Intentionally makes a false statement, representation, or certification in any application for, or form pertaining to, a storm water construction approval, or any other correspondence or communication, written or oral, with the city regarding matters regulated by this article; or

(c) Commits any other act that is punishable under state law by imprisonment for more than ninety (90) days; shall, upon conviction, be guilty of a misdemeanor punishable by a fine of \$500.00 per violation, per day, or imprisonment for up to ninety (90) days, or both in the discretion of the court.

Sec. 98.479 Separate Offenses

Each act of violation, and each day or portion of a day that a violation of this article, rules or regulations promulgated pursuant to this article, storm water construction approval, order, notice, or determination issued, made or entered into under this article is permitted to exist or occur, constitutes a separate offense and shall be punishable as provided by this article.

DIVISION 10. APPEAL

Sec. 98-481 Appeal.

(a) Any person whose legal rights, duties, or privileges are determined by the city pursuant to this Article or a rule promulgated pursuant to this Article, and who is aggrieved by the city's determination made pursuant to section 98.474, may appeal to the storm water appeals board for relief of that grievance. An appeal shall be made according to the procedure set forth in this chapter.

(b) The storm water appeals board shall consist of the director of the department of public works; the city administrator; and the city engineer; or their designees. Meetings of the storm water appeals board shall be in person and shall be open to all interested parties.

Sec. 98-482 Appeal Procedure.

(a) An appeal shall be in writing, shall be addressed to the storm water appeals board c/o the engineering department, and shall be received within 20 days of the determination that is the subject of the appeal. The appeal shall be made in triplicate, shall set forth the specific act or matter complained of and in dispute, and shall include all documentation that supports the appellant's position. The appellant may be required to post a deposit at the time of filing to cover the costs of processing the appeal.

(b) Within thirty (30) days of receipt of written appeal, the engineering department shall acknowledge such recipient in writing, and shall set a day and time for an appellant hearing to be conducted in accordance with subsection (d). If appropriate, the engineering department may schedule a conciliation meeting with the appellant in accordance with subsection (c).

(c) Conciliation meeting.

(1) The purpose of a conciliation meeting is to attempt to resolve the matter before an appeal is forwarded to the storm water appeals board. If a conciliation meeting is held, it shall occur as soon as practicable, at the mutual convenience of the parties. Conciliation meetings shall be open to all interested parties and their representatives.

(2) After a conciliation meeting, if the appellant or the engineering department determines that an appeal cannot be resolved through a conciliation meeting, the parties shall so inform the storm water appeals board in writing, and the appellate hearing scheduled pursuant to subsection (b) shall be conducted in accordance with subsection (d). Additional conciliation meetings shall not be necessary.

(3) If the engineering department and the appellant agree that the subject of the appeal has been satisfactorily resolved through the conciliation meeting process or otherwise, the agreement shall be incorporated into a consent agreement pursuant to section 98.473.

(d) Hearing procedure.

(1) A notice shall be sent to the appellant at least ten days prior to the hearing. The notice shall include (a) a statement of the date, time, place, and nature of the hearing; (b) a statement of the legal authority and jurisdiction under which the hearing will be held; (c) a reference to the particular sections of this article involved in the appeal; (d) brief summary of the specific act or matter complained of and in dispute.

(2) At the hearing, the storm water appeals board shall receive testimony and evidence provided by the appellant, the city, and/or others as the storm water appeals board deems necessary. During the hearing, the storm water appeals board shall not be bound strictly by the rules of evidence that would apply in a court, but shall have the authority to receive such evidence as deemed relevant and material. The storm water appeals board may give the evidence as is received such weight and probative value as, in the board's discretion, is deemed proper.

(3) Within thirty (30) days after the hearing, the storm water appeals board shall render a decision in writing. This thirty (30)-day period may be extended for good cause. The decision shall include a brief summary of the specific act or matter complained of, the nature of the testimony and evidence received, and a decision as to whether the board affirmed, rescinded, or modified the decision or action at issue.

(4) The decision of the storm water appeals board shall be final and enforceable at law. A person aggrieved by a final decision of the storm water appeals board may seek judicial

review of the decision by the Wayne County Circuit Court. A petition for judicial review shall be filed not later than sixty (60) days following the receipt of the final decision of the storm water appeals board. An aggrieved person shall exhaust all administrative remedies provided in this chapter before seeking judicial review.

Section 2. Saving Clause. Nothing in this Ordinance or in the Code hereby adopted shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

Section 3. Severability. Should any word, sentence, phrase or any portion of this Ordinance be held in a manner invalid by any court of competent jurisdiction or by any state agency having authority to do so for any reason whatsoever, such holdings shall be construed and limited to such work, sentence, phrase or any portion of the Ordinance held to be so invalid shall not be construed as affecting the validity of any of the remaining words, sentences, phrases or portions of this Ordinance.

Section 4. Conflicting Ordinances. All prior existing ordinances adopted by the City of Trenton inconsistent or in conflict with the provisions of this Ordinance are, to the extent of such conflict or inconsistency, hereby expressly repealed.

Section 5. Readings. This Ordinance shall be given a first reading on April 12, 2010, shall be enacted on April 19, 2010, and shall be published on or before May 2, 2010, and shall be effective May 3, 2010.

ADOPTED, APPROVED AND PASSED by the City Council of the City of Trenton this 19th day of April, 2010.

Moved by Councilman Gillespie, seconded by Councilwoman Baun-Crooks, to approve the second reading of Ordinance 733, Storm Water Management.

Carried unanimously.

(D-2)

CITY LIBRARIAN

Microfilm Reader/Printer/Digitizer Machine Bid Award (tabled from 04/12/2010)

Moved by Councilman Gillespie, seconded by Councilwoman Baun-Crooks, to remove the agenda item from the table.

Carried unanimously.

Moved by Councilman LeFevre, seconded by Councilman Taylor, to concur with the recommendation of the City Librarian and award the bid for the Microfilm Reader Printer Digitizer to Graphic Sciences Inc., in the amount of \$8,695.00, to reject the other bids, and with funding from the Library Machinery and Equipment Account (742.982.000).

Carried unanimously.

(D-3)

ENGINEER

Maple Street Reconstruction Project Revised Bid Award

Moved by Councilman Taylor, seconded by Councilman Gillespie, to concur with the recommendation of the City Engineer, to award the bid for the Maple Street Reconstruction Project to the second lowest bidder, Century Cement, in the amount of \$171,506.00, with a total project cost including contingency of \$188,657.00, to be funded by the Community Development Block Grant program, Storm Sewer Maintenance and the DDA Capital Accounts and to reject the other bid due to the prior bidder, Peter A Basile Sons, Inc., withdrawing their bid.

Carried unanimously.

(D-4)

PARKS & RECREATION

Mid-Summer Festival Beer Permits

Moved by Councilman Gillespie, seconded by Councilwoman Baun-Crooks, to approve the Trenton Rotary Club and Friends of the Friendless to operate a beer tent in the street during the Mid-Summer Festival, July 9, 10, and 11, 2010.

Carried unanimously.

LATE COMMUNICATIONS

(L-1)

PARKS & RECREATION

Kennedy Recreation Center Beer Permits

Moved by Councilman Taylor, seconded by Councilman LeFevre, to approve the St. Joseph Athletic Club to operate beer sales in the Kennedy Recreation Center main arena during the Motor City Metal Jackets games on April 23 and 24, 2010.

Carried unanimously.

MOTION TO RECESS

At 8:45 p.m.

Moved by Councilman Taylor, seconded by Councilwoman Baun-Crooks to recess the meeting for the purpose of hold a Closed Session to discuss agenda item L-2.

Carried unanimously.

MEETING RECONVENED

The meeting reconvened at 9:03 p.m.

(L-2)

HUMAN RESOURCES

Letter of Understanding between City of Trenton and TILA/POLC

Moved by Councilman Teifer, seconded by Councilwoman Baun-Crooks, to approve the framework for the Letter of Understanding between the City of Trenton and TILA with the following points: The Union agrees to forego the negotiated 1% wage increase scheduled to take effect July 1, 2010; The City agrees to use the negotiated wage rate for July 1, 2010 (inclusive of the 1% increase) for purposes of calculating severance pay for employees who retire between July 1, 2010, and June 30, 2011; The Union agrees to set aside the holiday pay as defined in Article XV, Section 1, from July 1, 2010, to June 29, 2011, with such benefit restored, without retroactivity, on June 30, 2011; All members of the TILA bargaining unit as of this date will be eligible to retire immediately with a pension benefit based on their accrued service time (years and months) in the City of Trenton's Act 345 Pension System. While such an election to retire will be subject to time considerations required by law, an employee choosing to retire during this window must have an effective date of retirement, no later than June 30, 2010; All current members of the TILA bargaining unit retiring under the above referenced window will immediately be eligible for retiree insurance benefits, subject to those provisions as defined within the July 1, 2007, through June 30, 2011, Collective Bargaining Agreement; All current members of the TILA bargaining unit retiring under the above referenced window will receive the family continuation rider for all insurances, Health, Dental and Optical, provided by the City, subject to insurance carrier's eligibility criteria and those provisions as defined within the July 1, 2007, through June 30, 2011, Collective Bargaining Agreement. In the event that active employees may be required to pay the full cost for Family Continuation, those employees retiring under this agreement will only be required to pay the Family premium contribution rate (currently \$60 per month); The following language will be added as a new third paragraph under Article XIII, Section 6, of the collective bargaining agreement: "Eligible retirees are responsible for, and required to pay the full cost of, any coverage levied by Medicare. Any Medicare premium amount a Retiree and eligible spouse (if applicable) are responsible for paying shall be offset against the total premium sharing amount owed to the City."; In the event one or more TILA bargaining unit members retires under the above referenced window, the City agrees that any member, of record, in this bargaining unit, on the date of execution, of this agreement, who does not elect to retire, will not be laid off during the term of the current Collective Bargaining Agreement; The City reserves its contractual right to fill or not fill vacancies arising from retirements under this agreement; and The City agrees that it will not act to dissolve the TILA bargaining unit or terminate the current Collective Bargaining Agreement prior to June 30, 2011.

Carried unanimously.

AUTHORIZED DISBURSEMENTS

Moved by Councilman LeFevre, seconded by Councilman Gillespie, that the Authorized Disbursements, per the April 19, 2010, schedule, be approved.

MONROE BANK & TRUST: Cash Disbursements	\$101,610.32
General Fund	31,480.49
Major Street Fund	189.45

**RECORD OF CITY COUNCIL PROCEEDINGS
CITY OF TRENTON, MICHIGAN
HELD ON THE 19TH DAY OF APRIL 2010**

Kennedy Rec Complex	3,399.75
Library Operating Fund	4,554.50
Special Revenue Fund	1,108.80
Grant Funds	1,899.84
Water & Wastewater Fund	51,457.47
Motor Vehicle Pool	8,000.02

Carried unanimously.

Moved by Councilman LeFevre, seconded by Councilwoman Baun-Crooks, to approve the disbursement payable to Certified Alarm in the amount of \$480.00.

Roll Call: Gillespie, Abstain; LeFevre, Yes; Taylor, Yes; Teifer, Yes; Baun-Crooks, Yes; and Brown, Yes.

Motion carried.

REPORTS

Moved by Councilman LeFevre, seconded by Councilwoman Baun-Crooks, to receive and place on file the Police Department Report, March 2010.

Carried unanimously.

COMMENTS FROM THE COUNCIL AND OFFICIALS

Councilman Teifer	* Nice Article on John Hartig, Credit to Community
Councilman LeFevre	* Budget Session, Thursday, 8:30 p.m. on Police Budget
Mayor Brown	* Thanked TILA for their Cooperation with Concessions
City Clerk Stack	* Census Coming to Your Door
DPS Director Bober	* Household Hazardous Waste Day, Taylor 9 to 3

COMMENTS FROM THE PUBLIC

Breana Carnes	* Earth Day, Lets Go Green March, April 22nd
Bill Jasman	* Presentation on International Mission Trips, April 28 th ; Comedy Room, May 1 st ; Need Host Family for Exchange Student from Thailand
Owen Kuhn	* Cuts in Pay for Elected Officials; Need Real Business for Tax Basis
*	
Jennifer Coleman Hesson	* Running for 33 rd District Court Judge

MOTION TO ADJOURN BY Councilman Gillespie, seconded by Councilwoman Baun-Crooks, at 9:25 p.m.

APPROVED BY:

GERALD R. BROWN, MAYOR

KYLE F. STACK, CITY CLERK

MINUTES PREPARED BY: Patricia M. Gearhart, City Clerk
APPROVED ON: _____