

July 13, 2009

Regular meeting of the Ludington City Council held in the Council Chambers of the Municipal Building on Monday, July 13, 2009, at 6:30 o'clock p.m.

Present: His Honor Mayor John Henderson and Councilors Kaye Holman, Paul Peterson, Greg Dykstra, Brent Scott, Dave Weston, Pete Engblade, and Gary Castonia.

Absent: None.

Also present were City Manager John Shay, City Attorney Roger Anderson by phone, Police Chief Mark Barnett, Fire Chief Jerry Funk, and City Clerk Deborah Luskin.

Invocation was pronounced by Councilor Pete Engblade.

Pledge to the Flag was given.

The Agenda was amended to add under Communication (a) presentation by Mary Cleveland of the US Census Bureau regarding the 2010 Census. Moved by Councilor Holman, seconded by Councilor Peterson, that the Agenda be approved as corrected. Motion Carried.

The meeting was opened for public comments. After no comments were received, the regular order of business was resumed.

Moved by Councilor Castonia, seconded by Councilor Dykstra, to approve the minutes of the regular meeting 6/22/09. Motion Carried.

A public hearing was held on the proposed operating millage and garbage and rubbish millage for the City.

David Stratton, Best Choice Market, 222 W. Ludington Ave., Ludington, and 1238 N. Cedar Lane, Scottville, questioned whether the City is looking to increase property tax revenue with this ordinance. City Manager John Shay explained that this is a truth in taxation hearing. In 1982, Public Act 5, Truth in Taxation Act, was passed and that act limited the amount of tax that an entity could collect to what was collected the previous year plus any taxes from new additions or construction. This is carried out by reducing the millage rate to the level which will yield that amount of tax revenue. What is being presented before the City Council is to keep the general operating millage at the same level as it has been since 2001 or 11.5675 mills. If it is rolled back because of the truth in taxation it would go to 11.5097 mills, or a decrease of .0578 mills. The State law says that we can collect the same revenue as was collected last year plus any revenue from new additions to the tax roll; or the City has to hold a truth in taxation hearing to keep the millage rate the same as it was since 2001. David Stratton then commented that this town needs jobs and if the City is going to raise taxes, businesses are not going to come to the downtown area. He stated that he pays more taxes than any business on Ludington Avenue. He explained that the City cripples him every September prior to going into the winter. He does not want an increase in tax, but rather a decrease in taxes. He stated that the City is truly discouraging business downtown. He employs a dozen people and he believes he pays them a very good wage, but if he has to pay more in taxes, he cannot afford to employ those people.

Bob Neal, 110 William St., agreed with Dave Stratton, and said that it was a bad policy to increase taxes. If the City took increases as property values went up, and now that property values have fallen, everyone has tightened their belt, he believes it is a bad precedent if the City does not also tighten their belt as well. He explained that he now knows that new construction is taxed through the roof and he admitted he was not aware of this five or six years ago or he may not have constructed the new businesses. He agreed that Dave Stratton's taxes are the highest taxes in downtown. Bob stated that there is something unjust about this.

Dave Bourgette, 930 E. Ludington Ave., and owner of Viking Arms, is speaking for the same reason. He pays \$25,000 in taxes to the City for a family run business. He is asking the Council to reconsider what is being asked. Any additional taxes on him are a burden. The taxes that he and his wife pay are two month's worth of income for them. Their lodging rates have not risen in the last five years but the expenses have gone through the roof. Anywhere he can save money he is asking the Council to consider not raising the taxes. He expressed that he is a concerned citizen.

After no further comments were received, the regular order of business was resumed.

#### ORDINANCE NO. 196-09

Short Title: An Ordinance creating the Appropriation Bill for the City of Ludington, Michigan, for the year January 1, 2010 to December 31, 2010.

THE CITY OF LUDINGTON ORDAINS:

Section 1:

That the several sums of money mentioned shall be appropriated to defray the expense of the City of Ludington, Michigan for the next fiscal year, as estimated and determined by the Ludington City Council, and the City Clerk is directed to certify the same to the Mason County Board of Commissioners.

Revenue generated from the following millage is based on an equivalent Taxable Valuation of \$273,102,899., which includes the IFT Rolls, DNR PILT, Birch Lake PILT, and OPRA.

General Operating		
11.5675 Mills		\$ 3,159,117.78
Garbage & Rubbish		
2.7762 Mills		\$ 758,188.27
TOTAL MILLS	14.3437 Mills	\$ 3,917,306.05

Section 2:

This Ordinance being necessary to the public health and safety, shall take effect immediately upon publication in accordance with the City Charter.

His Honor Mayor Henderson questioned whether the City is increasing the tax millage or keeping the millage rate the same. City Manager Shay explained that the City is keeping the millage the same as it has been since 2001. An example provided by His Honor Mayor Henderson was that if a property owner who has property valued at \$200,000, would that owner see an increase in taxes or not in 2010. City Manager Shay stated that there would be no increase in taxes if the value was the same as last year with the proposed millage request. He explained that the City looks at a two year sales studies to determine what assessed values are going to be. The assessed values will go down because the City is starting to put in sales data from 2008 and 2009, and sales have gone down. The expectation is that values will go down and property tax revenue will go down. He stated that the Council will see this next month when the City provides the three year projections with large spending cuts which will be applied to deal with the projected general fund deficits in the next three year. His Honor Mayor Henderson asked if once you roll back the millage you will never be able to increase it. City Manager Shay confirmed this and added that the millage would not increase unless there was a vote of the people. A newly constructed building does pay substantially more in taxes because of taxable value, and the value of the building. Also, with Proposal A, a new resident whether commercial or residential, would pay higher taxes than their neighbor with the same square footage because of the pop up provision. New construction does have an effect on taxes.

Councilor Castonia explained that the businesses represented tonight in public comment are saying their expenses have gone up, but the City’s expenses have also gone up. He is asking the public to call him and give him suggestions on where the City should cut and who should be cut. He suggested that maybe the City should eliminate tax abatements. His Honor Mayor Henderson stated that there are a couple of provisions which bother him. One, the City should roll back if they could but when they are facing a tough budget year, it becomes very hard to work if the tax is lost for good. The City has tried all kinds of tax abatements, OPRA, rehab districts, enterprise zones, blighted property, etc. to be competitive with the other communities out there.

Councilor Engblade explained that he is against all tax increases. He said that he is also against this increase and he keeps falling back on the economy and said that the \$9 or \$10 increase per household does not sound like much, but if a person does not have the money, it is very difficult to pay this increase. He does oppose this millage rate and believes that we can get by with what we have and tighten our belts.

Councilor Scott stated that he believes that the residents in the community should pay better attention to what the Council is proposing. He stated that there is an item on the agenda where the City will improve the Stearns Park breakwall, the launch ramp, which will be capped with concrete. There are no funds here unless the bids come in under budget. The capping of this will cost about \$41,000. These items come to Council and the public does not provide any input. It is difficult to determine what the City residents want and he is asking for input from the residents. The community has a responsibility as well as the Council.

Councilor Weston stated that he believes we can survive one year without an increase. He stated that the city has handed out raises and some were quite large and this was overdone.

Councilor Holman asked if the City voted this millage down then we could never raise the taxes up again without a vote of the people. This was confirmed by City Manager Shay.

Moved by Councilor Dykstra, seconded by Councilor Peterson, that Ordinance No. 196-09 be adopted.

Roll Call: Ayes: None.

Nays: Councilors Scott, Engblade, Holman, Castonia, Peterson, Dykstra, and Weston. Adoption Fails.

A public hearing was held on the proposed police pension millage for the City.

Bob Neal, 110 William St., explained that the Council made a really important statement about being competitive, one that he disagrees with. First, he congratulated the City employees for cleaning up after the 4<sup>th</sup> of July when House of Flavors handed out 9,300 pints of ice cream. All of the empty pints were picked up and the City looked beautiful. He went on to explain that a \$400,000 condo in Ludington owned by someone in Kentucky generates \$11,500 worth of property tax. However, Harry Lowell, who bought the Stark house, pays \$52,000 in taxes. Bob Neal said that the City is not competitive with anyone. He compared a \$10,000,000 house in Florida which does not even begin to pay \$52,000 in property taxes. The whole system is screwed up. He stated that he owns the three highest taxable buildings in the county. In order to be competitive we must fix the taxable values here. He explained that the tax abatements are really good when the taxes are paid by other people, but are really bad when they are paid by you. He attempted to summarize his understanding by saying if the property values go down, the same millage generates less money. If you want to have the same money then you cannot let the property values go down, however, next year will decline more because the only thing that is selling now is repossessions. The precedent is going to be very huge. He stated that we all have less income.

Dave Stratton, 222 W. Ludington Ave., explained that he bought one of the repossessed homes which was very affordable. It hurts the economy because there were no construction costs involved and it has a domino effect. He commented on Gary's question on how to cut costs and said that he had a City employee who swept the sidewalk out in front of his business for 45 minutes. He said that if he had an employee who was paid the wages the City employees are being paid, to sweep the sidewalk for 45 minutes, he would fire the employee. He explained that he can sweep his own sidewalk. Dave suggested cutting the sidewalk sweeping. He also questioned whether the street sweeper and the watering of the medians were really necessary. He believes that the Council must operate more as businessmen than as administrators. He stated that the \$50,000 loss in tax revenue for the City can be cut and can be cut easily.

Ed Thompson, 510 E. Lake St., asked if the timing of this tax increase is necessary. It is unbelievable that this is even being proposed. He believes that he and his three predecessors are trying to do everything to survive in this economy but does not believe the City is going backwards in their budget, rather they are going forward. He stated that there are several people here at the City who received substantial raises, pensions, and benefits are going up. \$50,000 is a drop in a bucket and he is asking if there is any way to not increase taxes. The timing is not logical. The business people will pay most of this tax increase.

After no further comments were received, the regular order of business was resumed.

#### ORDINANCE NO. 197-09

Short Title: An Ordinance creating the Appropriation Bill for the City of Ludington, Michigan, for the year January 1, 2010, to December 31, 2010.

THE CITY OF LUDINGTON ORDAINS:

Section 1:

That the several sums of money mentioned shall be appropriated to defray the expense of the Police Pension Fund of the City of Ludington, Michigan, for the next fiscal year, as estimated and determined by the Ludington City Council, and the City Clerk is directed to certify the same to the Mason County Board of Commissioners.

Revenue generated from the following millage is based on an equivalent Taxable Valuation of \$273,102,899., which includes the IFT Rolls, DNR PILT, Birch Lake PILT, and OPRA.

Police Pension

1.0150 Mills	\$ 277,199.44
TOTAL MILLS	
1.0150 Mills	\$ 277,199.44

Section 2:

This Ordinance being necessary to the public health and safety, shall take effect immediately upon publication in accordance with the City Charter.

Moved by Councilor Scott, seconded by Councilor Peterson, that Ordinance No. 197-09 be adopted. His Honor Mayor Henderson stated that he thinks Headlee in the way it is being applied is so wrong and that it is not up to the City, but he as a citizen has voiced this to his legislative representatives and he is asking the public to also voice their concerns. This is not a fair tax.

Councilor Holman explained that she has been a Chairman of the Finance Committee for 6 years and stated that she has agonized over these ordinances because of the timing, not one single person in the City has called her about these millage rates. She explained that the City has been working on a budget for next year, and the \$50,000 is a lot of money. However, the City Manager and the employees have to work on the budget and services may be cut. She sympathized with the public and apologized for the way the State is run. The City runs on its money and we do spend some money foolishly, but she emphasized that she nitpicks over expenses. Councilor Holman promised that she will

do the best she can and asked for input from the public. She thanked the four citizens that came to the meeting and spoke up.

City Attorney Roger Anderson clarified that the statute requires that the actuary determines what is needed to fund the police pension, so that if the millage is not sufficient, the balance will come out of the General Fund. Councilor Scott explained that in 1950 the voters approved the police pension fund. Therefore, the City is obligated to fund the police pension, either through the millage or the General Fund. It was explained that the police pension fund does not give increases. When the officer retires, the pension will be the same from one year to the next.

City Manager Shay explained that most of the income generated in the police pension fund comes from investments, officer contributions of 5% of their salary, and the millage. This coming year the millage stays the same as last year. If the millage were to be rolled back, the General Fund would have to pay the difference between what is paid by millage and what is actuarially determined.

Roll Call: Ayes: Councilor Dykstra, Peterson, Scott, and Holman.

Nays: None.

Abstained: Councilors Weston, Engblade, and Castonia who are retired police officers. Motion

Carried.

A public hearing was held on the proposed Downtown Development Authority operating millage.

His Honor Mayor Henderson explained that this millage was for the extra services provided to the downtown district. These services are perceived to be special and above the regular services provided to the general residents. David Stratton asked what these special services are. City Manager Shay explained that the downtown sweeping of the sidewalk, snow removal in the downtown, benches, trash cans, stamped concrete to avoid tripping hazards are part of these services. Also, the City is trying to make the downtown a place for people to come and visit, so the DDA millage is used to provide the revenue for these extra services.

David Stratton, 222 W. Ludington Ave., disagreed with the City Manager and stated that other than snow removal on the sidewalks he does not believe he gets anything for the taxes that he is paying. The Farmers Market is good but he does not believe he is getting anything for his DDA tax money.

Bob Neal, 110 William St., questioned City Attorney Roger Anderson on the investments in the Police Pension Fund. If the market went down this past year and the large decrease in the investments, how does this money get replaced. His Honor Mayor Henderson explained that the Council is now talking about the DDA and not the police pension fund. He proceeded to explain that we did cover the shortfalls, which are made up by the millage or future investments. Bob Neal then asked what the roll back was in the Police Pension Fund, and it was explained that there was no roll back as the Police Pension Fund as it is not subject to the Headlee roll back. He then stated that he did not know what the Council was voting on in the DDA. His Honor Mayor Henderson explained that the DDA Ordinance was establishing the millage rate which is 1.6080 mills, and will capture \$42,853.58 in tax revenue for the DDA above the operating revenue for the City. This has happened in the past. Bob Neal asked if this was different from the general operating millage. City Manager Shay explained that it is now different because Council voted to not keep the millage at the current level. The DDA is not subject to the public hearing because the proposal is to keep the millage the same. Bob Neal asked if the property values have gone down, but City Manager Shay explained that it is because of the past increases in property tax values higher than the rate of inflation and the millage had to be rolled back.

After no comments were received, the regular order of business was resumed.

#### ORDINANCE NO. 198-09

Short Title: An Ordinance creating the millage rate for the Downtown Development Authority for the City of Ludington, Michigan, for the year January 1, 2010, to December 31, 2010.

THE CITY OF LUDINGTON ORDAINS:

Section 1:

That the sum of money mentioned shall be levied within the downtown development district to defray the expense of the Downtown Development Authority of the City of Ludington, Michigan, for the next fiscal year, as estimated and determined by the Ludington City Council, and the City Clerk is directed to certify the same to the Mason County Board of Commissioners.

Revenue generated from the following millage is based on an equivalent Taxable Valuation of \$26,650,234.

Operating	1.6080 Mills	\$ 42,853.58
TOTAL MILLS	1.6080 Mills	\$ 42,853.58

Section 2:

This Ordinance being necessary to the public health and safety, shall take effect immediately upon publication in accordance with the City Charter.

Moved by Councilor Peterson, seconded by Councilor Castonia, that Ordinance No. 198-09 be adopted.

Councilor Engblade commented on a remark made by Dave Stratton and explained that the City is run like a business contrary to what he believes. He then invited Dave to attend any of the committee meetings which are posted on the bulletin board out in the hallway. The budget is scrutinized; the City looks at what is coming in and what is going out. It is run like a very efficient business and we have a Chief Executive Officer. We do not rubber stamp items, we are trying to get the best for our buck. The services are exceptional and we do run the City like a business. He invited the public to attend the budget projections meeting on August 3<sup>rd</sup> in the Community Room at 5:30 p.m.

Councilor Dykstra questioned a comment from the public that they do not believe they are getting the value for the millage in the DDA, and he asked what would it mean if the City did not provide snow plowing, street sweeping, etc. The idea that if we did not do the services, the flowers and benches, this would be devastating to the downtown area. His Honor Mayor Henderson is encouraging the public to come and discuss this.

Councilor Scott explained that street sweeping is done to alleviate the build up of sand in our gutters but also going down in the storm sewers and potentially plugging up the sewers. This is to avoid the possibility of flooding. City Manager Shay explained that the improvements made in the downtown area and the events have been positively received positive by the DDA. The special events like the Friday Night Live activities provide the opportunity for the City to get the people downtown. This ordinance simply establishes the millage to generate the revenue for the DDA.

Roll Call: Ayes: Councilors Castonia, Peterson, Engblade, Weston, Scott, and Dykstra.

Nays: Councilor Holman. Motion Carried.

The meeting was opened for the scheduled public hearing on the application received from The Brill Company, Inc. for an Industrial Facilities Exemption Certificate. Julie VanDyke, Mason County Growth Alliance, expressed support of the tax abatement and appreciation to The Brill Company, Inc for continuing to pursue opportunities of growth. They have added a piece of equipment to their manufacturing site with hopes to retain two jobs and add four to six jobs in the next few years. She encouraged the Council to look positively at this tax abatement which results in new jobs in the area. Ken Gibbs, Vice President and General Manager of The Brill Company, Inc. summarized the application and was available to answer questions. He described the equipment and explained what it does in the manufacture of furniture. Councilor Engblade asked if anyone has been laid off at The Brill Company, Inc. Ken Gibbs stated that no one has been laid off since October 2007. There are additional temporary laborers hired for their busy season, with a total of 40 people presently employed.

Bob Neil, 110 William St., supported everything that is done to bring more jobs to Ludington. He explained that it is good to have business that will keep people here. He asked that Council support this abatement.

After no further comments were received, the regular order of business was resumed.

Moved by Councilor Engblade, seconded by Councilor Dykstra, that the Agreement for Act 198 Certificate, which sets forth the rights and responsibilities in connection with granting the certificate, be adopted. Councilor Castonia abstained from vote and discussion as his son had been employed recently at The Brill Company. Councilor Holman asked when this equipment was installed. Mr. Gibbs explained that the equipment was put in service in the third week of February 2009 and it is working well. His Honor Mayor Henderson publicly thanked the company for looking at opportunities for expansion in the area and commended Brill for keeping the business here. Motion Carried.

RESOLUTION TO APPROVE THE APPLICATION OF  
THE BRILL COMPANY, INC.

FOR AN INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE

WHEREAS, Act No. 198 of the Michigan Public Acts of 1974, as amended, authorizes the City of Ludington to establish Industrial Development and Plant Rehabilitation Districts and to approve applications for Industrial Facilities Exemption Certificates; and

WHEREAS, pursuant to Act No. 198, and after a duly noticed public hearing held, the Ludington City Commission, by resolution adopted on September 20, 1990, created an Industrial Development District for THE BRILL COMPANY, INC. and

WHEREAS, THE BRILL COMPANY, INC. did on May 15, 2009, file an application with the City of Ludington for an Industrial Facilities Exemption Certificate for new machinery and equipment; and

WHEREAS, the City of Ludington and THE BRILL COMPANY, INC. have entered into a written agreement pursuant to P.A. 334 of 1993; and

WHEREAS, before acting on said application, the Ludington City Council held a hearing on July 13, 2009, at the City Municipal Building, 400 S Harrison Street, Ludington, MI 49431 at 6:30 p.m., at which hearing the applicant, the assessor, and a representative of the effected taxing units, who were given previous written notice, were afforded an opportunity to be heard on said application; and

WHEREAS, this City Council also finds as follows:

(a) That the installation of the new equipment included in the application had not begun earlier than six (6) months before May 15, 2009, the date of the acceptance of the application for an Industrial Facility Exemption Certificate.

(b) The application covers the installation of new machinery and equipment at their existing facility at 715 S. James St., in the City of Ludington. This project qualifies as a new industrial facility within the meaning of Act 198, and is situated within an Industrial Development District duly established by the City of Ludington.

(c) That the addition of this new equipment is calculated to have the reasonable likelihood to create employment, retain employment or prevent a loss of employment in the City.

(d) That the facility does not have the effect of transferring employment from another community within the State of Michigan to the City of Ludington.

(e) That the aggregate state equalized valuation of real and personal property exempt from ad valorem taxes under Act No. 198 including that for which the applicant seeks exemption does not in fact exceed five (5) percent of the total state equalized valuation of the City of Ludington.

NOW, THEREFORE, BE IT HEREBY RESOLVED AS FOLLOWS:

1. That the granting of this Industrial Facilities Exemption Certificate, considered together with the aggregate amount of industrial facilities exemption certificates previously granted and currently in force, shall not have the effect of substantially impeding the operation of the City of Ludington or impairing the financial soundness of any taxing unit which levies an ad valorem property tax in the City of Ludington in which the facility is located.

2. That the application of THE BRILL COMPANY, INC. for an Industrial Facilities Exemption Certificate for this new machinery and equipment be and is hereby approved, subject to the following condition:

That the exemption for the personal property included in this application shall remain in force and effect for a period of six (6) years, unless otherwise modified or revoked pursuant to the provisions of Act 198 of 1974, as amended.

The estimated cost of the new machinery and equipment to be added as set forth in their application is \$66,300. (S.E.V. \$ 66,300).

Moved by Councilor Weston, seconded by Councilor Dykstra, to adopt the Resolution to Approve the Application for Industrial Facilities Tax Exemption Certificate for The Brill Company, Inc. Councilor Castonia abstained from vote. Motion Carried.

The meeting was opened for the scheduled public hearing on the Determination of Necessity and Confirmation of Assessment Roll at 301 N. William St. After no further comments were received, the regular order of business was resumed.

#### SPECIAL ASSESSMENT ROLL CERTIFICATE

ORIGINAL PLAT BLOCK 8, LOT 7

(301 N. William St.)

IN THE CITY OF LUDINGTON

I hereby certify and report that the foregoing is the special assessment roll and the assessments made by me pursuant to a resolution of the City Council of the City of Ludington adopted July 13, 2009, for the purpose of paying that part of the cost which the City Council decided should be paid and borne by the special assessment for the repair/construction of sidewalk on the above parcel; that in making such assessment I have, as near as may be and according to my best judgment, conformed in all things to the directions contained in the resolution of the City Council hereinbefore referred to, and the Charter and City Code of the City of Ludington relating to such assessment.

The foregoing Special Assessment Roll was presented and certified by City Assessor Chuck Zemla.

#### DETERMINATION OF NECESSITY AND CONFIRMATION OF ASSESSMENT ROLL

2009 SIDEWALK REPLACEMENT NO. 1:

ORIGINAL PLAT LOT 8, BLOCK 7

(301 N. WILLIAM ST.)

IN THE CITY OF LUDINGTON

WHEREAS, a combined hearing was held by the City Council to determine the necessity for the above improvement and to consider the confirmation of the proposed assessment roll, and

WHEREAS, due notice was provided by the City Clerk to all property owners or parties in interest in the property to be specially assessed, and

WHEREAS, the City Council finds that the above project is necessary for the benefit of the property owners to be assessed, and

WHEREAS, the City Council finds that the cost of the improvement has been fairly allocated and assessed against the properties benefited,

THEREFORE, BE IT RESOLVED:

1. That the City Council determines that the above improvement is necessary for the benefit of the properties to be benefited.
2. That the Special Assessment District is described as: ORIGINAL PLAT LOT 8, BLOCK 7 (301 N. WILLIAM ST.)
3. That the above improvement is in the best interest of the resident whose property is benefited by such improvement.
4. That the estimated cost of the improvement is: ONE THOUSAND SIX HUNDRED THIRTY-SEVEN DOLLARS AND FIFTY CENTS (\$1,637.50).
5. That seventy five percent (75%) of the total cost of such improvement shall be paid by special assessments.
6. That the assessments as contained in the attached assessment roll are hereby confirmed.
7. That the assessments may be paid in full or in scheduled monthly installments until June 1, 2010, at which time the remaining balance will be placed on the homeowner's summer taxes.
8. That the assessments shall be a lien upon the property described in the attached assessment roll in accordance with State Statute and Local Ordinances, including Chapter 42 of the Code of the City of Ludington.

City Manager Shay explained that the City had received a complaint that someone had tripped and fallen in this portion of the sidewalk. The City then inspected the sidewalk, determined that it was in poor shape, and have not heard from the property owner. The assessment will go to the property owner for 75% of the cost of \$1,637.50.

After no comments were received on the Determination and Confirmation of Assessment Roll for 301 N. William St., the regular order of business was resumed.

Moved by Councilor Castonia, seconded by Councilor Scott, that the foregoing Determination of Necessity and Confirmation of Assessment Roll be adopted. Councilor Dykstra asked what methods of notification were used. City Manager Shay explained that we send a certified letter to the property owner and no response had been received. Motion Carried.

Mary Cleveland, Partnership Specialist, of the Census Bureau gave a presentation on the importance of the census questionnaire, for the 2010 Census. She explained that her job is to form partnerships with all parts of a community to make people aware of the importance of the census. The census data helps to determine how many seats will be in the House of Representatives, redistricting, and how much money of the \$300 billion distributed from the federal government will come to our area. The questionnaires will be sent in mid February 2010 and will be due April 1, 2010. If the questionnaire is not returned, employees of the Census Bureau will begin visiting homes. She also mentioned that there are presently short term jobs available at the Census Bureau.

Moved by Councilor Holman, seconded by Councilor Peterson, that the Finance Report with total expenditures in the amount of \$571,878.88 for this period be approved and orders drawn according to the City Charter. Councilor Homlan explained that the Finance Committee just spend \$571,000 of this budget and the Finance Committee went through everyone of these expenses, asked questions, and are aware of what makes up these expenses. Councilor Peterson added that through June 30, 2009, the City is at 45% of the budget half way through the year and the City officials should be commended for this. Motion Carried.

#### ORDINANCE NO. 199-09

An Ordinance to amend Sections 62-101 and 62-102 of the City Code  
THE CITY OF LUDINGTON ORDAINS:

Section 1: Section 62-101 of the City Code shall be amended to read as follows:  
Section 62-101. Tenant's responsibility.

If a landlord shall file or cause to be filed a written notice or affidavit together with a copy of the signed written lease or rental agreement showing that a tenant is responsible for the payment of water and sewer charges, the water and sewer charges shall not become a lien against the affected premises after the date of the filing of the notice or affidavit. For property with more than one rental unit the landlord must also provide a separate meter and a separate shut off for each unit with such shut off located outside of the building and accessible by the city staff. By requesting that the utilities shall be the responsibility of the Tenant under this Section the Landlord consents to access to the property to shut off the water to any residential unit.

Section 2: Section 62-102 of the City Code shall be amended to read as follows:  
Section 62-102. Amount.

- (a) If a notice or affidavit pursuant to section 62-101 is filed, the city shall render no further water or sewer service to the affected premises until all unpaid water and sewer charges which are a lien upon the premises are paid and a security deposit in the sum provided by this section is made as security for the future payment of water and sewer charges. For each dwelling unit, the security deposit required on the filing of a notice or affidavit

provided for in section 62-101 shall be \$250.00. For a commercial tenant, the security deposit shall be double that of a dwelling unit.

- (b) Upon receipt of payment of any then outstanding water and sewer charges that are a lien upon the property and the full security deposit the city shall resume water and sewer service to the affected premises.

Section 3: Severability. Should any provisions of this Ordinance or any part thereof be held unconstitutional or invalid, such holding shall not be construed as affecting the validity of any of the remaining provisions hereof or of any other provisions of the Code or Ordinances of the City of Ludington.

Section 4: Effective Date: This Ordinance shall be effective 20 days after publication.

Moved by Councilor Castonia, seconded by Councilor Scott, that Ordinance No. 199-09 be adopted. Councilors Engblade and Dykstra abstained from vote as they are a landlords.  
Roll Call: Ayes: Councilors Peterson, Scott, Weston, Castonia, and Holman.  
Nays: None. Motion Carried.

A public hearing was set for July 27, 2009 to hear comments on the alley vacation and abandonment on the North End of Block 12, Lots 11-18 in Manufacturer's Addition owned by Straits Steel and Wire, bordered on the west by North Harrison St., on the east by North Rowe St., on the North by Lowell St., and on the South by Whittier St.

Ordinance No. 200-09, an Ordinance approving the Agreement between the City and Prein & Newhof for engineering services on the South William Street Project was presented for the first reading.

Ordinance No. 200-09 shall be presented for adoption on 7/27/09 and is available for public inspection in the City Clerk's office during regular business hours.

Councilor Engblade presented the June Building, Zoning, and Enforcement Report.

Moved by Councilor Dykstra, seconded by Councilor Holman, to approve the Community Give Back Day on August 8, 2009, as presented by Jason Porter of Absolute Restoration & Porter Construction to use the Waterfront Park to benefit the Ludington Library expansion project. Councilor Holman questioned which parking lot would be closed and it was explained that the Waterfront Park parking lot would be closed for this event. Motion Carried.

#### RESOLUTION TO APPROVE DEVELOPMENT PROJECT AGREEMENT FOR STEARNS PARK BREAKWATER WALKWAY PROJECT (PROJECT NO. TF08-051)

WHEREAS, the City of Ludington is proposing to construct a concrete walkway on top of a proposed new breakwater at Stearns Park adjacent to the Loomis Street boat ramps,

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Ludington hereby accepts the terms of the Development Project Agreement as received from the Michigan Department of Natural Resources, and that the City of Ludington hereby specifically agrees, but not by way of limitation, as follows:

- (a) To appropriate all funds necessary to complete the project during the project period and to provide \$41,800.00 to match the grant authorized by the Department.
- (b) To maintain satisfactory financial accounts, documents, and records and to make them available to the Department for auditing at reasonable times.
- (c) To construct the project and provide such funds, services, and materials as may be necessary to satisfy the terms of said Agreement.
- (d) To comply with any and all terms of said Agreement including all terms not specifically set forth in the foregoing portions of this Resolution.

City Council adopted a resolution on March 24, 2008, to apply for a Michigan Natural Resources Trust Fund Grant to pay 75% of the cost of a concrete walkway on top of the new breakwater, which will be installed by the Loomis Street boat ramps. The estimated cost of the walkway project is \$167,100, and the 25% local match is \$41,800. The City's 2009 budget did not include the portion of the local match. If the actual bid prices are less than the estimated costs, it may be possible to include the walkway project under the funds already allocated for the breakwater project.

Moved by Councilor Dykstra, seconded by Councilor Peterson, that the foregoing Resolution be adopted. Councilor Engblade explained that we do not have the money for this project and we should not in good faith apply for this grant. City Manager Shay clarified that the City has set aside money for the breakwater project itself in the budget. Council then stated last year that we include the walkway as a bid alternative, and if the if the breakwater project comes in under budget and we can submit the breakwater and walkway project all together then the Council was inclined to proceed with the budget. If it came in above budget then the council can decide at that point if the City should proceed with this project. Councilor Scott explained that it is clear that if the bids come in higher than what was budgeted it

would go to Council to determine what Council wanted to do with this. Councilor Engblade stated that if the bids are at or below what was budgeted then the City will go with this project as well as the break water project. If the bids come in higher than what was budgeted both projects will come back to Council. Motion Carried.

His Honor Mayor Henderson recognized the lifeguards in saving the lives of two individuals. He presented a letter from Mrs. Riggs commending the action of the lifeguards and that the Council has supported lifeguards in the past 10 years. Councilor Dykstra stated that this commends the Council's decision to have lifeguards and to support the cost in the budget for the lifeguards.

His Honor Mayor Henderson thanked the House of Flavors who gave out 9,300 pints of ice cream and he thanked the citizens and the DPW folks for cleaning up the beach and the parade route.

His Honor Mayor Henderson set the Budget Projection Workshop for August 3, 2009 at 5:30 p.m. in the Community Room of Ludington City Hall, 400 S. Harrison St. He stated that everyone is invited and to bring ideas.

Moved by Councilor Engblade, seconded by Councilor Holman, that the meeting be adjourned. So carried at 8:10 p.m.

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Deborah L. Luskin, CMC  
City Clerk