

**AGENDA**  
**CITY OF CHARLEVOIX CITY COUNCIL MEETING**

**Monday, January 7, 2013 - 7:00 p.m.**  
210 State St, City Hall, Second Floor City Council Chambers, Charlevoix, MI

- I. Invocation or Pledge of Allegiance**
- II. Roll Call of Members Present**
- III. Inquiry Regarding Possible Conflicts of Interest**
- IV. Consent Agenda**
  - A. City Council Meeting Minutes – December 17, 2012 Regular Meeting
  - B. Payroll Check Register **PG 1-8**
  - C. Accounts Payable Check Register **PG 9-17**
- V. Public Hearings**
  - A. Redevelopment Liquor License Ordinance **PG 18-23**
- VI. Reports**
- VII. Requests, Petitions and Communications and Actions Thereon**
  - A. Discussion Regarding Preliminary Design of 300 Block of Clinton Street **PG 24-25**
  - B. Liquor License Transfer, 230 Ferry Avenue (Kelsey B's) **PG 26-36**
  - C. Consideration to Approve Fiber Optic Agreement with Merit Network, Inc. **PG 37-59**
  - D. Appointments **PG 60-71**
- VIII. Introduction and Initial Actions Relating to Ordinances or to Resolutions That Require Publication or Hearings Prior to Final or Further Action**
  - A. Request to Set Public Hearing for 2012-13 Budget Amendment **PG 72-73**
  - B. Request to Set Public Hearing for 2013-14 Budget **PG 74-78**
  - C.
- IX. Resolutions**
  - A. Liquor License Transfer , 230 Ferry Avenue (Kelsey B's) **PG 36**
- X. Ordinances**
  - A. Redevelopment Liquor License Ordinance **PG 19-21**
- XI. Miscellaneous Business**
- XII. Audience – Non-Agenda Input (written requests take precedent)**
- XIII. Adjourn**

The City of Charlevoix will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting, to individuals with disabilities at the meeting upon one weeks notice to the City of Charlevoix. Individuals with disabilities requiring auxiliary aids or services should contact the City of Charlevoix Clerk's Office in writing or calling the following: City Clerk, 210 State Street, Charlevoix, MI 49720 (231) 547-3250.

**CHARLEVOIX CITY COUNCIL  
AGENDA ITEM**

**AGENDA ITEM TITLE:** Redevelopment Liquor License Ordinance

**DATE:** January 7, 2013

**PRESENTED BY:** DDA Director Keith Carey, City Clerk Carol Ochs

**ATTACHMENTS:** Draft Ordinance and draft minutes of November 13, 2012 ad hoc committee

**BACKGROUND INFORMATION:**

This past spring, City Council passed a resolution establishing our current DDA District as a Redevelopment District in which businesses that meet certain requirements are eligible to apply for a redevelopment liquor license. The Mayor established a committee, made up of Terry Left, Fred DiMartino, Gina Whitney, Amanda Wilkin, and Vi Keller to review the program and make recommendations to comprise a proposed ordinance governing local implementation of the program.

As an overview, the Michigan Liquor Control Commission (MLCC) requires the applicant to:

- Be a business engaged in dining, entertainment or recreation and open to the general public.
- Have a seating capacity of at least twenty-five (25) people.
- Have spent at least \$75,000 for the rehabilitation or restoration of the building where the license will be housed over a period of the preceding five years or a commitment for a capital investment of at least \$75,000 that will be spent before the issuance of the license.
- Demonstrate that they have attempted to purchase a readily available escrowed or quota on-premise license within the municipality that they want to operate, and that a license was not available.
- Pay a \$20,000 fee for the license.
- The MLCC will not transfer a license under this act to another location. If the licensee goes out of business, the licensee shall surrender the license to the MLCC.

Please the draft minutes of the Committee's November 13, 2012 meeting for its recommendations, however the City Attorney advised against the inclusion of several Committee recommendations in the ordinance. Staff is prepared to elaborate further on this matter.

**RECOMMENDATION:**

If Council desires:

Motion to enact Ordinance 758 of 2013 as presented.

**CITY OF CHARLEVOIX  
ORDINANCE NO. XXX OF 2013**

**AN ORDINANCE TO AMEND TITLE VII, BUSINESS AND TRADES, CHAPTER 77, LIQUOR LICENSES, TO ADD  
SECTION 7.305: CITY OF CHARLEVOIX REDEVELOPMENT LIQUOR LICENSE PROGRAM**

**THE CITY OF CHARLEVOIX ORDAINS:**

**SECTION 1. Addition of Section 7.305.**

Section 7.305 is hereby added to Title VII, Chapter 77 of the Charlevoix City Code and shall read as follows:

**7.305. City of Charlevoix Redevelopment Liquor License Program**

**A. Definitions**

As used in this section, the following definitions shall apply:

"Downtown Development Authority" (DDA) means the Authority created by and described in Title I, Article IV (Section 1.271, et seq.) of the City Code.

"Redevelopment Project Area" means land and buildings located within the boundaries of the DDA, which are described in Section 1.276 of the City Code.

"Real property interest" means a legally recognized right in land and buildings on that land and may be established by a deed, lease, land contract, contingent sale, contingent lease, or similar documentation.

**B. Application for Redevelopment Liquor License**

Applications for City approval of a Redevelopment Liquor License, as authorized by MCL 436.1521a(1)(b), as amended, may be submitted to the City Clerk for real property located within the Redevelopment Project Area. The application fee shall be paid at the time of the filing of the application. The application shall contain or be accompanied by the following:

1. If the applicant is not the owner, the applicant shall include written approval by the owner for the submission of the application.
2. The address of the real property at which the license will be used.
3. Documentation whether the applicant has a real property interest in the real property with which the license will be used.
4. Documentation showing that at least \$75,000 has been expended for the rehabilitation or restoration of the building that will house the licensed premises, or which makes a commitment for a capital investment of at least \$75,000 which will be expended prior to the issuance of the license.
5. Documentation of attempts to purchase a readily available escrowed or quota on-premise license within the City of Charlevoix, and why such license was not reasonably available.
6. Documentation regarding the type of business with which the license will be used.
7. The seating capacity of business with which the license will be used.
8. Additional information or documentation that will show whether the application complies with the standards contained in Section 7.303.A<sub>2</sub> and Section 7.305.D<sub>2</sub> of the City Code.

**C. Actions of City Clerk, DDA and City Council.**

The City Clerk shall determine whether the application is complete. If the application is complete and the application fee has been paid, the application shall be forward to the executive director of the Downtown Development Authority (DDA) for a written recommendation by the DDA board regarding whether the application meets the standards of the City Code for the issuance of the Redevelopment Liquor License and the reasons for DDA's recommendation. The DDA shall have 30 days from the submission of the application to its executive director to make its recommendation to the City Council or this requirement of a recommendation from the DDA shall be waived. Upon the expiration of 30 days from submission of the application to the executive director of the DDA or upon receipt by the City Clerk of the DDA's recommendation, whichever occurs first, the application and the DDA's recommendation, if any, shall be submitted to the City Council for consideration and written notice of the time and date on which the application will be considered by the City Council. An application that is incomplete shall neither be forwarded to the DDA nor to the City Council.

#### **D. Standards For Non-preferential Approval**

When an application is submitted for City approval of a Redevelopment Liquor License and the State Liquor Control Commission does not request or require that the City approve one application "above all others" or otherwise prioritize an application, the application may be approved, approved with conditions or denied by the City Council. Any conditions shall relate to compliance with the requirements or standards contained in the City Code and which are applicable to the application. In determining whether a license should be approved, the City Council shall consider the following requirements or factors (jointly, called the Standards):

1. If the applicant is not the owner, the owner of the real property with which the license will be used must approve in writing the submission of the application.
2. The applicant must have a real property interest in the real property with which the license will be used.
3. The business with which the license will be used shall be engaged in dining, entertainment or recreation.
4. The business with which the license will be used shall have a seating capacity of at least twenty-five (25) people.
5. At least \$75,000 shall have been expended for the rehabilitation or restoration of the building that will house the licensed premises, or which makes a commitment for a capital investment of at least \$75,000 or if a commitment has been made to expend at least \$75,000 prior to the issuance of the license, the applicant must agree that the fulfillment of this commitment shall be a condition of approval.
6. The applicant shall have attempted to purchase a readily available escrowed or quota on-premise license within the City of Charlevoix and shall establish that a license was not reasonably available.
7. The extent to which the business with which the license will be used will contribute a new or unique choice to the mix of businesses in the DDA district.
8. The extent to which the business with which the license will be used will promote economic growth in a manner consistent with adopted goals, plans or policies applicable to the DDA district, including but not limited to the DDA's Development Plan and all other master plans applicable to the DDA district.
9. Those factors related to a request for issuance of a new liquor license contained in Section 7.303.B. of the City Code.

#### **E. Standards for Preferential Approval**

When an application is submitted for a Redevelopment Liquor License and the State Liquor Control Commission requests or requires the City to approve one application "above all others" or otherwise prioritize an application, the following procedure shall apply:

1. The application must be approved or approved with conditions pursuant to Section 7.305.D. of the City Code.
2. The application shall be ranked or prioritized by the City Council in comparison to other pending and approved applications in a manner consistent with the request or requirements of the State Liquor Control Commission.
3. In evaluating the ranking or prioritization of an application, the Council shall consider the extent to which the application and supporting information or documentation exceeds the Standards contained in Section 703.5.D. and the detail and quality of the application and supporting information or documentation. The more detailed and precise the application and the supporting information or documentation and the greater the extent that the Standards contained in Section 705.3.D. are exceeded, then the higher the priority that such an application shall be given.

#### **F. Setting of Application Fee.**

The City Council shall adopt by resolution for an application fee for a Redevelopment Liquor License and may modify such fee from time to time.

#### **G. Zoning Compliance.**

The issuance of a Redevelopment Liquor License does not alter the requirement that the proposed land use must comply with all applicable zoning regulations.

**Section 2. Severability.**

If any section, provision or clause of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any remaining

**Section 3. Effective Date.**

This Ordinance shall become effective thirty (30) days after its enactment.

**CITY OF CHARLEVOIX**  
**REDEVELOPMENT LIQUOR LICENSE ADVISORY COMMITTEE MEETING MINUTES**  
Tuesday, November 13, 2012 — 9:00 a.m.  
210 State Street, City Hall, Council Chambers, Charlevoix, MI.

The meeting was called to order at 9:00 a.m. Mayor Carlson was unable to attend the meeting. The Clerk served as procedural Chair.

**I. Roll Call of Members Present**

City Manager: Rob Straebel  
DDA Director: Keith Carey  
City Clerk: Carol A. Ochs  
Members Present: Terry Left, Fred DiMartino, Amanda Wilkin, Vi Keller  
Absent: Gina Whitney

**II. Inquiry Regarding Possible Conflicts of Interest**

None.

[Note: The makeup of the committee consists of two existing bar/restaurant owners and one restaurant owner who may be a future candidate for a redevelopment liquor license.]

**III. Approval of Minutes**

A. Approval of September 11, 2012 Minutes

Motion by DiMartino, second by Left, to approve the September 11, 2012 minutes as presented. Motion passed by unanimous voice vote.

**IV. General Business**

A. Discussion of Redevelopment Liquor Licenses and Any Possible Conditions or Regulations

The Clerk reviewed that the State is no longer issuing "quotas" to municipalities, as they are concerned the cities will think they are entitled to that number of licenses. Instead, they say we can estimate the number we may be eligible for based on the investment total. Mr. Carey has estimated the City of Charlevoix may be eligible for 8-10 licenses. Mr. Carey has drafted a program that Council could adopt as an ordinance that Staff would like the Committee to review and make any changes. The Clerk said that, based on input so far from the Committee, it appears they would like the ordinance to limit that number to 3-4.

The Committee reviewed the draft ordinance. Mr. Carey and the Clerk explained that, under the particular section of the State law the City would be using (because we have an already-established DDA), the State requirement to be open 10 hours a day, 5 days a week will not apply. However, the City could put similar requirements in place. The Manager expressed concerns about unduly regulating new businesses moving into the district. Mr. Carey stated that the process does require the applicant to document the intended days and hours of operation. Mr. Carey also reminded the Committee of the unique uses of this license, such as for theaters, where requiring a certain number of days and hours could be difficult. The Clerk informed the Committee that there is no food requirement tied into this type of license, and Mr. Carey has verified that liquor liability insurance could still be obtained for a non-food business, but the business may pay more for that. The Committee discussed and decided that there was no need to place additional limitations on businesses such as hours of service or limited bar seating; businesses will weed themselves out.

The Committee discussed the number of licenses. The Manager stated that 3 licenses seems like a good place to start. Mr. Left would like to see only 2. Ms. Wilkin would prefer 4. Staff discussed that the idea was that we currently have one applicant and that Mr. Carey may have a party interested in another. This would leave one in reserve. Council can always revisit the ordinance later and, if the program is successful, could change it. However, the process of changing an ordinance does take around 90 days, so it would be helpful to have an available license. The remaining members seemed to agree that 3 might be a good number to start with. The Clerk explained that Council still could change that number, but that they wanted input from stakeholders before they make their decision. There was general agreement that there is nothing wrong with limiting the number and making the program more competitive.

Motion by Left, second by DiMartino, to limit the number of licenses available to 3.  
Motion passed, 3-1 voice vote.

Under section III. Application Process, item 2, the committee discussed several options for language that would favor existing businesses and discussed if there should be a cutoff date. It was agreed that business owners in the DDA at least two years should be favored, whether they are restaurant owners or some other business downtown, such as clothing store. People who have tried to start, remain, and succeed in the downtown area should be given additional consideration over someone new coming in.

Motion by Left, second by DiMartino, to change item III.2. to read: "Existing business owners who have been in business at least two years within the DDA district." Motion passed by unanimous voice vote.

**D R A F T**

**V. Public Comment**

The Clerk called for public comment. There were no comments.

**VI. Adjourn**

The Clerk stated if there were no objections, the meeting would adjourn.

There were no objections.

Meeting adjourned at 10:00 a.m.

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Carol A. Ochs

City Clerk

**CHARLEVOIX CITY COUNCIL  
AGENDA ITEM**

**AGENDA ITEM TITLE:** Consideration to approve the new design for the Clinton/Park Intersection

**DATE:** January 7, 2013

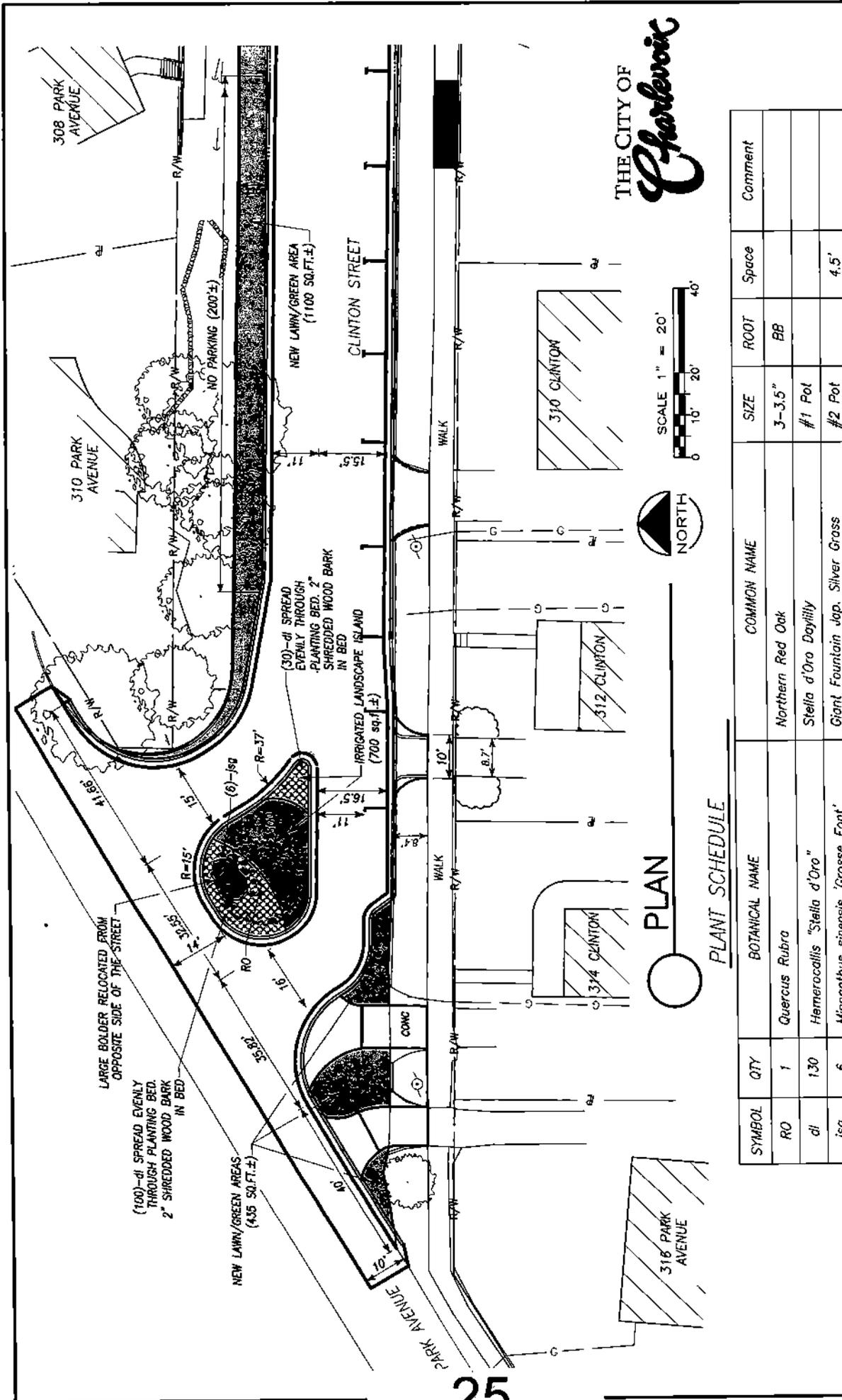
**PRESENTED BY:** Rob Straebel

**ATTACHMENTS:** 1. New design as presented at the public meeting.

**BACKGROUND INFORMATION:** As you are aware, at the previous Council meeting, it was decided to table the final approval from Council on the new layout for the Park Ave./Clinton St. intersection until after the community meeting. The community meeting was held on December 20, 2012 with a very small turnout. Overall, either from the public meeting or letters received regarding the new layout, all comments have been positive and in support. The letters/emails staff has received can be obtained from the Managers office if Council would like.

Overall the new design greatly improves the ingress/egress issues at 312 Clinton and adds an additional three parking spaces, in front of or adjacent to, 312 Clinton. Overall street widths have not decreased compared to the first design that was presented to Council on December 17, 2012. Fire Chief, Paul Ivan is also very comfortable with the new layout and does not have any issues with the turning radii as they are proposed.

**RECOMMENDATION:** It is staff's recommendation that Council approve the new layout for the Park Ave./Clinton St. intersection so that staff can give direction to MDC Contracting.



THE CITY OF  
*Charlotte*



PLAN

PLANT SCHEDULE

SYMBOL	QTY	BOTANICAL NAME	COMMON NAME	SIZE	ROOT	Space	Comment
RO	1	<i>Quercus Rubra</i>	Northern Red Oak	3-3.5"	BB		
dl	130	<i>Hemerocallis "Stella d'Oro"</i>	Stella d'Oro Daylily	#1 Pot			
jsg	6	<i>Miscanthus sinensis 'Grosse Font'</i>	Giant Fountain Jap. Silver Grass	#2 Pot		4.5'	

NOTES: SOO TURF AREAS  
IRRIGATION FOR TURF & OAK TREE (BATTERY POWERED CONTROLLER)

2013 INFRASTRUCTURE IMPROVEMENTS  
CLINTON STREET



**CHARLEVOIX CITY COUNCIL**

**AGENDA ITEM**

**AGENDA ITEM TITLE:** Liquor License Transfer, 230 Ferry Ave. (Kelsey B's)

**DATE:** 01.07.13

**PRESENTED BY:** Carol Ochs, City Clerk  
Attorney David Campbell  
Tina Wilder

**ATTACHMENTS:** Copies of liquor license application, including building and site plan. Financial information requirement has been met and filed in the Clerk's office, but has not been included in the packet for privacy reasons. Resolution for local approval.

**BACKGROUND INFORMATION:** This is a routine request for liquor license transfer, not a new license. Any outstanding issues with the property have been resolved by the requestors and staff. Council may choose to set a public hearing, but has not done so for the last few transfers.

**RECOMMENDATION:**

1. Council must choose whether or not to set a public hearing. If they choose to set a public hearing, they may make a motion to set a public hearing for Monday, January 21, 2013 at 7:00 p.m. in Council Chambers of City Hall.
2. If Council chooses not to hold a public hearing, the action will be a resolution later in the meeting.
  - a. Motion to [approve/disapprove] Resolution 2013-01-xx, Local Government Approval as presented.

**RECEIVED**

DEC 18 2012

City of Charlevoix

**CITY OF CHARLEVOIX**  
**Liquor License Application**

You **MUST** answer all questions and include all attachments or this application will be returned to you. Bring or mail this application to the City Manager, City of Charlevoix, 210 State Street, Charlevoix, Michigan 49720.

This form is designed to conform with the Michigan Liquor Control Code of 1998 being Public Act 1998 No. 58 (MCL 436.1101, et seq), and the City of Charlevoix Liquor License Ordinance.

Approval of a new liquor license or the transfer of an existing license is not a determination that the applicant has complied with other ordinances or regulations.

**I. APPLICANT INFORMATION** (if more than one applicant-please attach separate sheet):

Name of individual or business entity: T. J. WILDER ENTERPRISES, INC.

A. If the business entity is a partnership or a limited liability company provide the name of person or persons entitled to share in the profits of the partnership or limited liability company (attach separate sheets if needed):

\_\_\_\_\_

B. If the business entity is a corporation (attach separate sheets if needed):

Names and addresses of the officers and directors of the corporation:

TINA JO WILDER, President, Secy-Treasurer

811 E. Mitchell, Petoskey 49770

NO BOARD OF DIRECTORS.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

If a majority interest in the stock of such corporation is held by one person or one person's nominee, please provide the name and address of such person:

TINA JO WILDER, Sole Shareholder

811 E. Mitchell, Petoskey 49770

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## II CITIZENSHIP

Provide the citizenship of the applicant and all persons listed in Paragraph I, above.

American

If the applicant or any of the parties listed in Paragraph I above is/are a naturalized citizen of the United States, please provide the date(s) and place(s) of where citizenship was received.

## III ATTACHMENTS

All of the following attachments **MUST** be included. Label each attachment as shown.

- A. Character of the proposed business including a description of services to be provided to patrons and the manner in which intoxicating liquor will be sold.
- B. The length of time the applicant has been in the business of selling intoxicating liquor, either in a retail business or in a tavern or restaurant establishment.
- C. A statement including a map showing a location of the premises or place of business which is to be operated under the liquor license, including:
  - i) Street address and, if applicable, post office box number;
  - ii) A legal description of the premises or place of business including the applicant's ownership interest in the premises and business, and the zoning district in which the premises or place of business is located;
  - iii) A statement as to whether the applicant will offer entertainment at the licensed premise or place of business, and a description of the kind(s) of entertainment to be offered. This statement must address whether any entertainment will include public nudity. If the applicant is a corporation, attach the corporation's Articles of Incorporation, state in which incorporated, and proof of the date such a corporation was approved by the incorporating state.

- D. A copy of the building and site plan showing the entire structure and premises, specifically the areas within the building or structure where the license is to be utilized. Such site plan should demonstrate adequate off-street parking, lighting, refuse disposal facilities and plans, if any, for screening and noise control. A copy of a development plan which has previously been approved by the City is acceptable.
- E. All copies of financial information and documents provided to the Michigan Liquor Control Commission regarding financial responsibility.
- F. Please state whether the applicant has made an application for a similar liquor license on any premises other than the one described in this application and the disposition of that application.

#### **IV CONVICTION AND DISQUALIFICATION**

Applicant certifies that applicant or the individuals named in Paragraph I of this application with applicant being a duly authorized disclosed agent of any corporation or partnership listed in this application certifies applicant and all listed individuals listed on this application have never been convicted of a felony and that applicant and other individuals listed in this application are not disqualified and have never been disqualified to receive a license by reason of any matter or thing contained in this ordinance or in the laws of the State of Michigan.

#### **V STATEMENT OF GOOD FAITH**

Applicant certifies that applicant or the individuals named in Paragraph I of this application with applicant being a duly authorized disclosed agent of the corporation and/or partnership listed in this application states that applicant and all named individuals listed in Paragraph I will not violate any of the laws of the State of Michigan or the United States or any ordinances of the City of Charlevoix in the conduct of the business.

#### **VI AFFIDAVIT AND PERMISSION FOR CITY, COUNTY AND STATE OFFICIALS TO ENTER THE PROPERTY FOR INSPECTIONS:**

I agree the statements made above are true, and if found not to be true, this application and any approval will be void. Further, I agree to comply with the conditions and regulations in the Michigan Liquor Control Code of 1998 and the Charlevoix City Code. Further, I agree to give permission for officials of the City of Charlevoix and the State of Michigan to enter the property and any structures thereon where the licensed premises is located for purposes of inspection during normal business hours. Further, I understand that this is only a liquor license application and that such license conveys certain rights under the Charlevoix City Code and the Michigan Liquor Control Code, being Public Act 1998 No. 58, MCL 436.1101 et seq, and does not include any representation or

conveyance of rights in any other statute, zoning under the City of Charlevoix's Code or other property rights.

Finally, even if this liquor license is approved, I understand the City of Charlevoix Code and state statutes change from time to time. Therefore, I hereby acknowledge that any approval of this liquor license is subject to any change in the Charlevoix City Code or state statute as authorized by law.

Applicant's Signature: Tina Jo Wilder Date: 12/17/12  
TINA JO WILDER

=====

*For office use only*

Reviewer's action: Total fee: \$ 100<sup>00</sup> Check # 3586 Date received: 12-18-12

This matter was approved/denied by action of the City Council on \_\_\_\_\_

Signature: \_\_\_\_\_

CITY OF CHARLEVOIX  
Liquor License Application Continuation Sheet

III ATTACHMENTS

- A. Restaurant/bar. Same services will be provided as presently exist.
- B. Applicant is and will be new to the licensed liquor business.
- C. See attached Exhibit "A" incorporated by reference for map of subject premises.
  - i) 230 Ferry Avenue, Charlevoix, MI 49720.
  - ii) See attached Exhibit "B" incorporated by reference for legal description of subject premises.

Applicant, T. J. Wilder Enterprises, Inc. will be the owner of the business and a Tenant in the real estate. Fee title in the real estate will be held by Five Wilders, Inc., a Michigan Corporation of which Tina Jo Wilder is President and a 50% shareholder, the remaining 50% interest being held by Jeffery W. Wilder.

Zoning is Marine Commercial.
  - iii) Applicant will not offer entertainment in the form of public nudity. This licensed establishment has and will continue the existing dance permit.

See attached Exhibit "C" incorporated by reference for Articles of Incorporation with State's Corporate Entity Detail indicating filing date by State of MI.
- D. See attached Exhibit "D" incorporated by reference for site plan.
- E. See attached Exhibit "E" incorporated by reference for portions of MLCC Application.
- F. Applicant has never made application for a liquor license anywhere, other than this application.



## LEGAL DESCRIPTION

Located in the City of Charlevoix, County of Charlevoix and State of Michigan, to-wit:

Beginning at an iron pin located at the Intersection of the centerline of Stover Road and the centerline of Ferry Avenue; thence Northerly along the centerline of Ferry Avenue 158 feet to an iron pin; thence West at right angles to the East line of the Pere Marquette Railroad right-of-way; thence Southwestwardly along the East line of said Pere Marquette Railroad right-of-way to the centerline of Stover Road; thence Easterly along the centerline of Stover Road to the Place of Beginning.

Excepting therefrom Stover Road and Ferry Avenue highway right-of-ways and a part of said premises in the Southeast corner thereof now used as a public highway, said land being part of the Northeast 1/4 of Section 35, Township 34 North, Range 8 West.

EXHIBIT "B"

CITY



Michigan Department of Licensing and Regulatory Affairs  
Liquor Control Commission (MLCC)  
7150 Harris Drive, P.O. Box 30005 - Lansing, Michigan 48909-7505  
Toll Free (866) 813-0011 • www.michigan.gov/lcc

Business ID: \_\_\_\_\_  
Request ID: \_\_\_\_\_  
(For MLCC use only)

**Application for New Licenses, Permits, or Transfer of Ownership or Interest in License**  
**(Retail License Applicants)**

**PLEASE READ!** A copy of this completed application should be submitted to the local legislative body and local law enforcement agency where the license is/will be held so your request can be processed correctly.

**Part 1 - Please answer both questions below (if you are requesting a license as a part of your application)**

Are you requesting a new license as a part of your application?     Yes     No    (If yes, cashier is instructed to use fee code 4012)

Are you transferring an existing license as a part of your application?     Yes     No    (If yes, cashier is instructed to use fee code 4034)

If you answer **yes** to **both** questions, which type of license is to be transferred?    Resort Class C # 179630 & SDM # 179631

**Part 2 - Definitions**

**Off-premise licenses** - Licenses that are issued for the type of business where alcoholic beverages are sold for consumption elsewhere, and where consumption on the premises is not allowed. There are two main types; SDD (spirits and mixed drink spirits) and SDM (beer and wine). Please check the appropriate box for your request. Note: Any additional transfer or license fees may be calculated and collected at a later date.

**On-premise licenses** - Licenses that are issued to allow alcoholic beverages to be sold, served and consumed on the premises. Note: Any additional transfer or license fees may be calculated and collected at a later date.

**Part 3 - Inspection Fees (Check box applicable to your application)**

Inspection fee - 1 license (4036) \$70.00     Inspection fee - 2 licenses (4036) \$140.00     Inspection fee - 3 licenses (4036) \$210.00

**Part 4 - Transaction Information (Check boxes applicable to your application)**

New license     Transfer stock/interest     Add/Drop space     Transfer location     Transfer classification     Change status (self incorporation)

New permit     Transfer ownership     Transfer limited partnership interest

Name(s) of current licensee:    STRAND ENTERPRISES, INC.

Current licensed address:    230 Ferry, Charlevoix, MI 49720

**Part 5 - License Types and Permits (Check boxes applicable to your application)**

MCL 436.1525(1) provides that license fees shall be paid at the time of filing applications. (All checks/money orders should be made payable to the State of Michigan)

Off Premise License Type:	Base Fee:	Off Premise Permits:	Base Fee:
<input checked="" type="checkbox"/> SDM License	\$100.00	<input checked="" type="checkbox"/> Sunday Sales Permit (AM)	\$160.00
<input type="checkbox"/> SDD License	\$150.00	<input type="checkbox"/> Sunday Sales Permit (PM) (Held with SDD license)	\$22.50
<input type="checkbox"/> Resort SDD License	Upon Licensure	<input checked="" type="checkbox"/> Catering Permit	\$100.00
<input type="checkbox"/> Transfer Resort SDD license	\$150.00	<input type="checkbox"/> Beer and Wine Sampling	No charge *
		<input type="checkbox"/> Living Quarters	No charge *

\*Note: MCL 436.1529(5)(b) provides that an inspection fee shall not be required for the issuance of a new permit, or the transfer of an existing permit, if the permit is issued or transferred simultaneously with the issuance or transfer of a license or an interest in a license.

Off Premise Permission(s):	Base Fee:
<input type="checkbox"/> Off-premise Storage	No charge
<input type="checkbox"/> Direct Connection(s)	No charge
<input type="checkbox"/> Gas Pumps	No charge



Michigan Department of Licensing and Regulatory Affairs  
 Liquor Control Commission (MLCC)  
 7150 Harris Drive, P.O. Box 30005 - Lansing, Michigan 48909-7505  
 Toll Free (866) 813-0011 • www.michigan.gov/lcc

Business ID: \_\_\_\_\_  
 Request ID: \_\_\_\_\_  
 (For MLCC use only)

**Application for New Licenses, Permits, or Transfer of Ownership or Interest in License**  
**(Retail License Applicants)**

Part 5 Continued - License Types and Permits (Check boxes applicable to your application)			
<b>On Premise License Type:</b>	<b>Base Fee:</b>	<b>On Premise Permits:</b>	<b>Base Fee:</b>
<input type="checkbox"/> B-Hotel License	\$600.00	<input type="checkbox"/> New Banquet Facility Permit	\$600.00
<input type="checkbox"/> A-Hotel License	\$250.00	<input checked="" type="checkbox"/> Sunday Sales Permit (AM)	\$160.00
<input type="checkbox"/> Brewpub license	\$100.00	<input checked="" type="checkbox"/> Sunday Sales Permit (PM)	15% of license fee
<input checked="" type="checkbox"/> Class C License	\$600.00	<input checked="" type="checkbox"/> Catering Permit	\$100.00
<input type="checkbox"/> Club License	\$300.00	<input type="checkbox"/> Outdoor Service	No charge *
<input type="checkbox"/> Resort License	Upon Licensure	<input type="checkbox"/> Entertainment Permit	No charge *
<input type="checkbox"/> Redevelopment License	Upon Licensure	<input checked="" type="checkbox"/> Dance Permit	No charge *
<input type="checkbox"/> Tavern License	\$250.00	<input type="checkbox"/> Topless Activity Permit	No charge *
<input type="checkbox"/> G-1 License	\$1,000.00	<input type="checkbox"/> Banquet Facility Permit	No charge *
<input type="checkbox"/> G-2 License	\$500.00	<input type="checkbox"/> Living Quarters	No charge*
<input type="checkbox"/> Aircraft License	\$600.00	<input checked="" type="checkbox"/> Specific Purpose Permit (list activity below):	No charge *
<input type="checkbox"/> Watercraft License	\$100.00	Hours requested: <u>Food &amp; Guest Registration</u>	
<input type="checkbox"/> Train	\$100.00	<input type="checkbox"/> Extended Hours Permit (check type below):	No charge *
<input type="checkbox"/> Continuing Care License	\$600.00	<input type="radio"/> Dance <input type="radio"/> Entertainment	
		Hours requested: _____	
		<input type="checkbox"/> New Additional Bar Permit (s)** Indicate #: _____	\$350.00
<b>On Premise Permission(s):</b>	<b>Base Fee:</b>	*Note: MCL 436.1529(5)(b) provides that an inspection fee shall not be required for the issuance of a new permit, or the transfer of an existing permit, if the permit is issued or transferred simultaneously with the issuance or transfer of a license or an interest in a license.	
<input type="checkbox"/> Off-premise Storage	No charge	**Note: \$350.00 is due for each additional bar requested. This fee must also be included when calculating the total amount due for Sunday Sales Permit (PM).	
<input type="checkbox"/> Direct Connection(s)	No charge		
<input type="checkbox"/> Gas Pumps	No charge		

**Part 6 - Applicant Information**

Name of entity/person that will hold the license: T. J. WILDER ENTERPRISES, INC. d/b/a KELSEY B'S

- Corporations/Limited Liability Company(s) - State the name as it is filed with the State of Michigan Corporation Division and provide a copy of your articles.
- Corporations/Limited Liability Company(s) must provide a list of stockholders/members in Part 8 of this form.
- If your company has not filed with the State of Michigan, you must submit a copy of a filed certificate of authority to transact business in Michigan along with your application.

Street address of proposed licensed establishment: 230 Ferry Zip Code: 49720

City, Village: Charlevoix Township: \_\_\_\_\_ County: Charlevoix

Contact person for your company: TINA JO WILDER

Business Phone: 231-347-6265 Cell Phone: 231-838-6684 E-mail address: twild231@aol.com

Do you have an attorney that you would like us to contact?  Yes - See below  No

Attorney name and address: DAVID L. CAMPBELL, Esquire

Office Phone: 231-547-9989 Cell Phone: 231-590-3758 E-mail address: david@dlcampbell.net



Michigan Department of Licensing and Regulatory Affairs  
 Liquor Control Commission (MLCC)  
 7150 Harris Drive, P.O. Box 30005 - Lansing, Michigan 48909-7505  
 Toll Free (866) 813-0011 • www.michigan.gov/lcc

Business ID: \_\_\_\_\_  
 Request ID: \_\_\_\_\_  
 (For MLCC use only)

**Local Government Approval**

(Authorized by MCL 436.1501)

**Instructions for Applicants:**

- Provide a copy of your Application for New Licenses, Permits, or Transfer of Ownership or Interest in License (form LCC-3011 for Retail or form LCC-3015 for Manufacturers and Wholesalers) to the local unit of government.

**Instructions for Local Legislative Body:**

- Complete this resolution, or provide a resolution, a letter of certification from the clerk, or minutes from the meeting at which this request was considered.

At a \_\_\_\_\_ regular \_\_\_\_\_ meeting of the \_\_\_\_\_ City of Charlevoix City \_\_\_\_\_ council/board  
(regular or special) (township, city, village)  
 called to order by \_\_\_\_\_ Mayor Norman L. Carlson, Jr. \_\_\_\_\_ on \_\_\_\_\_ January 7, 2013 \_\_\_\_\_ at \_\_\_\_\_ 7:00 pm \_\_\_\_\_  
(date) (time)  
 the following resolution was offered:

Moved by \_\_\_\_\_ and supported by \_\_\_\_\_  
 that the application from \_\_\_\_\_ T. J. Wilder Enterprises, Inc. \_\_\_\_\_  
(name of applicant)

for the following license(s): \_\_\_\_\_ transfer Resort Class C & SDM with Sunday Sales, Catering, Dance \_\_\_\_\_  
(e.g. Class C, Tavern, B-Hotel, Micro Brewer)

and the following permits, if applied for:  Dance Permit  Entertainment Permit  Topless Activity Permit

Extended Hours Dance Permit Hours Required: \_\_\_\_\_

Extended Hours Entertainment Permit Hours Required: \_\_\_\_\_

to be located at \_\_\_\_\_ 230 Ferry Ave., Charlevoix, MI 49720 \_\_\_\_\_

be considered for \_\_\_\_\_  
(approval or disapproval)

**Approval**

Yeas: \_\_\_\_\_

Nays: \_\_\_\_\_

Absent: \_\_\_\_\_

**Disapproval**

Yeas: \_\_\_\_\_

Nays: \_\_\_\_\_

Absent: \_\_\_\_\_

It is the consensus of this body that it \_\_\_\_\_ this application be considered for  
(recommends/does not recommend)

approval by the Michigan Liquor Control Commission.

I hereby certify that the foregoing is true and is a complete copy of the resolution offered and adopted by the \_\_\_\_\_ City of Charlevoix \_\_\_\_\_  
 council/board at a \_\_\_\_\_ regular \_\_\_\_\_ meeting held on \_\_\_\_\_ January 7, 2013 \_\_\_\_\_  
(regular or special) (date) (township, city, village)

Name and title of authorized officer (please print): **Carol A. Ochs, City Clerk** \_\_\_\_\_

Signature and date of authorized clerk: \_\_\_\_\_

Phone number and e-mail of authorized officer: **231-547-3250; cochs@cityofcharlevoix.org** \_\_\_\_\_

## CHARLEVOIX CITY COUNCIL

### AGENDA ITEM

**AGENDA ITEM TITLE:** Consideration to Approve Fiber Optic Agreement with Merit Network, Inc.

**DATE:** January 7, 2013

**PRESENTED BY:** Rob Straebel

**ATTACHMENTS:** Fiber Optic Agreement

**BACKGROUND INFORMATION:** The City and Charlevoix School District, joint owners of fiber optic cable, have been working on an agreement for Merit Network to purchase 4 strands of fiber optic cable owned by both entities. The agreement establishes that Merit will not formally own the strands but is agreeing to only use the fiber optic lines within the terms of the agreement. Merit will also be utilizing 4 strands from the School District that the City does not own. Fiber optic route is approximately 3.4 miles.

In 2012, consultant John Childs identified fiber optic excess capacity that the School District and City could sell. According to his calculations, both entities could sell up to 25% of the network's capacity without compromising service levels or future needs of the fiber optic technology. The 4 strands equate to just over 1% of the available excess capacity.

Term of the agreement is until 2032 or according to provisions in #3. The City will receive a one-time payment of \$7,500 plus \$316.80 per year to assist in paying for yearly maintenance on the fiber optic network. (School District to receive \$9,500 and \$401 in annual maintenance payments because Merit will be using fiber optic lines solely owned by the School District.) School District and the City will earmark the maintenance funds in a specific line item to offset future routine maintenance expenses on the fiber network.

Merit Network was awarded a multi-million dollar grant through federal stimulus dollars to expand broadband throughout Michigan. Grant funding is used to install the "middle mile" of fiber optic lines making it more financially attractive for private companies to connect the "last mile" for businesses and residents. Selling the excess capacity to Merit will also give Charlevoix non-profits, schools and library a competitive choice to choose from.

Jim Young has been working with the School District's attorney on the language for the final agreement. The School Board approved the agreement in December of 2012.

**RECOMMENDATION:** Motion to Approve Agreement for Sale of Excess Capacity with Charlevoix School District and Merit Network, Inc. contingent upon City Attorney and City Manager's approval of final agreement language.

**AGREEMENT  
FOR  
SALE OF EXCESS CAPACITY**

This is an agreement (this "Agreement") by and between the **Charlevoix Public Schools**, a Michigan general powers school district organized and operating under the provisions of the Revised School Code, MCLA 380.1, *et seq.*, as amended ("**CPS**"), 104 East St. Mary's Drive, Charlevoix, Michigan 49720-1325; and the **City of Charlevoix**, a Michigan municipal corporation ("**City**") of 210 State Street, Charlevoix, Michigan 49720-1325; and **Merit Network, Inc. ("Merit")**, a Michigan non-profit corporation governed by Michigan's public universities and located at 1000 Oakbrook Drive, Suite 200, Ann Arbor, Michigan 48104-6794 (individually, a "Party" and collectively, the "Parties"). This Agreement will be effective when executed by the Parties.

WHEREAS, CPS and City are the owners, operators, and fiscal agent for an Educational Telecommunications System (the "System") in the Charlevoix Public Schools, which presently includes aerial strands and fiber optic cables attached to existing utility poles within City of Charlevoix and portions of Charlevoix County located in Michigan, pursuant to the Michigan Telecommunications Act, MCL 484.2307 and other applicable authority;

WHEREAS, the System has excess capacity for a limited period of time;

WHEREAS, Merit is interested in purchasing excess capacity from Charlevoix Public Schools and City of Charlevoix for a limited period of time;

WHEREAS, owners of educational telecommunications systems are permitted to sell excess capacity pursuant to MCL 484.2307(6) and other applicable authority;

WHEREAS, Merit has agreed that its use of the excess capacity will comply with the use restrictions contained in MCL 484.2307(3) and other applicable law;

WHEREAS, CPS has complied with the requirements for "selling" excess capacity by holding a public hearing and adhering to the requirements of MCL 484.2307.

NOW THEREFORE, CPS, City, and Merit, in consideration of the mutual promises, covenants, and conditions contained in this Agreement mutually agree as follows:

1. Sale of Excess Capacity (SEC)

CPS and City hereby sells for a limited term to Merit the capacity of four (4) fiber optic filaments for Merit's exclusive use of the capacity on the route described in Section 2 "Location" below.

2. Location

The capacity of the four (4) fiber optic filaments sold to Merit for a limited term consists of the following route:

Route is defined as four strands from Mercer Blvd and Petoskey Ave/US-31 location, Charlevoix, Michigan to Bridge St/US-31 and M-66/US-31 location, Charlevoix, Michigan (3 miles) as more specifically shown in the route map attached as Attachment A. See Attachment B "Fiber Strand Splicing Details" for a detailed description and map of how the splicing will be handled for these four (4) fiber optic filaments.

Fiber route mileage for route is 3.4 miles.

3. Limited Term

The initial term of this Agreement shall be effective when the Acceptance Testing (under Section 8 "Responsibilities of the CPS and City" below) is complete and the payment for the SEC has been made or in the event that Merit waives Acceptance Testing since the fiber is operational, when Merit notifies the Grantors that Acceptance Testing is waived. The initial term of this Agreement is effective until the shorter of until September 2032 or as long as CPS and City is allowed to and does in fact maintain its facilities on the applicable poles. In addition, this Agreement shall terminate on the happening of any of the following events:

- (a) If a Party defaults in the performance of any obligation imposed under this Agreement, and the default remains uncured by the defaulting Party for (30) days after the other Party has given a written notice of default, the non-defaulting Party shall have the right to terminate this Agreement.
- (b) By mutual agreement of the Parties.
- (c) If any warranty, representation, or certification made by either Party in this Agreement was false in any material respect when made or furnished.
- (d) If Merit makes an assignment or any general arrangement for the benefit of creditors except as provided in Section 16 "Assignability," or files a petition or otherwise commences, authorizes, or acquiesces in the commencement of a proceeding under any bankruptcy law for the protection from creditors, or has a petition filed against it, or otherwise becomes bankrupt or insolvent (however evidenced), or is generally unable to pay its undisputed debts as they fall due.
- (e) The pole owner terminates the pole attachment agreement pursuant to the terms of CPS and City pole attachment agreement with the pole owner for reasons not involving fault by CPS and City.
- (f) CPS and City loses its right to occupy public rights of way in the applicable locations.

After the initial term, this Agreement may continue in effect from year to year until and unless either Party gives the other notice of the intention to terminate before 180 days from the next expiration.

4. Purchase of Excess Capacity

Merit hereby agrees to purchase for a limited term the capacity of four (4) fiber optic filaments as set forth in Section 2 "Location." Merit understands and acknowledges that it acquires no ownership or title in the four (4) fiber optic filaments, and is acquiring only the use of the capacity of the four (4) fiber optic filaments for the limited term of this Agreement. At the conclusion of the term of this Agreement, the use of the capacity of these four (4) fiber optic filaments will be returned to CPS and City, unless mutually agreed in writing by both Parties.

5. Payment

Merit shall pay all other costs beyond initial construction, of construction and splicing into the fiber referred to in Section 2 "Location".

Merit will be charged a one-time payment of [\$17,000] for route defined in Section 2 "Location" see Attachment A.

Merit will promptly pay Grantors 15% of the agreed upon fee as down payment for the Sale of Excess Capacity upon execution of this Agreement by all Parties and receipt of the signed Agreement, invoice, and "As-Builts" for the fiber. The remainder shall be due after Acceptance Testing is completed or waived by Merit, and upon receipt of the invoice. CPS or City will invoice Merit at least 30 days in advance of any payment due date.

Merit also agrees to pay annually \$105.60 per mile per pair for routine fiber maintenance (total \$718.08 annually), The CPS or City will invoice Merit on July 1 of each year for this fee. Maintenance for the period from the Effective Date of this Agreement through September 2032 will be prorated.

6. Maintenance

CPS and City shall be responsible for maintaining and repairing the physical fiber. Routine maintenance shall include without limitation fiber repair, fiber tagging, maintenance of pole attachments, make ready, pole transfers for the poles associated with this Agreement, routine inspections, preventative patrols, MISS Dig services, and other similar routine services for the fiber route defined above.

The annual per mile maintenance fee does not include urgent repair and/or externally required "moves" of fiber (required by MDOT, permit Grantors, etc.) CPS and City will pay immediately all costs to repair and/or for externally required "moves" of the fiber

(required by MDOT, permit Grantors, etc.) and will provide to Merit an itemized bill for Merit's pro-rated share of the costs.

7. Responsibilities of Merit Network, Inc.

Merit agrees that it shall be responsible for securing any and all federal, state or local governmental approvals necessary for its purchase of capacity and use of the fiber optic filaments pursuant to this Agreement. In the event Merit is unable to obtain federal, state or local governmental approvals necessary for its purchase of excess capacity and use of these fiber optic filaments in a form and content satisfactory to Merit in its sole discretion within one hundred eighty (180) days of the date of execution of this Agreement, Merit may terminate this Agreement by written notice to CPS and City without further liability or responsibility to CPS and City. Merit's right to terminate this Agreement as set forth above shall expire upon commencement by Merit of the use of excess capacity purchased.

Merit agrees that it will obtain approval from CPS and City prior to the installation of equipment at current termination points or the intent to splice along the current fiber path. It should be noted that current termination points are not necessarily accessible twenty-four (24) hours a day, seven (7) days a week.

Merit will own, operate, and maintain all equipment and related components.

Merit will cooperate in Acceptance Testing of the fibers with the goal of having it complete within thirty (30) days of the signing of this Agreement.

Upon invoicing, Merit will promptly pay the SEC fee and the annual maintenance fees.

Merit will pay its fair share, based on pro-rated fiber strand count, for any repairs that should occur, provided CPS and City will seek and claim damages against all third parties causing outages. Merit will also pay its fair share, based on pro-rated fiber strand count, of urgent repair and/or externally required "moves" of fiber (required by MDOT, permit Grantors, etc.), and these fees will be invoiced to Merit by the CPS and City if CPS and City is required to pay such costs.

Merit will only use the four (4) fiber optic filaments for the purposes permitted in MCL 484.2307(3) and other applicable law.

Merit agrees to be fully bound by the terms and conditions contained in the Fiber Optic Project Agreement between CPS and the City of Charlevoix dated December 12, 2008 (the "Fiber Optic Agreement"). In the event of a conflict between the Fiber Optic Agreement and this Agreement, the terms and conditions contained in the Fiber Optic Agreement shall govern and control.

8. Responsibilities of CPS and City

CPS and City agree to endeavor to maintain all rights, licenses, permits, authorizations, rights of way, easements, and other agreements (the "Underlying Rights") which are necessary in order for Merit to use this excess capacity, and will pay the respective fees, except to the extent fees are due to Merit's use of the fibers. In the event an Underlying

Right expires or terminates prior to the end of the term of this Agreement, CPS and City agrees to use commercially reasonable efforts to renew or replace the terminated Underlying Rights.

CPS and City agree to cooperate in Acceptance Testing of the fibers, with the goal of having it complete within 30 days of the signing of this letter. Merit will test the fiber in accordance with generally accepted procedures and standards with fifteen (15) business days advance notice so that CPS will be able to have support staff available and present. Merit will document testing and provide CPS with electronic copies of test results. The Acceptance Testing will be complete when the test results show that the fiber meets acceptable fiber specifications.

CPS and City agrees to keep the fibers for which the excess capacity is granted free of any rights or claims or liens by any third party.

CPS and City will provide to Merit upon request, the "As-Builts" for the four (4) strands of fiber on the routes described in Section 2 "Location."

9. Other Understandings

CPS and City will maintain legal title to the fiber network; however, for the purposes of accounting, Merit will be considered the owner of the right to use the excess capacity.

If at any point during this Agreement Merit reasonably determines that the fibers are no longer needed, Merit will notify CPS and City, and within ninety (90) days return the fibers to CPS and City. There will be no refund of the SEC fees paid. Once the fibers are returned, Merit will no longer be obligated to pay the annual maintenance fee or any other costs to CPS and City.

At any time during the life of this Agreement, if Merit ceases to serve as a non-profit, educational service network, this Agreement shall be null and void. There will be no refund of the SEC fees paid.

CPS and City will not use the SEC fibers during the term of this Agreement; and that Merit has exclusive use of the SEC fibers during the term of this Agreement.

This Agreement is not transferable. No strands may be sub-leased without the express prior written consent of CPS and City, which consent CPS and City may withhold in its reasonable discretion.

Merit has the right to use the fibers for any purpose consistent with and in full compliance with the purposes of Section 307 of the Michigan Telecommunications Act 1991 PA 179, and to connect its Affiliates and Members to the fiber consistent with its

Attachments Policy. Merit shall be responsible for all use of the Excess Capacity by its Affiliates and Members.

Merit has the right to connect lateral segments to the SEC fibers at locations determined by CPS and City, such as splice points or other interconnection points and must notify Grantors of its intent to connect a lateral to the SEC fibers. Lateral segments will be ordered and paid for by Merit. Merit must use CPS and City fiber maintenance vendor for all lateral connections. No interconnection of a lateral segment with the System shall under any circumstances be permitted without the express prior written consent of CPS and City, which consent CPS and City will not unreasonably withhold in its reasonable discretion.

In the event of a termination of all or any portion of the SEC grant prior to the end of the 20 year term because of a loss of a necessary Underlying Right that cannot be replaced or because applicable legislation prohibits CPS and City from continuing to provide the SEC, CPS and City will refund to Merit any prorated share of the SEC fee already paid. In addition, Merit, CPS, and City will work together to make the transition to an alternative network in a manner causing the least disruption to existing Merit services.

Merit and CPS and City will meet annually at a time to be mutually determined to review the operation of the fiber and other topics related to this SEC. Merit, CPS and City can decide to not hold the meeting if they mutually agree.

CPS and City will provide Merit with access to CPS and City facilities for emergency maintenance at any time. Except for emergencies, routine maintenance when possible should be conducted during regular business hours from 8:00 AM to 5:00 PM, Monday through Friday.

10. Insurance

Merit shall obtain and maintain such insurance as it deems necessary to fully cover its use of the capacity of the four (4) fiber optic filaments and to provide adequate casualty and general liability coverage for such use of this capacity. At the request of CPS, Merit shall provide evidence of the insurance required in this Paragraph 10. CPS and City shall maintain physical plant insurance on the fiber plant including fiber for which the excess capacity is granted.

11. Warranty

CPS and City warrants to Merit that it has the legal authority to sell the Excess Capacity to Merit and to enter into the terms of this Agreement.

12. Indemnification

Merit agrees to indemnify, protect, defend, and hold harmless CPS and City from and all claims, losses, liabilities, causes of action, demands, judgments, decrees, proceedings, or expenses, including without limitation, reasonable attorney's fees, as well as arising out of or resulting from any negligent acts or omissions of Merit's officers, agents, employees, contractors, successors, or assigns in the use of this excess capacity. Merit also agrees to indemnify, protect, defend, and hold harmless CPS and City from any and all claims, losses, liabilities, causes of action, demands, judgments, decrees, proceedings, or expenses, including without limitation, reasonable attorney's fees as a result of the use of the Excess Capacity.

Merit acknowledges that CPS is a Michigan general powers school district organized and operating under the provisions of the Revised School Code, MCL 380.1, *et seq.*, as amended, and as a general powers school district, CPS may not have the legal authority to indemnify Merit or any third party. Subject to the foregoing and to the extent permitted by law, to the extent of insurance coverage, if any, CPS and City will indemnify and hold Merit harmless, its elected officials, officers, employees, agents, representatives, and affiliates from any demand, claim, suit, loss, liability, or damage, including attorney's fees that CPS and City may incur by reason of, or arising out of, any claim made by a third party that is proximately caused solely by an act or omission of CPS and City, its directors, officers, agents, employees, or subcontractors.

13. Notices

All notices or communications required or permitted to be given under this Agreement shall be given as follows:

To Charlevoix Public Schools

Charlevoix Public Schools  
Attn: Superintendent of Schools  
104 East St. Mary's Drive  
Charlevoix, Michigan 49720

With a copy to:

Charlevoix Public Schools  
Attn: Technology Coordinator  
104 East St. Mary's Drive  
Charlevoix, Michigan 49720

To City of Charlevoix

City of Charlevoix  
Attn: City Manager  
210 State Street  
Charlevoix, Michigan 49720

To Merit

Merit Network, Inc.  
Attn: Chief Financial Officer  
1000 Oakbrook Drive, Suite 200  
Ann Arbor, Michigan 48104-6794

14. Entire Agreement

The terms of this Agreement contain all of the terms of the agreement between the Parties with respect to this transaction and such agreement may only be amended by written mutual consent of the Parties.

15. Interpretation and Severability

If any provision of this Agreement is overbroad or unenforceable, it shall nevertheless be enforced to the extent permitted under applicable law. The unenforceability of any provision of this Agreement shall not affect the enforceability of the remaining provisions of this Agreement.

16. Assignability

This Agreement is not assignable without the advance written consent of CPS and City, which shall not be unreasonably withheld; provided, Merit may grant a security interest in its rights under this Agreement in favor of a third-party ordinarily associated as being a traditional financing institution. In the event the secured party must enforce its secured interest, and execute on the collateral, the secured party will assume the position of Merit with all rights and responsibilities under this Agreement, and the terms and conditions of this Agreement shall be binding upon the secured party. In any agreement between Merit and a secured party, the secured party shall specifically acknowledge and agree to be bound by the terms and conditions contained in this Agreement.

17. Governing Law

This Agreement shall be governed by and enforced in accordance with the laws of the State of Michigan.

18. Conflict of Interest:

Merit confirms that none of its employees are related to CPS superintendent or members of its current board of education or the City administration.

IN WITNESS WHEREOF, Merit, CPS and City have executed this Agreement as of the date endorsed below.

Charlevoix Public Schools,  
a Michigan general powers school district

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

City of Charlevoix,  
a Michigan municipal corporation

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Merit Network, Inc.,  
a Michigan non-profit corporation

By: \_\_\_\_\_

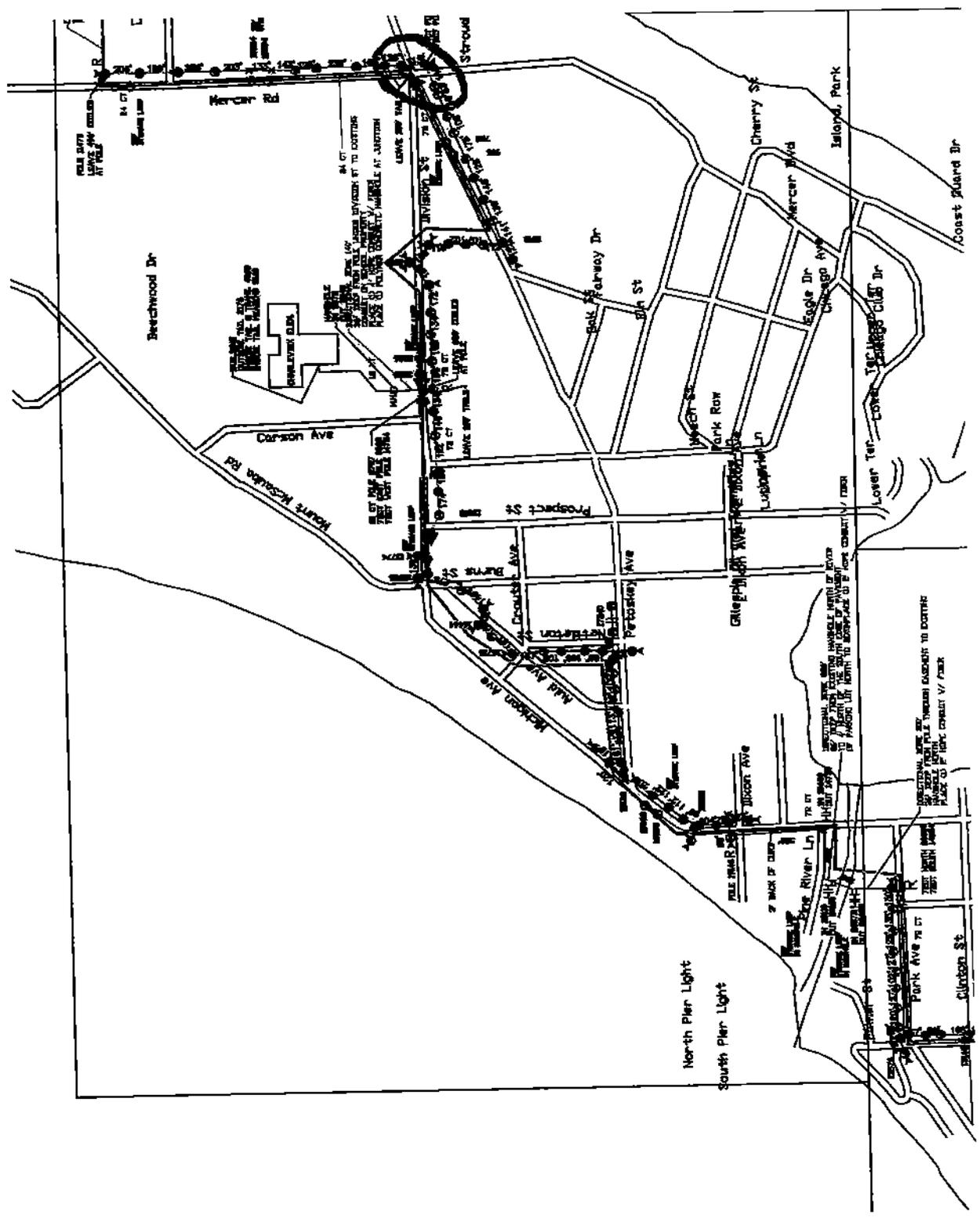
Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

w:\wdsystem\wddocs\cliedoc\294\1\00820189.docx

# Attachment A







## Attachment B Fiber Strand Splicing Details

10/26/12

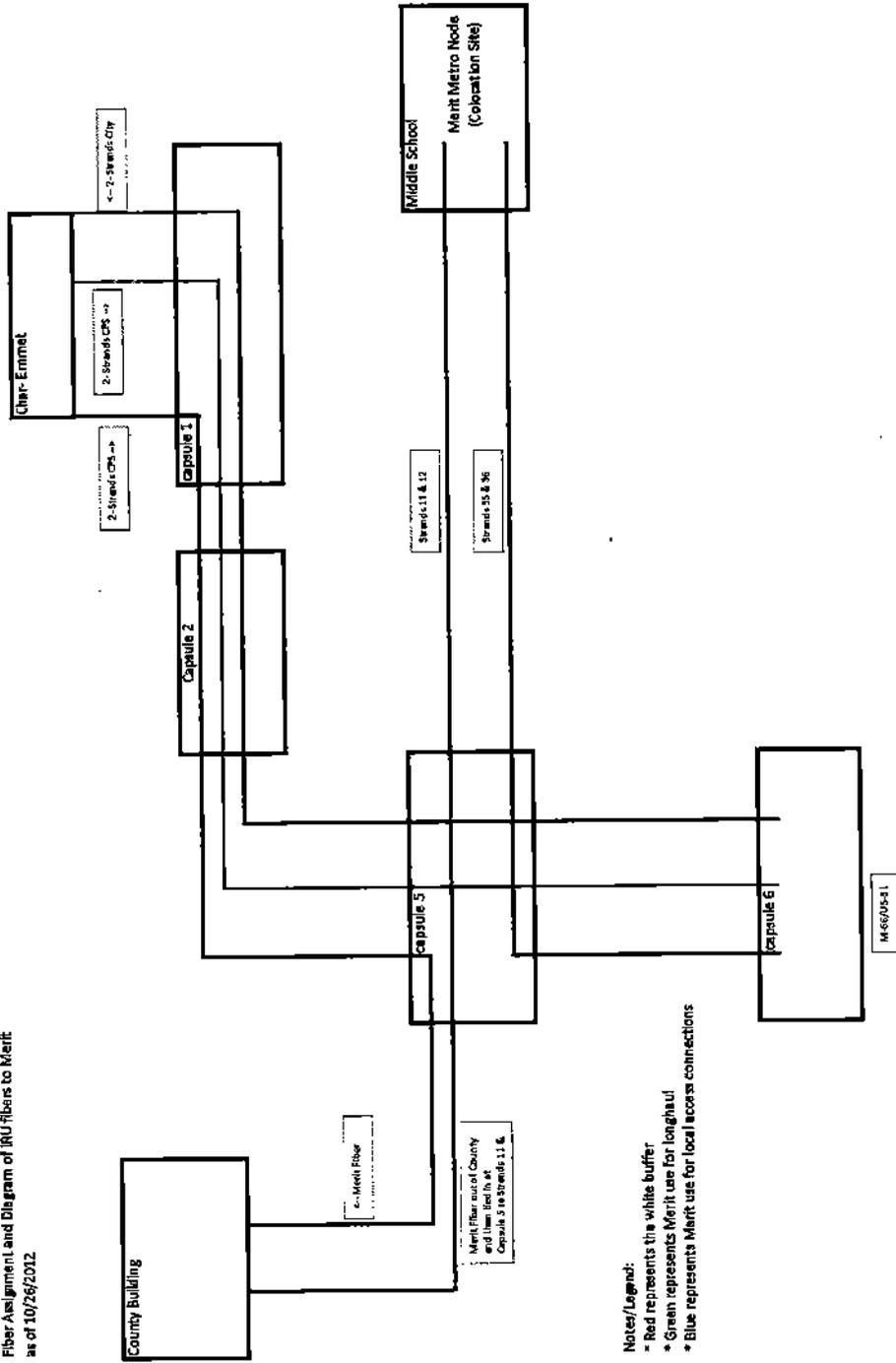
***Note: This Agreement accounts for 4 of the 6 strands outlined below, which is for Merit's backbone [long-haul]. There is a separate agreement between Merit Network and Charlevoix Public Schools for the remaining 2-strands, which is used for 'local' access – to connect other public organizations within the Charlevoix community.***

Based on a discussion between Carlos Ramos, Merit Network Fiber Engineer and Scott Mays, Charlevoix Public Schools Technology Coordinator

- Merit will obtain the use of 6 strands of the 24 count fiber from the Charlevoix-Emmet ISD to the splice capsule #1. Merit has use of strand number 11 and 12, the last two strands in the blue buffer and 21 thru 24, the last four strands in the orange buffer.
- The last four strands of the orange buffer on the 24 count fiber are spliced to the last four strands of the green buffer of the 72 count at splice capsule #1, strands 23 and 24 will be spliced to strands 71 and 72 (last strands in the white buffer) to tie in the county/Merit owned strands.
- Merit will use strands 11 and 12 and 35 and 36 at the middle school to tie in Merit equipment. Merit will also cut into strands 11 and 12 to tie in the county building at capsule 5.

See diagram below for additional clarification.

Charteris Public Schools and City Fiber  
 Fiber Assignment and Diagram of INU Fibers to Merit  
 as of 10/26/2012



- Notes/Legend:
- Red represents the white buffer
  - \* Green represents Merit use for longhaul
  - \* Blue represents Merit use for local access connections

**CHARLEVOIX CITY COUNCIL  
AGENDA ITEM**

**AGENDA ITEM TITLE:** Appointments

**DATE:** ~~December 17, 2012~~ January 7, 2013

**PRESENTED BY:** Carol Ochs

**ATTACHMENTS:** Appointment listing

**BACKGROUND INFORMATION:**

**The following appointments are expired:**

DDA, Jeannine Wallace (4/12, until successor appt.)

Mayoral Appt – 4 yr term

**The following appointments will expire 12/31/2012:**

Shade Tree Commission, Ken Polakowski

Mayoral Appt – 3 yr. term

Compensation Commission, Conrad "Bud" Klooster

Mayoral Appt – 5 yr term

ZBA, Richard Clem & Gary Anderson (must be made w/in 30 day of exp.)

Council Appt – 3 yr term

2 Council members to Board of Review – 1 yr term (currently Steven & Kusina, must take oath w/in 10 days of appt)

**The following vacancies exist:**

Shade Tree Commission, term expiring 12/31/13

Mayoral Appt – 3 yr. term

Housing Commission, term expired 04/12 (held by Joan Buday, 547-2474)

Mayoral Appt – 5 yr term

**RECOMMENDATION:**

Motions to appoint/reappoint various members to various boards as needed.

**CHARLEVOIX CITY COUNCIL**

Norman L. (Boogie) Carlson, Jr. (Lisa) 105 Eaton Ave.	11/2010 (11/2004)	547-1938 547-0152 675-4561	Business Home Cell
Jim Young, City Attorney 104 E. Forest Home, P.O. Box 398 Bellaire, MI 49615		231-288-7700 231-533-6225	Cell Bellaire Fax
<i>If not available, contact Bryan Graham, Assistant City Attorney at Bellaire Office: 231-533-8635</i>			
Carol Ochs, City Clerk 210 State St.	11/2011 (06/2004)	547-3250 547-3617 547-9352 <small>(Please use sparingly)</small>	City Hall Fax Home
<u>First Ward</u> Dennis Kusina (Peggy) 205 Elm St.	11/2011 (11/2007)	547-4844	Home
Lyle Gennett (Gayle) 217 Clinton St	11/2012 (11/2006)	547-5598 675-5398	Home Cell
<u>Second Ward</u> Bryan Vollmer (Jenn) 405 W. Lincoln	11/2011 (11/2009)	237-9493 675-4699	Home Cell
Greg Stevens (Ginger) 200 Sheridan PO BOX 174	11/2012 (11/2006)	330-1429	Cell
<u>Third Ward</u> Jill Picha, Deputy Mayor (Nov 08-10)(John) 122 Belvedere Ave.	11/2011 (11/2007)	547-4169 675-8069	Home Cell
Shane Cole (Chris) 504 May St	11/2012 (11/2008)	547-4991	Home

## APPOINTMENTS

Rob Straebel	City Manager	09-04-07
Richard Brandi	City Treasurer	06-29-87
James Young	City Attorney	04-01-89
Gerard Doan	Chief of Police	01-16-06
Paul Ivan	Fire Chief	03-17-03

### ZONING BOARD OF APPEALS

COUNCIL APPOINTMENT - THREE YEAR TERMS - 5 MEMBERS/2 ALTERNATES

(Appointments need to be made within 30 days after expiration)

Patricia Miller 121 Hampton Road 547-5225-H	11-07-11 (11-07-11)	12-31-13
Greg Bryan	05-07-12 (05-07-12)	12-31-13
Larry Sullivan (Alternate) 222 Sherman 547-5415, 237-0377 H 547-7234 -W	02-20-12 (11-06-06)	12-31-14
Greg Withrow - CHAIR 202 Elm Street 547-5516-H	02-20-12 (01-4-93)	12-31-14
Ann Gomey 116 E. Hurlbut 547-5315 - H 547-8234 - W (231) 881-5495 - C	03-19-12 (03-19-12)	12-31-14
Gary Anderson 1111 Beacon 237-9307-H 881-5124-C	12-21-09 (09-18-00)	12-31-12
Richard Clem 209 E. Upright Ave. 547-5463 - H 675-8677 - C	12-21-09 (08-03-09)	12-31-12

**DOWNTOWN DEVELOPMENT AUTHORITY  
MAYORAL APPOINTMENT**

**FOUR YEAR TERM - EIGHT MEMBERS  
(OR UNTIL SUCCESSOR IS APPOINTED)**

**MAYOR IS A MEMBER OF THE DDA**

Mayor Norman L. (Boogie) Carlson, Jr.  
105 Eaton Ave.  
675-4561-C  
547-0152-H

11-15-04

Term

**REGULAR DDA MEMBERS**

Dan Barron  
309 Petoskey Ave.  
P. O. Box 309  
547-9950-O 547-2977-FAX  
547-4124-H

04-20-09  
(8-2-93)

4-13

Todd Wyatt  
808 E. Dixon  
(248) 352-2454 - (O)  
(231)675-4151 - Cell

10-03-11  
(10-03-11)

4-13

Kirby Dipert – SEC/TREAS  
12480 Country Club Dr.  
547-4359-O  
547-7007-H

04-19-10  
(05-15-06)

4-14

Gina Whitney  
304 Meech  
547-0818 - O  
547-1965 - H

04-19-10  
(04-20-09)

4-14

John Yaroach  
203 Bridge St.  
547-9905-O  
547-4580-H 675-2555-Cell

10-03-11  
(02-17-03)

4-15

Hugh Mason - CHAIR  
300 Clinton St.  
547-4911-O 547-5911-FAX

10-03-11  
(4-4-82)

4-15

Fred DiMartino  
04003 U S 31, South  
547-7511-H

03-19-12  
(11/20/95)

4-16

Jeannine Wallace – VICE CHAIR  
103 Grant St.  
547-2342-H

05/06/08  
(4-12-82 to 4-12-89)  
(04-12-92)

4-12

DDA Executive Director Keith Carey  
Linda Weller, Recording Secretary for DDA

**PLANNING COMMISSION**  
MAYORAL APPOINTMENT

**THREE YEAR TERMS - NINE MEMBERS**

Terms expire the first Monday in April, or until a successor is appointed

Larry Boog 310 Mason St 547-6969 – H	01-16-12 (09-17-07)	4-14
Francis Flanders – Vice Chair 217 Belvedere Terrace #26 547-4887-H	01-16-12 (1-5-98)	4-14
Toni Felter 116 E. Hurlbut 547-5315 -H	01-16-12 (11-17-08)	4-14
Dan Buday 305 Burns 237-0218 - H	03-19-12 (01-07-08)	4-15
Becky Doan 309 Meech St. 547-0838 – H 675-5556	03-19-12 (03-24-10)	4-15
Judy Clock 207 E. Dixon 547-9627 - H	03-19-12 (11-17-08)	4-15
John Elzinga 202 May St. 547-4183 (H)	08-15-11 (08-15-11)	4-13
Sherm Chamberlain 210 E. Lincoln 547-6882 – O 547-7046 - H	03-07-11 (03-07-11)	4-13
John Hess - Chairman 326 Meech St. 547-4245-H	04-19-10 (03-01-04)	4-13

**BOARD OF REVIEW****COUNCIL APPOINTMENT****THREE YEAR TERM - FIVE MEMBERS**

Appointment to be made in January of each year. Council members' terms are for 1 year; all other are for 3 years. *(Must take oath within 10 days of appt., per State law.)*

**COUNCIL MEMBERS FOR 2011**

Greg Stevens 200 Sheridan 330-1429 Cell	01-03-12 (02-07-11)	12-31-12
Dennis Kusina 205 Elm St. 547-4844 Home	01-03-12 (11-16-09)	12-31-12

**REGULAR MEMBERS - 3 YEAR TERM**

Kim VanMeter-Sanderson 1003 State Street 547-1839 (H) (231) 373-0794	02-07-2011 (12-15-08)	12-31-13
Arlene Staley 401 Antrim St. 547-2985-H	01-03-2012 (07-06-04)	12-31-14
Bob Timms 303 Clinton St. 547-2918 Home	11.19.12 (11-19-07)	12-31-15

**SHADE TREE COMMISSION****MAYORAL APPOINTMENT****THREE YEAR TERMS - THREE MEMBERS**

<b>VACANCY</b>	00-00-00 (00-00-00)	12-31-13
John Campbell PO Box 528 547-4429-O 547-2478-H	01-16-12 (04-20-09)	12-31-14
Ken Polakowski 301 Mason 547-6753-H	12-07-09 (12-15-03)	12-31-12

**HOUSING COMMISSION  
MAYORAL APPOINTMENT**

FIVE YEAR TERM - FIVE MEMBERS

Terms expire on the 3rd Monday in April

		Term
Rob Harrison - Director Charlevoix Housing Commission 210 West Garfield 547-5451 - O		
Jim Jinsky 106 Eaton Ave 547-4195	04-19-10 (04-20-09)	4-15
Lillian Left 407 Prospect St. 547-5412-H	01-16-12 (3-16-98)	4-16
Joan Buday 104 St Mary's Drive 547-2474 -H	09-04-07	4-12
Joanie Olach 210 W. Garfield, #208 622-2765	03-19-12 (03-19-12)	4-13
Mary Lee Campbell 309 East Dixon Ave. 547-2478-H	04-20-09 (11-4-99)	4-14

**COMPENSATION COMMISSION  
MAYORAL APPOINTMENT**

FIVE YEAR TERM - FIVE MEMBERS

Appointments to be made before October of the year of appointment

John Kurtz 712 E. Dixon 547-2418-H 547-1840 FAX	12-07-09 (02-05-07)	12-31-14
Ken Staley 401 Antrim 547-2985                      staley@freeway.net	02-21-11 (08-04-03)	12-31-15
John Campbell PO Box 528 547-4429-O 547-2478-H                      jwc@siteplanning.com	01-16-12 (11-16-98)	12-31-16
Conrad "Bud" Klooster, Jr. 1010 St. James Pl 547-9884 - H 231-620-5536 - C	01-07-08 (01-07-08)	12-31-12
Dale Meredith 103 Eaton Ct. 547-4705	11-17-08 (07-17-06)	12-31-13

## HISTORIC DISTRICT COMMISSION

(Ord. 706-2005; 711-2006)

MAYORAL RECOMMENDATION/COUNCIL APPROVAL

3-Year Term/7 Members

Ken Polakowski 301 Mason 547-6753-H	10-01-12 (10-01-12)	06-00-15
Mary Adams 429 Michigan Ave. 547-0348 – Home 237-9773 - Office	03-19-12 (06-05-06)	06-00-15
John Campbell PO Box 528 547-4429-O 547-2478-H	03-19-12 (06-05-06)	06-00-14
Larry Sullivan 222 Sherman St. 547-7234 - Office 547-5415 – Home	03-19-12 (06-05-06)	06-00-14
Jeannine Wallace 103 Grant St. 547-2342 – Home	11-19-12 (06-05-06)	06-00-14
Linda Mason 604 Park Ave. PO BOX 582 547-9953 – Work	03-19-12 (06-05-06)	06-00-13
Hans Wiemer* 514 Michigan Ave. 547-4278 * architect member, per ord.	11-19-12 (06-05-06)	06-00-10

### DISTRICT LIBRARY BOARD - CITY REPRESENTATIVE (3-Year Term, Expire June 30)

Mayoral Appointment

Rick Brandi  
210 State  
547-3251-O

June 30, 2013

### BIG ROCK POINT CITIZEN ADVISORY BOARD

COUNCIL APPOINTMENT

Greg Stevens 12.21.09  
200 Sheridan 330-1429 Cell  
PO BOX 174

### CHARLEVOIX COMMUNITY POOL REC AUTHORITY, CITY REPS

MAYORAL APPOINTMENT ( 2 City residents, one Council member)

Council member Lyle Gennett  
Dave Garland  
Bruce Herbert

(The following are standing committees. There are no specific terms, and the members are not sworn.)

### AIRPORT AD HOC COMMITTEE

Mayor Norman L. (Boogie) Carlson, Jr. 105 Eaton Ave.	675-4561-C 547-0152-H	Edith Dale 1008 Marina Bluff Dr.	547-6839
City Manager Rob Straebel	547-3270	<b>VACANCY</b>	
Airport Manager	547-3270	Don Seelye 1217 State St.	547-2393-H
William (Bill) Bellows 507 State St.	547-6263-H	Shirley Gibson 209 E. Upright Ave.	547-5463 - H
CM Lyle Gennett 217 Clinton St.	547-5598 - H 675-5398 - C		

City Clerk Carol Ochs, Recording Secretary 547-3250

### STANDING HISTORIC DISTRICT STUDY COMMITTEE

Ken Polakowski 301 Mason 547-6753-H	Mary Adams 429 Michigan Avenue 547-0348 - Home 237-9773 - Work	12-31-09	Linda Mason PO BOX 582 604 Park Avenue 547-9953 - Work
John Campbell P.O. Box 528 547-4429 - Work 547-2478-H	Amy Lalewicz 1006 St. James Place 547-0474 - Home		Mike Spencer, City Planner City of Charlevoix 210 State Street 547-3265 - Work
Jeannine Wallace 103 Grant Street 547-2342 - Home	Hugh Mason 300 Clinton St. 547-4911 - Work		
Bob Heath 210 East Huribut Avenue 437-3255 - Home	Paul Weston 110 Burns 547-6603 - Home		

### CEMETERY GRAVE MAPPING ADHOC COMMITTEE

Mayor Norman L. (Boogie) Carlson, Jr. 547-0152-Home 675-4561-C	Mary Adams 429 Michigan Avenue 547-0348 Home 237-9773 Work
City Manager Rob Straebel 547-3270 Office	C. Marilyn Gibbons 210 W. Garfield 547-1059 Home
Gabe Campbell 547-9739 Home	John Campbell PO Box 528 309 E. Dixon 547-2478 Home 547-4429 Office
Sherm Chamberlain 547-7046 Home 547-6882 Office	Cynthia Garland 201 E. Dixon 547-6707 Home
Pat Elliot, Street Superintendent 547-3276 Office	

## LIGHTING COMMITTEE

Ad Hoc Committee

Don Swern

Electric Superintendent

210 State Street

547-3278-O

Mike Spencer, City Planner

210 State St

547-3265-O

Kathy Reid

1032 May Street

Charlevoix, MI 49720

547-6657-H

Gwen Kramer

LEXALITE INTERNATIONAL

P. O. Box 498

Charlevoix, MI 49720

547-6584-O

Tom Barnes

LEXALITE INTERNATIONAL

P. O. Box 498

Charlevoix, MI 49720

547-6584-O

## AIRPORT DESIGN DEVELOPMENT COMMITTEE

Mark Buday, Architect

339 State Street

Harbor Springs, MI 49740

231-526-0223

RW Armstrong

Mike Borta, Paul Shapter, Ron Lebbon

4100 Capital City Blvd., 2<sup>nd</sup> Floor

Lansing, MI 48906

517-327-1980

FAA Program Manager: Dave Welhouse

FAA Planning Manager: Brad Davidson

11677 South Wayne Rd., Suite 107

Romulus, MI 48174

734-229-2952

MDOT Project Manager: Mark Dontje

2700 East Airport Service Dr.

Lansing, MI 48906

517-335-9712

CM Lyle Gennett

217 Clinton

547-5598 - H

615-5398 - C

Rob Straebel, City Manager

210 State Street

231-547-3270

Matt Bailey, Airport Manager

210 State Street

231-547-3605

Mayor Norman L. Carlson, Jr.

210 State Street

547-0152-H

675-4561-C

CM Jill Picha

210 State Street

547-4169-H

675-8069 -C

CM Greg Stevens

200 Sheridan

PO BOX 174

330-1429 - C

## AIRPORT POLICY ADVISORY COMMITTEE

RW Armstrong

Mike Borta, Paul Shapter, Ron Lebbon

4100 Capital City Blvd., 2<sup>nd</sup> Floor

Lansing, MI 48906

517-327-1980

FAA Program Manager: Diane Morse

Detroit Airports District Office, DET-ADO-600

11677 South Wayne Rd., Suite 107

Romulus, MI 48174

734-229-2929

MDOT Project Manager: Mark Dontje

2700 East Airport Service Dr.

Lansing, MI 48906

517-335-9712

CM Lyle Gennett

217 Clinton

547-5598 - H

615-5398 - C

Jim Young, City Attorney (Bryan Graham, Assistant CA 231-533-8635)

231-288-7700 - C

Rob Straebel, City Manager

210 State Street

231-547-3270

Matt Bailey, Airport Manager

210 State Street

231-547-3605

Mayor Norman L. Carlson, Jr.

210 State Street

547-0152-H

675-4561-C

CM Jill Picha

210 State Street

547-4169-H

675-8069 -C

## AIRPORT TECHNIAL ADVISORY COMMITTEE

Mike Borta, RW Armstrong  
4100 Capital City Blvd., 2<sup>nd</sup> Floor  
Lansing, MI 48906  
517-327-1980

Kevin Clarke  
Paul Puckli  
RW Armstrong  
4080 Lafayette Center Dr., Ste 210 A  
Chantilly, VA 20151  
703-230-0300

FAA Program Manager: Dave Welhouse  
11677 South Wayne Rd., Suite 107  
Romulus, MI 48174  
734-229-2952

Mark Grennell, Project Support Unit Supervisor  
Airports Division, MDOT  
2700 Port Lansing Rd.  
Lansing, MI 48906

CM Lyle Gennett  
217 Clinton  
547-5598 – H  
615-5398 – C

Rob Straebel, City Manager  
210 State Street  
231-547-3270

Matt Bailey, Airport Manager  
210 State Street  
231-547-3605

Mike Spencer, City Planner  
210 State Street  
231-547-3265

Mayor Norman L. Carlson, Jr.  
210 State Street  
547-0152-H  
675-4561-C

## GREEN TEAM AD HOC COMMITTEE

Roger Knutson  
408 Burns Street  
547-1209

Rob Straebel, City Manager  
210 State Street  
231-547-3270

Mike Spencer, City Planner  
210 State Street  
231-547-3265

CM Jill Picha  
210 State Street  
547-4169-H  
675-8069 –C

Dave Guanci, Latitude 45  
123 Belvedere Ave.  
630-258-5849

Erin Bemis, Director  
Charlevoix Area Chamber of Commerce  
109 Mason Street  
547-2101

Terry Salmonson, Charlevoix Flying Club  
215 Antrim Street  
547-2601

Paul Welke, Island Airways  
111 Airport Dr.  
547-2141

Rachel Teague, Fresh Air Aviation  
06918 Old Norwood Rd  
PO BOX 328  
237-9482

## NON-MEMBERS

Ron Lebbon  
Paul Shapter  
RW Armstrong  
4100 Capital City Blvd., 2<sup>nd</sup> Floor  
Lansing, MI 48908  
231-327-1980

Keith Carey, DDA Director  
210 State Street  
231-547-3257

Hal Evans, Harbormaster  
210 State Street  
231-547-3272

Tom Heid, Golf Director  
210 State Street  
231-547-3269

**RECREATION ADVISORY COMMITTEE**

Amy Putman  
07103 Lake St.  
547-1396

Nick Popoff  
314 W. Hurlbut Ave.  
547-2914 (H)  
231-944-8019 (C)

Matt Peterson  
210 W. Hurlbut Ave.  
547-3407 (H)  
231-675-1746 (C)

**VACANCY**

Dean Davenport (Twp Rep)  
13535 Matthews Lane  
547-6433 (H)  
712 Cypress  
Big Rapids, MI 49307

**CHARLEVOIX CITY COUNCIL**

**AGENDA ITEM**

**AGENDA ITEM TITLE:** Budget Amendment #1 for 2012-13

**DATE:** January 7, 2013

**PRESENTED BY:** Rick Brandi, City Treasurer *PB*

**ATTACHMENTS:** Budget Amendment Ordinance

**BACKGROUND INFORMATION:**

The proposed budget amendment will keep the City's budget process in compliance with Public Act 202 and update the estimated year end budget for 2012-13 to our best estimate. A copy of the public notice is attached.

**RECOMMENDATION:**

City Council needs to introduce and set the public hearing for the 2012-13 Budget Amendment Ordinance. The public hearing date would be February 18, 2013 at 7 p.m. in the City Council Chambers, 210 State Street, Charlevoix.

**PUBLIC NOTICE**

The City Council of the City of Charlevoix will hold a Public Hearing on the Proposed 2012-2013 Fiscal Year Budget Amendment #1 on Monday February 18 2013 at 7:00 p.m. at City Hall, 210 State Street, Charlevoix, Michigan. The following Budget Amendment #1 is proposed for the fiscal year April 1, 2012 to March 31, 2013:

		Original Budget	Amended Budget	Net Change
<b>General Fund</b>				
	EX Legislative	42,000	45,117	3,117
	EX General Government	542,000	563,233	21,233
	EX Public Safety	1,140,500	1,161,939	21,439
	EX Public Works	216,200	252,626	36,426
	EX Health & Welfare	360,800	384,168	23,368
	EX Recreation & Culture	837,200	863,443	26,243
	EX Other	30,000	30,017	17
	EX Fund Transfers	119,400	119,400	0
<b>Total Change in Expenses - General Fund:</b>		<b>3,288,100</b>	<b>3,419,943</b>	<b>131,843</b>
Major Street	RV Total	259,300	234,926	(24,374)
Local Street	RV Total	588,600	576,110	(12,490)
DDA Fund	EX Total	704,800	734,122	29,322
Airport Fund	EX Total	2,646,000	2,709,259	63,259
PI#1 - Fire/Ambulance Reserve	EX Total	0	216,400	216,400
PI#16 - Downtown Parking Fund	RV Total	67,300	46,122	(21,178)
Electric Fund	EX Total	6,962,700	7,074,050	111,350
Marina Fund	EX Total	1,285,000	1,329,545	44,545
Employee Fringe Benefit Fund	RV Total	2,106,700	2,104,827	(1,873)
	EX Total	2,034,300	2,072,581	38,281
DPW Site	RV Total	207,000	206,500	(500)
DPW Site	EX Total	8,100	12,000	3,900
Perpetual Care Trust Fund	RV Total	8,700	5,550	(3,150)

**CHARLEVOIX CITY COUNCIL**

**AGENDA ITEM**

**AGENDA ITEM TITLE:** 2013-14 Budget Ordinance  
**DATE:** January 7, 2013  
**PRESENTED BY:** Rick Brandi, City Treasurer *RB*  
**ATTACHMENTS:** Budget Ordinance

**BACKGROUND INFORMATION:**

City Council needs to have a public hearing for the 2013-14 Budget, which also sets the millage rates to support the budget. The public hearing also takes the place of a truth in taxation hearing required to levy the tax millage each year. The budget needs to be in place prior to the start of our new fiscal year beginning on April 1, 2013. An ordinance takes 30 days to take effect following passage by City Council.

**RECOMMENDATION:**

The City Council needs to introduce and set the Budget Public Hearing for 7 p.m. on February 18, 2013 in the City Hall Council Chambers, 210 State Street, Charlevoix. (The Public Notice and proposed Budget Ordinance are attached.)

Note that the Budget Work Session is scheduled for January 14<sup>th</sup> at 5:30 p.m. in the Council Chambers.

**PUBLIC NOTICE**

There will be a public hearing on the proposed 2013-2014 Annual City Budget at 7:00 pm on Monday, February 18, 2013 in the City Hall Council Chambers, 210 State Street, Charlevoix, MI. The purpose of the hearing is to inform citizens of local budgetary actions and provide the opportunity for participation in the local budget making process. **The proposed property tax millage rate to be levied to support the proposed budget will be a subject of this public hearing.** A copy of the proposed budget is available at City Hall or the Charlevoix Public Library for public inspection.

**CITY OF CHARLEVOIX, MICHIGAN**  
**2013-2014 Proposed BUDGET**  
**REVENUE AND EXPENSE SUMMARY - ALL FUNDS**  
 January 2, 2013

	GENERAL FUND	MAJOR STREET	LOCAL STREET	AIRPORT	ELECTRIC	SEWER	WATER	MARINA	DDA	CEMETERY TRUST	TOTAL	2012-13
<b>REVENUES</b>												
Taxes	2,234,900								707,600		\$2,942,500	\$2,773,600
Licenses & Permits	3,900										3,900	4,700
State & Federal Grants	202,600	200,700	61,700	285,000		35,100	912,700	387,600		5,000	785,100	1,485,100
Charges for Services	673,500			1,336,900	6,452,200	1,177,900	6,000				10,945,800	10,365,224
Fines & Forfeits	25,500			43,700	7,200	2,400	1,300				82,400	71,200
Interest & Rents	126,900			46,000	22,600	2,400	1,300	100	28,600	1,900	229,800	229,800
Other	8,400				12,300	5,000	5,000				30,700	44,000
Fund Transfers	2,500	139,900	331,700	45,000	12,000	118,900	110,900	300,000			1,060,900	1,097,100
Appropriation-Surplus	146,000	36,000	99,000	252,300	1,240,800	138,500	211,200	642,000	8,600	3,100	2,777,500	2,244,776
<b>TOTAL REVENUES:</b>	<b>\$3,424,200</b>	<b>\$376,600</b>	<b>\$492,400</b>	<b>\$1,965,200</b>	<b>\$7,783,600</b>	<b>\$1,485,000</b>	<b>\$1,247,100</b>	<b>\$1,329,700</b>	<b>\$744,800</b>	<b>\$10,000</b>	<b>\$18,858,600</b>	<b>\$18,315,500</b>
<b>EXPENDITURES</b>												
Legislative	47,600										\$47,600	\$42,000
General Government	538,800										538,800	542,000
Public Safety	1,189,200										1,189,200	1,140,500
Public Works	237,600	236,700	160,700	1,634,100					149,800	10,000	2,428,900	2,127,600
Health & Welfare	392,500							248,400			392,500	360,800
Recreation & Culture	917,300										1,165,700	1,073,100
Capital Outlay		139,900	331,700	300,000	245,000	156,900	95,900				1,269,400	1,904,600
Debt Service				31,100				431,300	295,000		757,400	724,100
Electric					6,672,800						6,672,800	6,121,100
Sewer						1,075,000					1,075,000	1,056,700
Water							911,200				911,200	924,500
Fund Transfers	45,000				315,100	35,100			300,000		695,200	564,600
Other	56,200										56,200	30,000
Depreciation							240,000	650,000			1,658,700	1,616,200
<b>TOTAL EXPENSES:</b>	<b>\$3,424,200</b>	<b>\$376,600</b>	<b>\$492,400</b>	<b>\$1,965,200</b>	<b>\$7,783,600</b>	<b>\$1,485,000</b>	<b>\$1,247,100</b>	<b>\$1,329,700</b>	<b>\$744,800</b>	<b>\$10,000</b>	<b>\$18,858,600</b>	<b>\$18,227,800</b>

**CITY OF CHARLEVOIX  
ORDINANCE NO.  
BUDGET APPROPRIATION ACT**

THE CITY OF CHARLEVOIX ORDAINS:

WHEREAS, The City Council of the City of Charlevoix did give notice of the time and place when a public hearing would be held in conformity with provisions of Section 7.8, Article VII of the City Charter, which Public Hearing was duly held pursuant to said notice and in conformity therewith;

THEREFORE, BE IT RESOLVED, That the revenues and expenditures for the fiscal year commencing on April 1, 2013 and ending March 31, 2014 are hereby appropriated on an activity level basis (a detailed breakdown by detail level can be found in the Budget Details document) as summarized by the following:

**GENERAL FUND**

REVENUE:	Taxes	\$ 2,234,900
	Licenses & Permits	3,900
	State Grants	202,600
	Charges for Services	673,500
	Fines & Forfeits	25,500
	Interest & Rents	126,900
	Other	8,400
	Fund Transfers (In)	2,500
	Appropriation from Surplus	146,000
		-----
	TOTAL REVENUES:	\$3,424,200
		=====
EXPENSE:	Legislative	\$ 47,600
	General Government	538,800
	Public Safety/Health & Welfare	1,189,200
	Public Works	237,600
	Recreation & Culture	917,300
	Other	56,200
	Fund Transfers (Out)	45,400
		-----
	TOTAL EXPENSE:	\$3,424,200
		=====

BE IT FURTHER RESOLVED, That the City Council of the City of Charlevoix does hereby levy a tax of 11.1528 mills (9.05 mills operating and 2.0593 mills infrastructure) for the period of April 1, 2013 through March 31, 2014 on all real and personal property in the City of Charlevoix according to the valuation of the same. This tax is levied for the purpose of defraying the general expense and liability of the City of Charlevoix and for infrastructure improvements, and is levied pursuant to Section 8.1, Article VIII of the City Charter; and

BE IT FURTHER RESOLVED, That the City Council does hereby levy a tax not to exceed 1.3631 mills for the period April 1, 2013 through March 31, 2014 on all real and personal property in the Downtown Development District, according to the valuation of the same within the district; and

BE IT FURTHER RESOLVED, That the City Council does hereby levy a tax not to exceed .9 mills for the period April 1, 2013 through March 31, 2014 on all real and personal property in the City of Charlevoix, according to the valuation of the same. This tax is levied for the purpose of defraying the cost of rubbish collection and other related services provided citizens allowed by the act, and is levied pursuant to Michigan Public Act 213 of 1969; and

BE IT FURTHER RESOLVED, That the City Council does hereby approve the following budgets for the period April 1, 2013 through March 31, 2014 in the amounts set forth below by fund:

<u>FUND</u>	<u>REVENUE</u>	<u>EXPENSE</u>
Major Street Fund	\$376,600	\$ 376,600
Local Street Fund	492,400	492,400
Electric Fund	7,783,600	7,783,600
Sewer Fund	1,485,000	1,485,000
Water Fund	1,247,100	1,247,100
Marina Fund	1,329,700	1,329,700
Motor Vehicle Fund	1,187,700	1,187,700
Downtown Development Auth	744,800	744,800
Airport Fund	1,965,200	1,965,200
Employee Fringe Benefit	2,260,600	2,040,500
Perpetual Care Trust Fund	10,000	10,000
Fire/Ambulance Fund	74,500	0
Sewer Tap-in Fund*	11,000	0
Northside/Southside Sewer Fund*	4,400	0
Infrastructure Improvement	431,100	431,100
Road Improvements	305,300	305,300

<u>FUND</u>	<u>REVENUE</u>	<u>EXPENSE</u>
Public Works Site Fund	178,000	12,000
Industrial Park Fund	5,000	5,000
Mt. McSauba Recreation Fund	16,500	15,000
* These funds are part of the Sewer Fund.		

Ordinance # \_\_\_\_\_ was adopted by the Charlevoix City Council at a regular meeting held on February 18, 2013 with the following yeas and nays vote:

YEAS: Council members

NAYS:

State of Michigan     )  
   ) ss  
 City of Charlevoix    )

\_\_\_\_\_  
 Carol A. Ochs, City Clerk

\_\_\_\_\_  
 Norman L. Carlson Jr., Mayor

I hereby certify that Ordinance # \_\_\_\_\_ was adopted by the City Council of the City of Charlevoix on February 18, 2013 and was published in the Charlevoix Courier on \_\_\_\_\_.

\_\_\_\_\_  
 Carol A. Ochs, City Clerk