

January 25, 2010

Regular meeting of the Ludington City Council held in the Council Chambers of the Municipal Building on Monday, January 25, 2010, at 6:30 o'clock p.m.

Present: Mayor Pro Tem, Kaye Holman, and Councilors Paul Peterson, Wally Taranko, Brent Scott, Wanda Marrison, Pete Enghlade, and Gary Castonia.

Absent: His Honor Mayor Henderson who was excused as he was out of town and Councilor Brent Scott who was excused as he was ill.

Also present were City Manager John Shay, City Attorney Richard Wilson, Police Chief Mark Barnett, Fire Chief Jerry Funk, Interim City Treasurer Linda Rogers, and City Clerk Deborah Lusk.

Invocation was pronounced by Councilor Pete Enghlade.

Pledge to the Flag was given.

Moved by Councilor Castonia, seconded by Councilor Marrison, that the Agenda be approved as presented. Mayor Pro Tem Kaye Holman asked Council to consider an addition to the Agenda under Communications. Police Chief Mark Barnett will introduce the new Police Captain and a new full time officer. Moved by Councilor Castonia, seconded by Councilor Marrison, to approve the agenda 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 Peterson, seconded by Councilor Taranko, to approve the minutes of the regular meeting 01/11/10. Motion Carried.

The meeting was opened for the scheduled public hearing to hear comments on the Application for Industrial Facilities Tax Exemption Certificate by the House of Flavors, Inc. Whit Gallagher, President of House of Flavors, Inc. described the equipment which was purchased to fill 48 ounce ice cream containers as well as the camera which dovetails with the safe quality food audit requirements. City Manager Shay asked if the filler had the ability to fill different quantities. Mr. Gallagher explained that if there was a significant design change then they would have to acquire a different filler.

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

AGREEMENT FOR ACT 198 CERTIFICATE

THIS AGREEMENT is made this 25th day of January 2010, by and between the City of Ludington, a Michigan municipal corporation, with offices at 400 S. Harrison Street, Ludington, Michigan, 49431 (the "City") and House of Flavors, Inc., a Michigan corporation, with offices at 110 N. William St., Ludington, Michigan 49431 (the "Company"), with reference to the following:

- A. The City has previously established a plant rehabilitation district (the "District") pursuant to the requirements of Act 198 of the Michigan Public Acts of 1974, as amended (the "Act");
- B. The Company owns and operates an industrial facility located in the District and has requested the City to grant an industrial facilities exemption certificate for the cost of machinery and equipment in the aggregate amount of \$ 392,701 (the "Project");
- C. The Company and the City are entering into this Agreement to set forth their respective rights and responsibilities in connection with the granting of an Act 198 Industrial Facilities Exemption Certificate for the proposed Project.

NOW, THEREFORE, in consideration of the mutual covenants set forth in this Agreement, the Company and the City agree as follows:

1. Subject to requisite State of Michigan approval, the City shall grant a fifty percent (50%) tax abatement to the company for six (6) years for any personal property associated with the project.
2. The Company estimates that 15 existing jobs will be retained within the next two years as a result of this Project and agrees to use its best efforts to increase its employment in the City in accordance with this estimate.
3. The City may, but is not required to, terminate the tax abatement granted to the Company in accordance with this Agreement, effective with the tax levy following notice to the Company as provided in Paragraph 4 hereof, in the event that any of the following occur:

- a. The Company ceases substantially all of its operations in the City; or
 - b. If the owner or lessee of a facility (the Company) for which an industrial facilities exemption certificate is in effect relocates that facility outside of the industrial development district or plant rehabilitation district during the period in which the industrial facilities exemption certificate is in effect, the owner or lessee is liable to the local governmental unit from which it is leaving, upon relocating, for an amount equal to the difference between the industrial facilities tax to be paid by the owner or lessee of that facility for that facility for the tax years remaining under the industrial facilities exemption certificate that is in effect and the general ad valorem property tax that the owner or lessee would have paid if the owner or lessee of that facility did not have an industrial facilities exemption certificate in effect for those years. If the local governmental unit determines that it is in its best interest, the local governmental unit may forgive the liability of the owner or lessee under this subsection. The payment provided in this subsection shall be distributed in the same manner as the industrial facilities tax is distributed.
4. If the City wishes to terminate the tax abatement granted to the Company as provided by paragraph 3 above, it shall provide written notice to the Company of such termination at least sixty (60) days before the date of the tax levy that the abatement will be terminated.
 5. This Agreement applies only to the tax abatement for the Project described herein and does not apply to any other outstanding industrial facilities exemption certificates granted to the Company by the City of Ludington.
- IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered as of the day and year first above written.

Moved by Councilor Engblade, seconded by Councilor Marrison, that the Agreement for Act 198 Certificate be adopted. Councilor Castonia abstained due to conflict of interest. Motion Carried.

RESOLUTION TO APPROVE THE APPLICATION OF
HOUSE OF FLAVORS, 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 December 19, 1983, created an Industrial Development District for HOUSE OF FLAVORS, INC. and

WHEREAS, HOUSE OF FLAVORS, INC. did on December 22, 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 HOUSE OF FLAVORS, 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 January 25, 2010, 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 December 22, 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 110 N. William 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 HOUSE OF FLAVORS, 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 \$ 392,701. (S.E.V. \$ 392,701).

Moved by Councilor Engblade, seconded by Councilor Peterson, that the Resolution to Approve the Application for Industrial Facilities Exemption by House of Flavors, Inc. be adopted. Councilor Castonia abstained due to conflict of interest. Motion Carried.

Police Chief Mark Barnett introduced Officer Mike Harrie who has been promoted to Police Captain and Officer Tony Kuster who was a seasonal police officer and has been hired as the full time School Resource Officer.

Moved by Councilor Castonia, seconded by Councilor Engblade, to approve the application submitted by Adrenaline Games Alliance (AGA) to hold the Skateboard Competition on 7/10/2010 from 2 p.m. to 8 p.m. Motion Carried.

Moved by Councilor Castonia, seconded by Councilor Taranko to approve the Downtown Ludington Board's request to hold the Annual Winter Thaw Out Festival on 2/5/10 through 2/7/10. Motion Carried.

Moved by Councilor Peterson, seconded by Councilor Marrison, to approve the Lakeshore Animal Friends request to hold the Pet Walkathon 2010 on 5/22/10. Dorothy Sellman, 1421 Rohrmoser, was available to answer any questions. Motion Carried.

Moved by Councilor Engblade, seconded by Councilor Castonia, to approve West Shore Pregnancy Care Center's request to hold their 16th annual Walk for Life Fundraiser on 5/23/10. Motion Carried.

Moved by Councilor Engblade, seconded by Councilor Castonia, to approve the United Way's 2nd Annual Suds on the Shore Craft Beer Festival on 8/28/10. Motion Carried.

Moved by Councilor Peterson, seconded by Councilor Taranko, that the Finance Report with total expenditures in the amount of \$320,210.45 for this period be approved and orders drawn according to the City Charter. Motion Carried.

Moved by Councilor Engblade, seconded by Councilor Castonia, that the meeting be adjourned. So carried at 6:55 p.m.

Deborah L. Luskin, CMC
City Clerk