

June 28, 2010

Regular meeting of the Ludington City Council held in the Council Chambers of the Municipal Building on Monday, June 28, 2010, at 6:30 o'clock p.m.

Present: His Honor Mayor John Henderson, and Councilors Kaye Holman, Paul Peterson, Wally Taranko, Brent Scott, Wanda Marrison, Pete Engblade, and Gary Castonia.

Absent: None.

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 Luskin.

Invocation was pronounced by Councilor Engblade.

Pledge to the Flag was given.

The following changes were made to the Agenda. Ordinance Nos. 215-10, 216-10, and 217-10 were added to the Agenda and the Adoption of the Resolution Approving the KDMAC Brownfield Plan was moved from the Finance Committee to item #2 under the Building and Licensing Committee. Moved by Councilor Castonia, seconded by Councilor Engblade, that the Agenda be approved as corrected. Motion Carried.

The meeting was opened for public comments.

Bob Neal, 110 William St., questioned whether this meeting would be the only opportunity to speak on behalf of the proposed increase in tax millage. His Honor Mayor Henderson explained that tonight would be the first presentation of the tax millage ordinances and the July 12, 2010 meeting would be when these ordinances would be brought before Council for adoption. Mr. Neal stated that he believed the whole property tax system is unfair, unjust, and wrong. Anyone who has bought or built new property is paying an extraordinary amount of property tax because of Proposal A. The City is sending the wrong message to prospective buyers in this community that the City is already not competitive. He mentioned that the property taxes on his second home in Colorado are half of what they are on his condo in Ludington and the property in Colorado is 5 times more valuable than the condo in Ludington. A potential retiree is going to find it hard to buy in Ludington and pay 3, 4, and 5 times the property taxes that are paid in other states. On a \$300,000 condo in One Ludington Place, the property taxes are \$12,000 a year. He explained that this has been a good real estate year with twice as many closings since 2004. He explained that many tax abatements are now about to wind down and the money will now come into the City. He is asking Council to not raise the millage with the knowledge that additional tax revenue will be coming in from the expired tax abatements and real good real estate money that is coming in 2010.

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

Moved by Councilor Taranko, seconded by Councilor Peterson, to approve the minutes of the regular meeting 06/14/10. Motion Carried.

The meeting was opened for the scheduled public hearing to hear comments on the Application for Industrial Facilities Tax Exemption Certificate by DUNA USA, INC. Frederico Brossi, Italy, a representative of DUNA USA, INC. described what the application was for and was available to answer questions. He stated that one of the most important customers of DUNA USA, Inc. is Floracraft. The company decided to reassemble a piece of equipment here in Ludington to accommodate Floracraft. The target of the company at the start is to produce material for Floracraft; however, they intend to produce a low density foam which can insulate piping and building and to service all of the northeast of the United States. DUNA USA, Inc. will spend money in this community and will create 4-5 new labor jobs.

Bob Barker, Mason County Growth Alliance, explained that this is a nice fit for the community because of Floracraft's need for the product. This will be a supply chain business which will create 4-5 new jobs and is a good use for the building.

Ron Sarto, owner of the building on 6th Street which will be the location of this business, explained that the intent back in 2005 when this building was built, was to create space for a project like this. This is an encouraging project which will create jobs in manufacturing and he looks forward to the long term effects of this project.

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

AGREEMENT FOR ACT 198 CERTIFICATE

THIS AGREEMENT is made this 28th day of June 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 DUNA USA, INC., a Michigan corporation, with offices at 5900 West 6th Street, Ludington, Michigan 49431 (the "Company"), with reference to the following:

- A. The City has previously established a Industrial Development 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 real property improvements in the aggregate amount of \$ 647,296 and machinery and equipment in the aggregate amount of \$ 281,002 (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 ten (10) years for any real property improvements associated with the project and six (6) years for any personal property associated with the project.
2. The Company estimates that 4 to 5 new jobs would be created 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 Castonia, seconded by Councilor Holman, that the Agreement for Act 198 Certificate be adopted. Motion Carried.

RESOLUTION TO APPROVE THE APPLICATION OF DUNA USA, INC. FOR AN INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE

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

WHEREAS, pursuant to Act No. 198, and after a duly noticed public hearing held, the Ludington City Commission, by resolution adopted on September 6, 1977, created an Industrial Development District for DUNA USA, INC.; and

WHEREAS, DUNA USA, INC. did on May 10, 2010, file an application with the City of Ludington for an Industrial Facilities Exemption Certificate for real property improvements and new machinery and equipment; and

WHEREAS, the City of Ludington and DUNA USA, 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 June 28, 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 real property improvements and new equipment included in the application had not begun earlier than six (6) months before May 10, 2010, 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 5900 West 6th Street, 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 DUNA USA, INC. for an Industrial Facilities Exemption Certificate for real property improvements and new machinery and equipment be and is hereby approved, subject to the following condition:

That the exemption for the real property improvements included in this application shall remain in force and effect for a period of ten (10) years, unless otherwise modified or revoked pursuant to the provisions of Act 198 of 1974, as amended.

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 real property improvements to be added as set forth in their application is \$ 647,296 (S.E.V. \$ 323,648) and new machinery and equipment to be added as set forth in their application is \$ 281,002. (S.E.V. \$ 140,501)

Moved by Councilor Holman, seconded by Councilor Peterson, that the Resolution to Approve the Application for Industrial Facilities Exemption by DUNA USA, INC. be adopted. Motion Carried.

His Honor Mayor Henderson expressed appreciation to Frederico Brossi, DUNA USA, Inc. for looking and investing in Ludington and the City appreciates the company looking at Ludington for manufacturing business.

Ludington Area Arts Council is requesting approval by the City Council to hold a beer tent in the first block of North Rath Avenue on the night of July 23, 2010, in conjunction with the Friday Night Live Event. Terry Murphy, Executive Director for the Ludington Area Arts Council, explained that there were two people in the community who came forward with seed money to allow for an annual summer celebration of local arts and culture. One of the ideas they came up with was to have a beer tent and band at one of the Friday Night Live events to support this effort. Councilor Scott questioned the beer tent at all Friday Night Live Events and it was explained that this beer tent is only requested for the July 23rd event. Councilor Taranko questioned the amount of time they would need the street closed because the written request states that they would like the street closed for the entire day and he is against that. If the street would be closed for the normal hour and a half setup this would be adequate. Terry Murphy stated that the use of fencing rather than a tent would accommodate the hour and a half setup. Councilor Peterson asked if they have their liquor license and Terry explained that they are in the process of applying for it. His Honor Mayor Henderson asked Police Chief Mark Barnett if he has had an opportunity to review this request. Police Chief Barnett stated that he had reviewed the request and he is sure that his department could work with this group to make this event successful. Moved by Councilor Scott, seconded by Councilor Engblade, that the Ludington Area Arts Council's Request to Hold a

beer tent in the 100 block of North Rath Ave. during the Friday Night Live Event of 7/23/10 be approved. Councilor Holman stated that she supports the arts council without a problem, but is adamantly opposed to having a beer tent at the Friday Nigh Live Event. This event is a family event and with consideration the Arts Council could have had the beer serving at their location on South Harrison Street or at the beach where all other beer tents have been held in the past. Councilor Engblade asked again if this event was only for the July 23rd date. His Honor Mayor Henderson explained that the Arts Council asked to be part of Friday Night Live and for a space to set up. A section was set up on North Rath Ave with the beer tent as part of their event. It will only be on the 23rd of July. Councilor Castonia asked if the Downtown Ludington Board has given their blessing on this. His Honor Mayor Henderson explained that the Downtown Ludington Board itself does not vote on this type of activity; however, the Friday Night Live Committee was in favor of this event. Councilor Castonia explained that he did agree with Councilor Holman to some extent and that he did not believe this is a place for a beer tent to be. He stated that he would vote for it this time but he would rather not see this ever come up again. Councilor Holman stated that the City has worked hard to make this event a family affair and she personally does not believe a beer tent is appropriate for a family affair. Councilor Marrison agreed with Councilor Holman and that the City worked too hard to have this be a family event to bring alcohol into this event. Councilor Holman asked if the Arts Council ever considered to have this event at their own location or at the beach. Terry Murphy explained that the Arts Councilor is having a beach party down at the beach and other locations were discussed but they did want to support Friday Night Live which is why the North Rath Avenue location was selected. Councilors Holman and Marrison opposed this motion. Motion Carried.

Bob Barker, Mason County Growth Alliance Director, presented an update on the Mason County Growth Alliance and was available to answer questions. The Growth Alliance has been operating for about 3 years coming from the old LEDCOR. They are here for retention and expansion of business and industry and charged with the task of attracting new businesses. They are looking for ways to maximize and create efficiencies between complementary businesses and industries. The Growth Alliance is currently working with Lake Michigan Car Ferry on their strategic plans for the future as well as West Shore Community College with entrepreneurial opportunities. Councilor Peterson questioned the West Michigan Natural Region and asked what would be the benefit for Ludington when the area covers between Traverse City and to the south of Michigan.. Bob Barker explained that he is looking at Muskegon, Grand Rapids, and Holland and many companies are developing research and development for offshore wind projects as well as the battery plant in Muskegon. He explained that he cannot sell Mason County from within Mason County, but rather is encouraging a comprehensive collaborative effort.

Moved by Councilor Holman, seconded by Councilor Peterson, that the Finance Report with total expenditures in the amount of \$480,436.15 for this period be approved and orders drawn according to the City Charter. Motion Carried.

Ordinance No. 212-10, an ordinance setting the operating and garbage & rubbish millage at a total of 14.3437 mills, was presented for the first reading.

Ordinance No. 213-10, an ordinance setting the Police Pension millage at a total of 1.06000 mills, was presented for the first reading.

Ordinance No. 214-10, an ordinance setting the DDA operating millage at a total of 1.6080 mills, was presented for the first reading.

Ordinance No. 215-10, an ordinance creating the tax levy for the operating and garbage & rubbish millage, was presented for the first reading.

Ordinance No. 216-10, an ordinance creating the tax levy for the police pension millage, was presented for the first reading.

Ordinance No. 217-10, an ordinance creating the tax levy for the DDA millage, was presented for the first reading.

Ordinance Nos. 212-10, 213-10, 214-10, 215-10, 216-10 and 217-10 shall be presented for adoption on 7/12/10 and are available for public inspection in the City Clerk's office during regular business hours. City Manager John Shay explained that there is a \$6.5 million tax decrease in the taxable value from 2009 to 2010 due to the declining property values. Up until last year the City had levied the millage rate at the maximum amount allowed by Headlee. Last year the City lowered the tax millage to the truth in taxation amount. Truth In Taxation states that excluding new construction, the City cannot collect any more revenue the following year than it did in the current year. If the values go up the City would have to lower the millage rates to not collect any more revenue without having a truth in taxation hearing. The Headlee Act states that the City cannot collect more revenue the following year, excluding new construction, adjusted for the rate of inflation. With the decline of taxable value, the property values are declining \$6.5 million. If the City were to keep the millage rates the same for general operating and refuge as this year the City would

lose \$87,700 in tax revenue. If the City were to adjust its millage rates to the Headlee maximum, the City would still lose \$68,500 in revenue. For an average taxpayer, the average tax bill would go down about \$6 per year. If the City leaves the millage rates where it is at the average tax bill will decrease by \$9.48 per year. With the Police Pension millage every year the Police Pension Board has an actuarial report completed to determine the amount of tax that needs to be collected to adequately cover the liabilities of the Police Pension Fund. The actuarial report came back with \$283,000 needed to fund the Police Pension Fund next year which is a millage of 1.0600 mills which is different from the 1.0500 millage that is currently collected. The DDA millage is already at its Headlee maximum and is proposed to remain the same.

RESOLUTION

WHEREAS, the Municipal Employees Retirement System (MERS) requires that the governing body elect an Officer Delegate and an Officer Alternate to represent the City at the MERS' Annual Meeting; and

WHEREAS, MERS requires that the City Employees elect an Employee Delegate and an Employee Alternate to represent the employees at the MERS' Annual Meeting. Kirk Caithamer was elected as Delegate and Leo Lindbloom as Alternate; and

WHEREAS, MERS requires that the Officer Delegate shall be an officer member who holds a department head position or above, exercises management responsibilities, and is directly responsible to the legislative and /or executive branch of local government; and

THEREFORE, BE IT RESOLVED, that Deborah Luskin be appointed Officer Delegate and John E. Shay be appointed Officer Alternate to serve at the 2010 MERS Annual Meeting.

Moved by Councilor Holman, seconded by Councilor Taranko, that the foregoing Resolution be adopted. Motion Carried.

His Honor Mayor Henderson expressed appreciation to Sheriff Fiers for his attendance at this City Council meeting.

Councilor Englade presented the May Building, Zoning, and Enforcement Report.

RESOLUTION APPROVING KDMAC VENTURES' BROWNFIELD PLAN

WHEREAS, DDMAC Ventures is planning to renovate the former Harbor Pharmacy building located at 102 West Ludington Avenue; and

WHEREAS, the City of Ludington approved KDMAC Ventures' application for an Obsolete Property Rehabilitation Exemption Certificate for a period of 12 years; and

WHEREAS, KDMAC Ventures is requesting approval of its proposed Brownfield Plan in order to be eligible to receive Michigan Business Tax credits as part of its efforts to finance the renovation of this property; and

WHEREAS, the proposed Brownfield Plan is not seeking the capture of any local tax dollars,

NOW, THEREFORE BE IT RESOLVED, that the Ludington City Council hereby approves KDMAC Ventures, LLC's Brownfield Plan for the Plaza Apartments located at 102 West Ludington Ave.

Moved by Councilor Englade, seconded by Councilor Holman, that the foregoing resolution be adopted. Councilor Englade explained that KDMAC Ventures LLC is not seeking to capture any of the City's tax money but rather only to capture credits on the Michigan's Business Tax. Councilor Holman expressed her excitement about this. Motion Carried.

City Manager Shay explained that the General Services Administration is willing to sign the quit claim deed to turn the Coast Guard Station over to the City of Ludington. The City Attorney has reviewed the deed and the legal description. Moved by Councilor Peterson, seconded by Councilor Englade, to accept the Quit Claim Deed to the former Coast Guard Station property. Councilor Englade asked if the boat would be placed here once the property is signed over to the City. His Honor Mayor Henderson publicly thanked John Shay and his staff on finishing the work to acquire this property. The intent is to display the boat on the Coast Guard Property and Todd Reed is trying to get the property cradle. Councilor Holman explained that there is a letter from the MSHDA that the Coast Guard Station is now in the National Register of Historic Places. Motion Carried.

Councilor Holman stated that renovations of apartments at Longfellow Towers are almost complete and asked if anyone were interested to view these renovations to schedule an appointment with Longfellow Towers.

Councilor Holman stated that the Ludington Daily News commented that the Ludington Planning Commission has formed a committee regarding the downtown parking. It was noted that the Planning Commission did not form this committee but rather it was the Downtown Ludington Board.

His Honor Mayor Henderson stated that a 110 foot ship came into the Marina and they tied up to the day dock for the first official visit. He also wished all a Happy and Safe 4th of July.

Moved by Councilor Engblade, seconded by Councilor Holman, that the meeting be adjourned. So carried at 7:30 p.m.

Deborah L. Luskin, CMC
City Clerk