

Everett, Ravitz, Scott, Tinsley-Williams, and President Pro Tem. Cleveland — 6.

Nays — None.

*WAIVER OF RECONSIDERATION
(No. 1) per motions before Adjournment.

**City Council
Fiscal Analyst**

February 22, 1995

Honorable City Council:

Re: Resolution on State Cuts in Revenue Sharing.

Attached is the resolution for Council consideration to express the position that Revenue Sharing distributions should remain at the full statutory levels.

Council can take action on the resolution at your Wednesday, March 1, 1995 Formal Session.

Respectfully submitted,
KEVIN RANSOM
Fiscal Analyst

By COUNCIL MEMBER EVERETT:

WHEREAS, As part of the Governor's proposed FY 1995-96 State Budget, revenue sharing distributions to cities, villages, townships, and counties are to be cut by \$81.3 million; and

WHEREAS, The City of Detroit's share of the proposed cut in distributions would be approximately \$30.3 million, representing 37.3% of the total statewide cut; and

WHEREAS, In an environment in which the State General Fund Budget is producing more revenue than is legally allowed under the Headlee constitutional amendment, the State is in no way facing a budgetary shortfall. As evidence, the Senate Fiscal Agency (SFA) estimates that the State Budget Stabilization Fund will have over \$1.024 billion in FY 1995-96; and

WHEREAS, The State is experiencing a strong economic growth period and the City of Detroit, along with other municipalities, should be able to capture the full statutory level of payments that the State Revenue Sharing program generates; and

WHEREAS, Over the past five (5) years the State has cut distributions in revenue sharing by a cumulative amount of \$289 million. Of this total, the City of Detroit has experienced \$82.1 million in reductions, roughly 1½ times the City's FY 1993-94 deficit. NOW THEREFORE BE IT

RESOLVED, That the Detroit City Council strongly urges the State legislature to allow for full State revenue sharing distributions in the 1995-96 fiscal year; AND BE IT FURTHER

RESOLVED, That copies of this resolution be sent to the Senate Majority Leader, the Speaker of the House, the Senate Minority Leader, the House Minority Leader, the Chairs of the Senate and House Appropriation Committees

and members of the Detroit delegation to the State Senate and House of Representatives.

Adopted as follows:

Yeas — Council Members Cockrel, Everett, Ravitz, Scott, Tinsley-Williams, and President Pro Tem. Cleveland — 6.

Nays — None.

**Department of Public Works
City Engineering Division**

February 14, 1995

Honorable City Council:

Re: Petition No. 3822. McDonald's Corporation, Alley to Easement westerly half of the east-west public alley south of E. Jefferson between Piper and Eastlawn; also requesting permission to encroach with a masonry screen wall across the alley.

Petition No. 3822 of "McDonald's Corporation" requests the conversion of the westerly half of the east-west public alley, 18 feet wide, in the block bounded by Piper, Eastlawn, Freud and E. Jefferson Avenues into a private easement for public utilities; also to encroach across the (converted) public alley with a masonry screen wall (approximately 6.00 feet in height with below grade footings).

The encroaching screen wall is a zoning requirement to separate commercial and residential properties.

The requested conversion was approved by the Planning and Development Department, Solid Waste Division — DPW, and Traffic Engineering Division — DPW. The petition was referred to the City Engineering Division — DPW for investigation (utility review) and report. This is our report:

The petitioner plans to use the paved alley return entrance (into Piper Avenue) and requests such remain in its present status. The petitioner shall pay all incidental removal costs whenever discontinuance of use makes removal necessary.

Provisions protecting the underground facilities of the Ameritech/Michigan Bell Telephone Company, Public Lighting Department, and the Water and Sewerage Department are incorporated into the resolution.

All other city departments and privately-owned utility companies have reported no objections to the conversion of public rights-of-way into a private easement for public utilities. Should damages to utilities occur the petitioner shall be liable for all incidental repair costs and waives all claims for damages to the encroaching installations.

An appropriate resolution is attached for consideration by your Honorable Body.

Respectfully submitted,
SUNDAY JAIYESIMI
City Engineer

By Council Member Everett:
Resolved, The City Engineering Division — DPW is hereby authorized and directed to issue permits to the "McDonald's Corporation — Detroit Region" to construct and maintain all that part of a masonry screen wall encroaching across the westerly portion of the east-west (converted public) alley, 18 feet wide, in the block bounded by Piper, Eastlawn, Freud and E. Jefferson Avenues, abutting property described (in part) as follows:

The western 6.30 feet of Lot 4, and Lot 8 of "Block E, Jefferson Park Subdivision of the Jefferson Park Realty Company", City of Detroit, Wayne County, Michigan as recorded in Liber 26, Page 93, Plats, Wayne County Records;

Encroachment to consist of a masonry screen wall (approximately 6.00 feet in height with below grade footings) across the westerly portion of the east-west (converted public) alley, 18 feet wide, in said block, abutting the above described lots;

Provided, The petitioner shall make application to the Buildings and Safety Engineering Department for a building permit. Simultaneously, the petitioner shall make application to the Board of Water Commissioners to obtain approval to construct over (or near) the public sewer. Also, the petitioner shall make application to the Public Lighting Department (PLD) to obtain approval to construct over (or near) buried PLD electrical power conduits. The masonry screen wall encroachment shall be installed and maintained in accord with plans submitted to and approved by the Buildings and Safety Engineering Department, the Water and Sewerage Department — Sewer Services Section, and the Public Lighting Department. All costs for plan review, inspection, and permits shall be paid by the petitioner; and further

Provided, Said encroaching masonry screen wall and its below grade footings shall be constructed and maintained in accord with the terms and conditions of an agreement between the Ameritech/Michigan Bell Telephone Company (A/MBT Co.) and the petitioner. Due to a buried conduit utility service, "McDonald's Corporation" shall arrange for "pre-construction" meetings and/or independent A/MBT Co. "inspections". Should damages to A/MBT Co. facilities occur the petitioner shall be liable for all expenses, incidental repair, adjustments and/or relocation costs; also the petitioner waives all claims for damages to the encroaching installations; and further

Provided, If the public sewer, buried PLD conduits, buried A/MBT Co. conduits and/or overhead utility wires located (or to be located) in said (con-

verted public) alley shall break, causing damage to any privately-owned construction, property or materials, the "McDonald's Corporation" or their assigns [by acceptance of permits for construction over or near the public sewer, buried PLD conduits, buried A/MBT Co. conduits and/or overhead utility wires] waives all claims for damages to the encroaching installations and agree to pay the costs incurred in their removal, if removal becomes necessary; and further

Provided, If the public sewer, buried PLD conduits, buried A/MBT Co. conduits and/or overhead utility wires located (or to be located) in said (converted public) alley shall break or be damaged as a result of any action on the part of the "McDonald's Corporation" or their assigns (by way of illustration but not limitation, such as storage of excessive weights of materials, or any construction not in accordance with Provisions 1 and 2 above), then the "McDonald's Corporation" or assigns shall be liable for all costs incidental to the repair of the broken or damaged public sewer, buried PLD conduits, buried A/MBT Co. conduits and/or overhead utility wires. The "McDonald's Corporation" and assigns shall be liable for all claims, damages, and/or expenses resulting from their actions; and further

Provided, The petitioner shall file with the Finance Department an indemnity agreement approved by the Law Department, saving and protecting the City of Detroit from any and all claims, damages or expenses that may arise by reason of the issuance of said permits and the faithful or unfaithful performance by the permittee of the terms thereof, and in addition to pay all claims, damages or expenses that may arise out of the maintenance of said masonry screen wall encroachment across and beneath a (converted public) alley; and further

Provided, The (encroachment) resolution is revocable at the will, whim or caprice of the City Council, and permittee hereby waives any right to claim damages or compensation for removal of encroachments, and further, that the permittee acquires no implied or other privileges hereunder not expressly stated herein; and further

Provided, The filing of the indemnity agreement and the securing of the necessary permits referred to herein shall be construed as acceptance of this resolution by the permittee; and further

Provided, That the encroachment permit shall not be assigned or transferred without the written approval of the City Council; and be it further

Resolved, All that part of the westerly portion of the east-west public alley, 18 feet wide, in the block bounded by Piper,

Eastlawn, Freud and E. Jefferson Avenues lying southerly of and abutting the south line of the western 6.30 feet of Lot 4, and Lots 1 thru 3; also lying northerly of and abutting the north line of Lot 8 of "Block E, Jefferson Park Subdivision of the Jefferson Park Realty Company", City of Detroit, Wayne County, Michigan as recorded in Liber 26, Page 93, Plats, Wayne County Records;

Be and the same is hereby vacated as a public alley and is hereby converted into a private easement for public utilities of the full width of the alley, which easement shall be subject to the following covenants and agreements, uses, reservations and regulations, which shall be observed by the owners of the lots abutting on said alley and by their heirs, executors, administrators and assigns, forever to wit:

First, said owners hereby grant to and for the use of the public an easement or right-of-way over said vacated public alley herein above described for the purpose of maintaining, installing, repairing, removing, or replacing public utilities such as water mains, sewers, gas lines or mains, telephone, electric light conduits or poles or things usually placed or installed in a public alley in the City of Detroit, with the right to ingress and egress at any time to and over said easement for the purpose above set forth,

Second, said utility easement or right-of-way in and over said vacated alley herein above described shall be forever accessible to the maintenance and inspection forces of the utility companies, or those specifically authorized by them, for the purpose of inspecting, installing, maintaining, repairing, removing, or replacing any sewer, conduit, water main, gas line or main, telephone or light pole or any utility facility placed or installed in the utility easement or right-of-way. The utility companies shall have the right to cross or use the driveways and yards of the adjoining properties for ingress and egress at any time to and over said utility easement with any necessary equipment to perform the above mentioned tasks, with the understanding that the utility companies shall use due care in such crossing or use, and that any property damaged by the utility companies, other than that specifically prohibited by this resolution, shall be restored to a satisfactory condition,

Third, said owners for their heirs and assigns further agree that no buildings or structures of any nature whatsoever including, but not limited to, concrete slabs or driveways, retaining walls, [except necessary line fence; also except the approved masonry screen wall encroachment as referenced above in the encroachment portion of this resolution, including related construction that

may be required by the Water and Sewerage Department, Public Lighting Department (PLD) and/or Ameritech/Michigan Bell Telephone Company (A/MBT Co.) designed to prevent damage to the public sewer and/or buried PLD conduits and/or buried A/MBT Co. conduits] shall be built or placed upon said easement, nor change of surface grade made, without prior approval of the City Engineering Division — DPW,

Fourth, That if the owners of any lots abutting on said vacated alley shall request the removal and/or relocation of any existing poles or other utilities in said easement, such owners shall pay all costs incidental to such removal and/or relocation, unless such charges are waived by the utility owners,

Fifth, That if any utility located in said property shall break or be damaged as a result of any action on the part of said owners or assigns (by way of illustration but not limitation) such as storage of excessive weights of materials or construction not in accordance with Section 3, mentioned above, then in such event said owners or assigns shall be liable for all costs incidental to the repair of such broken or damaged utility; and further

Provided, That if it becomes necessary to remove the paved alley return at the entrance (into Piper Avenue), such removal and construction of new curb and sidewalk shall be done under city permit and inspection according to City Engineering Division — DPW specifications with all costs borne by the abutting owners, their heirs or assigns; and further

Provided, That the City Clerk shall within 30 days record a certified copy of this resolution with the Wayne County Register of Deeds.

Adopted as follows:

Yeas — Council Members Cockrel, Everett, Ravitz, Scott, Tinsley-Williams, and President Pro Tem. Cleveland — 6.

Nays — None.

REPORT OF THE COMMITTEE OF THE WHOLE FRIDAY, FEBRUARY 24th

Chairperson Everett submitted the following Committee Report for above date and recommended its adoption:

Permit

Honorable City Council:

To your Committee of the Whole was referred petition of Oak Grove A.M.E. Church (1004), for a walk-a-thon. After careful consideration of the matter, your committee recommends that action be taken as set forth in the following resolution.

Respectfully submitted,
KAY EVERETT
Chairperson