

CITY OF ROCHESTER HILLS

CLASS C LIQUOR LICENSE APPLICATION

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

- New Class C License
- Transfer Class C License
- Dance Permit
- Entertainment Permit
- Dance Entertainment Permit

Anita K. Adams, CFO, on behalf of:  
 Applicant's Name: American Blue Ribbon Holdings, LLC Phone No. 303-672-2454  
 Address: 400 West 48th Avenue City Denver ST CO  
 Age: 41 Citizenship: USA Date of Birth 12/31/70 Birthplace: Wyoming  
 If naturalized, year and place: N/A

If a partnership, please complete the following:

Partner's Name: \_\_\_\_\_ Phone No. \_\_\_\_\_  
 Address: \_\_\_\_\_ City \_\_\_\_\_ ST \_\_\_\_\_  
 Age: \_\_\_\_\_ Citizenship: \_\_\_\_\_ Date of Birth \_\_\_\_\_ Birthplace: \_\_\_\_\_  
 If naturalized, year and place: \_\_\_\_\_

Manager's Name: MATT SUSOR Phone No. (248) 375-1535  
 Address: 2287 FRANKLIN City Berkley ST MI  
 Age: 33 Date of Birth: 7/13/78

If a corporation, the names, addresses of the officers and directors, date of birth and age of each:

Hazem Ouf, CEO  
 Anita K. Adams, CFO  
 Goodloe Partee, Secretary

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Location of Proposed License: 122 N. Adams, Rochester, Hills, MI 48309

Does applicant presently own the premises? No Change

If not, name of owner of premise: \_\_\_\_\_

Legal Description of Property (Sidwell #) 70-99-00-261-493

Length of time business has been in operation: Restaurant opened in 1988

Has applicant ever been convicted of a felony? Yes \_\_\_ No xx

If convicted of felony, explain: \_\_\_\_\_

Has applicant previously applied for liquor license? Year requested: No

Location of business: \_\_\_\_\_

Was liquor license granted: \_\_\_\_\_

Have any of the applicants or persons listed above been convicted of a violation of federal or state law concerning the manufacture, possession or sale of alcoholic beverages? Yes \_\_\_ No xx

Name of person \_\_\_\_\_

~~What is the applicant's current business?~~

Restaurant Operations

Length of time in named business? Since March 2009

List all uses in addition to sale of alcoholic beverages: Full service restaurant

Does applicant presently operate a restaurant? Yes xx No \_\_\_

Name and address of restaurant: \_\_\_\_\_

Does applicant presently hold a Class C liquor license? Yes \_\_\_ No xx

Name and address of restaurant: \_\_\_\_\_

List record and history of any liquor license violations by the applicant for preceding ten (10) years

None in Michigan

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Record history of any liquor license violations by the corporation or by a parent of subsidiary corporation of the applicant for the immediate preceding ten (10) years

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<u>Proposed Liquor Establishment:</u>	<u>Existing Building</u>	<u>New Construction</u>
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Size of Site:	_____	_____
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Size of Building:	_____	_____
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Size of Kitchen:	_____	_____
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Seating Capacity:	NO CHANGES	_____
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Size of Dance Floor, if any:	_____	_____
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Percentage of Floor Area for Dining:	_____	_____
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Percentage of Floor Area for Bar:	_____	_____
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Present Zoning:	_____	_____
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Required Zoning:	_____	_____
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Cost of Remodeling:	_____	_____
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Cost of Construction:	_____	_____
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Estimated Dates of Construction	Start: _____	Completion: _____
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Total cost to be expended by licensee for the licensed premises: \_\_\_\_\_

Building Plans Submitted – 3 Sets Required:                      Number of Copies Enclosed: \_\_\_\_\_

Site Plans Submitted – 6 Sets Required:                      Number of Copies Enclosed: \_\_\_\_\_

Do Site Plans show off-street parking and lighting?      Yes \_\_\_\_\_ No \_\_\_\_\_

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Describe the proposed character/type of establishment (e.g. theme, entertainment, food)

NO CHANGES

Describe the proposed full food menu:

NO CHANGES

Proposed menu attached:      Yes             No   xx        NO CHANGES

Describe the surrounding neighborhood and explain how the proposed establishment fits this location in Rochester Hills.

NOT APPLICABLE - EXISTING RESTAURANT

Revenues: Provide a breakdown of the anticipated revenues from food, alcoholic beverages and other revenues (copy must be attached): NOT APPLICABLE

Evidence of Financial Responsibility:

Amount of Funds supplied by Principals: \$27,502,000 (for all restaurants)

Amount of Funds to be Financed: NONE

Name of Financer/Phone Number: Company funds

Personal References/Phone Number:

\_\_\_\_\_  
N/A  
\_\_\_\_\_

Business References/Phone Number:

\_\_\_\_\_  
N/A  
\_\_\_\_\_

Has applicant completed a certified training program? Yes  No

Have employees completed a certified training program? Yes  No

Names and addresses of those completing program

\_\_\_\_\_  
\_\_\_\_\_

Applicant understands that should any of the above information prove to be inaccurate or untruthful, it will be grounds to deny applicant's request or revoke any approvals.

I (~~We~~) Anita K. Adams, on behalf of American Blue Ribbon Holdings, LLC  
affirm I (We) will not violate any of the laws of the State of Michigan or of the United States or any ordinances of the City of Rochester Hills in the conduct of my (our) business, and acknowledge receipt of a copy of Chapter 6, Alcoholic Liquor of the Rochester Hills Code of Ordinances.

I hereby certify the above information to be true and accurate to the best of my (our) knowledge.

  
Applicant Signature/Date

\_\_\_\_\_  
Applicant Signature/Date

This application is not considered complete until applicant has made contact with the Rochester Hills Contingent of the Oakland County Sheriff's Department and complied with fingerprinting and any other necessary requirements of the Oakland County Sheriff's Department.

# Howard & Howard

law for business®

Ann Arbor

Chicago

Detroit

Las Vegas

Peoria

Direct dial: 248.723.0472

J. Patrick Howe

email:phowe@howardandhoward.com

August 29, 2011

**Ms. Jane Leslie, City Clerk**  
**City of Rochester Hills**  
1000 Rochester Hills Drive  
Rochester Hills, MI 48309-3034

**Re: City of Rochester Hills Class C Liquor License Application**  
**Applicant: American Blue Ribbon Holdings, LLC d/b/a Max & Erma's**  
**Location: 122 N. Adams, Rochester Hills, MI 48309**

Dear Clerk Leslie:

This firm represents American Blue Ribbon Holdings, LLC, which purchased 51 Max & Erma's Restaurants from Max & Erma's Restaurants, Inc., including the restaurant located in City of Rochester Hills. The existing operations, menu, restaurant name, and on-site management at the Max & Erma's restaurants did not change as a result of this change of ownership. However, as you know, the Michigan Liquor Control Commission requires local governmental approval in these types of transactions. Therefore, we hereby request the City's approval of this change of ownership, and submit the following documents for your review:

1. City of Rochester Hills Class C Liquor License Application
2. Articles of Organization for American Blue Ribbon Holdings, LLC
3. Operating Agreement for American Blue Ribbon Holdings, LLC
4. Check payable to the City of Rochester Hills in the amount of \$1,500

The Michigan Liquor Control Commission is awaiting receipt of an approval resolution from the City Council and an approval recommendation from the Police Department. We would appreciate you initiating the investigation of this change of ownership, and would ask that you advise this firm as to when City Council will take formal action on this matter. Should you or any of the City departments require any additional documents or information in order to complete the investigation of this transaction, please do not hesitate to contact me. We await your response.

Very truly yours,

**HOWARD & HOWARD ATTORNEYS PLLC**

J. Patrick Howe

Enclosures  
c. Chris Fielding (via email w/o enclosures)

LIMITED LIABILITY COMPANY AGREEMENT  
OF  
AMERICAN BLUE RIBBON HOLDINGS, LLC

THIS LIMITED LIABILITY COMPANY AGREEMENT (this "Agreement") of American Blue Ribbon Holdings, LLC (the "Company") is dated and effective as of March 18, 2009.

1. Continuation of Limited Liability Company. The Company was formed as a Delaware limited liability company pursuant to a Certificate of Formation (the "Certificate") filed in the office of the Secretary of State of the State of Delaware on December 23, 2008 in accordance with and pursuant to the provisions of the Delaware Limited Liability Company Act, 6 Del. C. §§ 18-201, *et seq.* (as such statute may be amended from time to time, and together with any successor to such statute, the "Act"). The Certificate was amended pursuant to Certificates of Amendment filed in the office of the Secretary of State of the State of Delaware on March 10, 2009 for the purpose of changing the name of the Company from "Blue Ribbon Holdings, LLC" to "American Blue Ribbon Holdings, LLC" and March 12, 2009 for the purpose of changing the address of the Company's registered office in the State of Delaware. As amended, the Certificate remains in full force and effect.

2. Rights and Obligations of Sole Member. The rights and obligations of Fidelity Newport Holdings, LLC (the "Member") and the administration and termination of the Company will be governed by this Agreement and the Act. This Agreement is the "limited liability company agreement" of the Company within the meaning of Section 18-101(7) of the Act. To the extent this Agreement is inconsistent in any respect with the Act, this Agreement will control.

3. Name. The name of the Company is "American Blue Ribbon Holdings, LLC".

4. Purpose. The purpose of the Company is to engage in the following activities:

(a) to acquire, own, renovate, operate, lease and/or manage the Owned Properties (as such term is defined in that certain Amended and Restated Asset Purchase Agreement, dated as of February 4, 2009, by and between VI Acquisition Corp., VICORP Restaurants, Inc., Fidelity National Special Opportunities, Inc., Newport Global Opportunities Fund LP and the Company), each as more particularly described on Exhibit A attached hereto;

(b) to mortgage, encumber, finance, refinance, sell and dispose of any or all of the Owned Properties to the extent permitted under any agreements or other documentation evidencing any such mortgage, encumbrance, financing or refinancing (for so long as any obligations are outstanding thereunder); and

(c) to engage in any lawful act or activity and to exercise any powers permitted to limited liability companies organized under the laws of the State of Delaware that are related or incidental to and necessary, convenient or advisable for the accomplishment of the above-referenced purposes.

5. Term. The Company shall continue in existence perpetually unless the Company is dissolved and its affairs wound up in accordance with the Act or this Agreement. The Member may terminate this Agreement and dissolve the Company at any time.

6. Powers of the Company. Subject to any limitations set forth in this Agreement, the Company will have the power and authority to take any and all actions, necessary, appropriate, proper, advisable, incidental or convenient to or for the furtherance of the purposes set forth in Section 4, including, without limitation, the power to borrow money and issue evidences of indebtedness in furtherance of the purposes of the Company.

7. Registered Agent and Registered Office. The name of the registered agent of the Company in the State of Delaware is The Corporation Trust Company, whose address is Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801. The address of the registered office of the Company in the State of Delaware is c/o The Corporation Trust Company, whose address is Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.

8. Principal Office. The principal office of the Company is located at 400 West 48th Avenue, Denver, Colorado 80216. The Company may change its principal office and have such other offices as the Member may designate from time to time.

9. Fiscal Year. The fiscal year of the Company shall end on such date as the Member shall determine.

10. Member. Fidelity Newport Holdings, LLC is the sole Member of the Company. Such Member's mailing address is:

c/o Fidelity National Special Opportunities, Inc.  
4050 Calle Real, Suite 210  
Santa Barbara, CA 93110  
Attention: Executive Vice President, Legal

11. Management of Company. The Member is designated the "manager" of the Company as such term is defined in the Act. The business and affairs of the Company will be managed exclusively by the Member in its capacity as the manager of the Company. The Member shall have the power to do any and all acts necessary or convenient to or for the furtherance of the purposes described herein, including all powers, statutory or otherwise, possessed by members under the law of the State of Delaware.

12. Officers; Prior Actions. The Member may appoint one or more officers of the Company as the Member may deem necessary or advisable to manage the day-to-day business affairs of the Company (collectively, the "Officers"). To the extent delegated by the Member, any Officer may act on behalf of, bind and execute and deliver documents in the name and on behalf of the Company. No such delegation will cause (i) the Member to cease to be the "manager" of the Company as such term is defined in the Act, or (ii) any such Officer to be deemed to be a "manager" of the Company as such term is defined in the Act. Unless otherwise specified by the Member, each Officer will have such rights, powers and authority generally



associated with officers holding the same title in a Delaware corporation; provided, however, that no such Officer shall have any right, power or authority to take any action requiring the consent of members holding at least a majority of the membership interests of the Member or a majority of the managers of the Member, in each case pursuant to the terms of the Member's operating agreement. Each of the Officers is authorized to execute and file on behalf of the Company such certificates, filings or other documents that such person may deem necessary or appropriate in connection with the organization or operations of the Company, including, without limitation, the execution and filing of the Certificate of Formation of the Company and the execution and filing of a Form SS-4 Application for Employer Identification Number with the U.S. Internal Revenue Service on behalf of the Company, and any prior actions taken by such person in connection with the organization of the Company are hereby ratified, adopted and approved.

13. Capital Contributions. Capital contributions shall be made at such times, in such amounts and in cash or other assets of the Company as the Member shall determine. No loan made to the Company by the Member will constitute a capital contribution to the Company for any purpose.

14. Capital Account. A capital account will be maintained for the Member in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv).

15. Allocations. Each item of income, gain, loss, deduction and credit of the Company will be allocated one hundred percent (100%) to the Member.

16. Distributions. Distributions by the Company shall be made at such times and in such amounts as the Member shall determine. Each such distribution will be made one hundred percent (100%) percent to the Member. Notwithstanding anything to the contrary contained herein, the Company will not make a distribution to the Member on the account of its interest in the Company if such distribution would violate Section 18-607 of the Act.

17. Liability of Member. Except as otherwise provided under the Act, the debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, will be solely the debts, obligations and liabilities of the Company, and the Member will not be obligated personally for any such debt, obligation or liability of the Company solely by reason of being a member of the Company.

18. Dissolution and Winding Up. The Company will dissolve and its business and affairs shall be wound up upon the first to occur of the following: (a) the written consent of the Member; (b) the retirement, resignation, expulsion or bankruptcy of the Member or the occurrence of any other event which terminates the continuing membership of the Member in the Company; or (c) the entry of a decree of judicial dissolution under Section 18-802 of the Act. Upon any dissolution and winding up of the Company, the Member shall act as liquidator and, in such capacity, proceed to wind up the affairs of the Company, liquidate the property and assets of the Company and wind up and terminate the business of the Company. The proceeds of any liquidation shall be applied in the following order of priority: (i) first, to the expenses of such liquidation; (ii) second, to the debts and liabilities of the Company to third parties, if any, in the order of priority provided by law; (iii) third, a reasonable reserve may be established to provide

for any contingent or unforeseen liabilities or obligations of the Company to third parties, the balance of which reserve shall, at the expiration of such period as the liquidator may deem advisable, be distributed as provided herein; (iv) fourth, to debts of the Company to the Members, and (v) fifth, to the Members in accordance with Section 16.

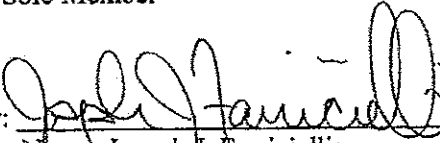
19. Amendments. This Agreement may be amended or modified from time to time only by a written instrument executed by the Member.

20. Governing Law. This Agreement will be governed in all respects, including as to validity, interpretation and effect, by the internal laws of the State of Delaware, without giving effect to any choice of law or conflict of law principles that would result in the application of the law of any other jurisdiction.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned, intending to be legally bound, has caused this Limited Liability Company Agreement of American Blue Ribbon Holdings, LLC to be duly executed and delivered as of the date first above written.

**FIDELITY NEWPORT HOLDINGS, LLC,**  
its Sole Member

By:   
Name: Joseph J. Farricielli:  
Title: Authorized Person

By: \_\_\_\_\_  
Name: Ryan Langdon:  
Title: Authorized Person

[SIGNATURE PAGE TO AMERICAN BLUE RIBBON  
HOLDINGS, LLC LIMITED LIABILITY COMPANY AGREEMENT]

IN WITNESS WHEREOF, the undersigned, intending to be legally bound, has caused this Limited Liability Company Agreement of American Blue Ribbon Holdings, LLC to be duly executed and delivered as of the date first above written.

FIDELITY NEWPORT HOLDINGS, LLC,  
its Sole Member

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

Name: Joseph J. Farricielli:

Title: Authorized Person

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

Name: Ryan Langdon:

Title: Authorized Person

3/12/08

[SIGNATURE PAGE TO AMERICAN BLUE RIBBON  
HOLDINGS, LLC LIMITED LIABILITY COMPANY AGREEMENT]

**Exhibit A**

**Owned Properties**

1. 400 West 48th Avenue, Denver, Colorado
2. 6370 South Parker Avenue, Aurora, Colorado
3. 7131 North Western Avenue, Chicago, Illinois
4. 3649 North Harlem Avenue, Chicago, Illinois
5. 16425 South Kilbourne Avenue, Oak Forest, Illinois
6. 2211 West Jefferson, Joliet, Illinois
7. 2239 Ford Parkway, St. Paul, Minnesota
8. 210 North Blake, Hopkins, Minnesota
9. 300 Lake Hazeltine Drive, Chaska, Minnesota
10. 7320 Good Hope Road, Milwaukee, Wisconsin

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CITY OF ROCHESTER HILLS

1000 Rochester Hills DR. Rochester Hills, MI 48309

HOWARD & HOWARD ATTORNEYS

DATE: 9/22/2011  
RECEIPT NO: 410761 TRY  
DEPOSIT NO:

G/L NUMBER	DESCRIPTION	PERMIT	AMOUNT
101 452010	Lic.& Pmts.-Building Dep		550.00
101 451008	Lic.& Pmts.-Clerks Dept.		950.00
	TOTAL AMOUNT:	1,500.00	
	CASH AMOUNT:	.00	
	CHECK AMOUNT:	1,500.00	
	CREDIT CARD:	.00	
	DEBIT CARD:	.00	
	TOTAL RECEIVED:	1,500.00	
	CHANGE TENDERED:	.00	

CHECK #: 2092

RECEIVED BY: TREASURER/LP

**DAlessandro, Judy** <dalessandroj@oakgov.com>  
To: Leslie Jane <lesliej@rochesterhills.org>

Fri, Sep 23, 2011 at 2:58 PM

No objections from OCSO pending the complete review by the Sheriff's Office

**From:** Judy DAlessandro [mailto:[dalessandroj@rochesterhills.org](mailto:dalessandroj@rochesterhills.org)]  
**Sent:** Friday, September 23, 2011 9:09 AM  
**To:** dalessandroj  
**Subject:** Fwd: Liquor License Transfer



FIRE  
Ronald D. Crowell, Chief

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From: Todd Gary  
To: Jane Leslie  
Date: 09/30/11  
Re: Liquor License Transfer

The fire department has no objection to the liquor license transfer for 122 N. Adams, Max and Erma's to American Blue Ribbon Holdings, LLC.

Thank you

TG:jlo





Michigan Department of Energy, Labor & Economic Growth  
**MICHIGAN LIQUOR CONTROL COMMISSION (MLCC)**  
7150 Harris Drive, P.O. Box 30005  
Lansing, Michigan 48909-7505

**FOR MLCC USE ONLY**

Request ID # 569287

Business ID # 224708

**LOCAL APPROVAL NOTICE**

[Authorized by MCL 436.1501]

NOVEMBER 8, 2010

**TO:** ROCHESTER HILLS CITY COUNCIL  
ATTN: CLERK  
1000 ROCHESTER HILLS DRIVE  
ROCHESTER HILLS, MI 48309-4603

**APPLICANT:** AMERICAN BLUE RIBBON HOLDINGS, LLC (A DELAWARE LIMITED LIABILITY COMPANY)

**Home Address and Telephone No. or Contact Address and Telephone No.:**

FIDELITY NEWPORT HOLDINGS, LLC, 4050 CALLE REAL, SUITE 210, SANTA BARBARA, CA 93110  
CONTACT: J. PATRICK HOWE, 2855 COOLIDGE HIGHWAY, SUITE 203, TROY, MI 48084  
B(248) 816-3175, H(248) 816-5115

The MLCC cannot consider the approval of an application for a new or transfer of an on-premises license without the approval of the local legislative body pursuant to the provisions of MCL 436.1501 of the Liquor Control Code of 1998. For your information, local legislative body approval is also required for DANCE, ENTERTAINMENT, DANCE-ENTERTAINMENT AND TOPLESS ACTIVITY PERMITS AND FOR OFFICIAL PERMITS FOR EXTENDED HOURS FOR DANCE AND/OR ENTERTAINMENT pursuant to the provisions of MCL 436.1916 of the Liquor Control Code of 1998.

For your convenience a resolution form is enclosed that includes a description of the licensing application requiring consideration of the local legislative body. The clerk should complete the resolution certifying that your decision of approval or disapproval of the application was made at an official meeting. **Please return the completed resolution to the MLCC as soon as possible.**

If you have any questions, please contact Unit 3 of the Retail Licensing Division at (517) 636-0204.

**PLEASE COMPLETE ENCLOSED RESOLUTION AND RETURN  
TO THE LIQUOR CONTROL COMMISSION AT ABOVE ADDRESS**

### RESOLUTION

At a \_\_\_\_\_ meeting of the \_\_\_\_\_  
(Regular or Special) (Township Board, City or Village Council)

called to order by \_\_\_\_\_ on \_\_\_\_\_ at \_\_\_\_\_ P.M.

The following resolution was offered:

Moved by \_\_\_\_\_ and supported by \_\_\_\_\_

**That the request to TRANSFER OWNERSHIP OF 2010 CLASS C LICENSED BUSINESS, LOCATED AT 122 N ADAMS, ROCHESTER HILLS, MI 48309, OAKLAND COUNTY, FROM MAX & ERMA'S RESTAURANTS, INC. TO AMERICAN BLUE RIBBON HOLDINGS, LLC (A DELAWARE LIMITED LIABILITY COMPANY).**

be considered for \_\_\_\_\_  
(Approval or Disapproval)

#### APPROVAL

#### DISAPPROVAL

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

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

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

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

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

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

It is the consensus of this legislative body that the application be:

\_\_\_\_\_ for issuance  
(Recommended or Not Recommended)

State of Michigan \_\_\_\_\_)

County of \_\_\_\_\_)

I hereby certify that the foregoing is a true and complete copy of a resolution offered and

adopted by the \_\_\_\_\_ at a \_\_\_\_\_  
(Township Board, City or Village Council) (Regular or Special)

meeting held on \_\_\_\_\_  
(Date)

(Signed) \_\_\_\_\_  
(Township, City or Village Clerk)

SEAL

\_\_\_\_\_  
(Mailing address of Township, City or Village)